

Cities at night: why our right to use public spaces after dark is under threat

Bradley L Garrett

From Sydney's lockout laws to Baltimore's blanket curfews and London's closed parks, the trend for restricting and criminalising night-time behaviour is unhealthy and even unsafe for our cities

Thursday 19 November 2015 07.00 GMT

In the soggy sodium-lit hours of a Sunday night in 2013, I met with urban explorers in Vauxhall, London, to sneak into The Tower at One St George Wharf, the tallest residential building in the United Kingdom, which was still under construction. We wanted to take photos of the London skyline from the top and had failed to ascend previously, deterred by clever camera placement and an on-top security patrol.

On this night, however, construction had been briefly halted by a terrible incident where a helicopter crashed into the construction crane while attempting to land amid thick early-morning fog. The aftermath of the crash created a window of opportunity that we were exploiting.

Sneaking around the perimeter and into the building was as straightforward as we had hoped, and we sprang up the 50-storey stairwell. On the roof, we quickly deployed tripods and started shooting photos – but then someone made an offhand comment that there seemed to be a lot of sirens in Vauxhall that night. Seemingly all at once, those sirens went silent. Peering over the edge of the building, I spied eight police cars, a riot van and a lot of commotion at the front gate of the site. We were busted.

We enjoy trespassing but we take wasting police time seriously. We ran back down the stairs and emerged with hands up, quickly explaining that we were photographers. The officer in charge seemed more amused than bemused and asked to see the photos. After briefly clicking through them on the viewfinder and complimenting a few, he told the security guards that we would delete our photos and go home, no harm done.

However, a rotund colleague of his in a flack jacket was in a less forgiving mood. He snarled at us, “What’s wrong with you lot, out here causing trouble, there’s a bar right there you can go to.” He pointed across the street where a girl in a white dress was hitting her boyfriend with a handbag whilst he vomited on the pavement. I was nonplussed.

Throughout history, the night has been, in the words of geographer Tim Edensor, time for “transgression, fantasy and experimentation”, when the public comes out to play. However rights to the night have long been contested. Public rights to cities have been curtailed at night in three ways: by closing cities entirely after a certain time (through curfews), by closing public places after a particular time (as with UK public parks), or by prohibiting certain activities after a certain time (as in lockout laws). In my last Guardian Cities piece, I considered Public Space Protection Orders (PSPOs) being rolled out across England and Wales that criminalise normally non-criminal behaviour within a predefined spatial area. Here I shift

from the spatial to the temporal, to think about how rights to public space change after the sun sets.

After the eruption of violence following the death of Freddie Gray in police custody in 2015, the city of Baltimore enacted a blanket curfew that prohibited all citizens from going outdoors unless travelling to or from work. This curfew, and another that applied only to youths, was lifted earlier this year, partially due to pressure from the American Civil Liberties Union (ACLU), who stated that “curfews ... wreak havoc with one of our most fundamental constitutional rights - the right to freedom of movement.” Further, the ACLU argued that curfews “criminalise normal and otherwise lawful behaviour”.

Those that read the PSPOs piece will appreciate the overlaps. Curfews, by closing access to space, prevent us from staking a political claim in the public realm after dark. The wilful violation of curfews, such as in Tahrir Square in 2011, when protesters ignored a curfew imposed by Hosni Mubarak, can be a powerful political statement.

As A Roger Ekirch writes in his 2005 book *At Day's Close: Night in Times Past*, as early as 1068, William the Conqueror set a curfew (from the French *couvre-feu* or cover fire) at 8pm, which was widely adopted across medieval Europe. Though this was ostensibly imposed to prevent fires from catching while people slept, those who will have read William I - 1066 by Eleanor Farjeon in school will recall that it was more likely about preventing candlelit late-night public plotting. People found not in their homes after the curfew were subject to incarceration, with particular ire levelled at those found outdoors in public squares and on roads.

Current law describes a curfew as “a regulation that forbids people (or certain classes of them) from being outdoors between certain hours”. Curfews, like ABSOs and PSPOs, are often directed at particular groups to prohibit them from being in public places after a particular time. In the United States, where the first Curfew law was passed in Nebraska in 1880, youth are circumscribed with particular vigilance. As of 2009, at least 500 US cities had curfews prohibiting anyone under 18 from being on the streets at night. Around 100 cities also have daytime curfews to keep children off the streets during school hours, making the hours when youths actually have a right to be in public space extremely narrow.

During the second world war, all people of Japanese ancestry in the United States, regardless of resident status, were forced to stay home between the hours of 8pm and 6am. In 1942, a 32-year-old student named Gordon Hirabayashi walked the streets of Seattle after curfew until he was arrested. He then brought a constitutional challenge to the law. His challenge was rejected, but in 1986 a federal court in Seattle overturned Hirabayashi's conviction as a form of public apology.

As urbanist Rowland Atkinson writes, “places at different times may change in their role for accommodating different social groups - for example, a city square may serve as a place for lunching office workers while providing a place for skateboarders or potential muggers as the day progresses.”

Assuming that space becomes unsafe at night, however, is a self-fulfilling prophecy. If the night is a place where we think only violence happens, then people go into the night expecting that and make it manifest. However, if night-time is when people of diverse backgrounds and motivations gather, the night becomes safer, a space monitored by the “eyes upon the street” in the words of Jane Jacobs. Jacobs wrote in *The Death and Life of Great American Cities* that in order for a street to be a safe place, “there must be eyes upon the

street, eyes belonging to those we might call the natural proprietors of the street.”

Consider Amsterdam, a famously 24-hour city, where at any time of the night people can be found in Dam Square and Vondlepark playing games, drinking, smoking pot, taking photos and meandering in the spirit of the French *flâneur*. For many people, the night is not a time when the city becomes unsafe but rather, as Ekirch writes, where we can locate “freedom from both labour and social scrutiny”.

For a few years, I lived in the Manor House warehouses in north London. Often, late at night, I would find myself stranded by public transport at Finsbury Park Station and walk through the park to get home only to find that the gates on the north side were locked. Inevitably, next to the locked gate, the wooden fence panels would have been kicked out by a frustrated walker. This “antisocial” behaviour was triggered not by the bad character of the nocturnal wanderer but by the locking of the gate. Despite the park closing at dusk, it was constantly full of chancers: rough sleepers, cruisers, drug addicts and urban explorers opening manholes, all trying to avoid detection by lurking in the shadows. On more than one occasion, I saw park security chasing groups of kids to the fence line where they all jumped into the street whooping and hollering. If the park were open at night, these chase scenes would not need unfold.

Britain has a long history of closing access to public space at night, including most Royal Parks. In contrast, in Amsterdam’s Vondelpark, the government recently legalised public sex in the park, as long as people “take their garbage with them afterwards and never have intercourse near the playground.” Also, “the sex must be limited to the evening hours and night”, as a council spokesperson apologetically explained. Freedom from social scrutiny indeed.

Perhaps it is due to the lack of vibrant night-time social spaces outdoors that the English are quick to defend the pub as a place for nocturnal debate and debauchery. When we think about the public realm, we often cleave a clear line at the door to private business – yet the role of the pub as a “public house” has long been as a place where communities come together to trade, mingle, play games, make deals, let loose, argue and, of course, get intoxicated. In the words of sociologist Richard Sennett, “the public realm can be simply defined as a place where strangers meet.”

A significant body of scholarship about the value of the “night-time economy” of pubs, clubs, bars, restaurants, strip clubs, brothels, bouncers, baristas and bands, has emerged in the past 20 years. However, these spaces are also under attack through the passing of laws that prohibit certain activities after a certain time, even behind the closed doors of private enterprise.

By way of example, I was recently in Sydney, Australia, where I was invited to a rolling street party protest over Sydney’s “lockout laws”. These lockout laws, like PSPOs, are geographically demarcated and are meant to curb violence in the Kings Cross area, Sydney’s traditional red-light district, by forcing premises to prohibit entry to venues after 1:30am.

The lockout laws were brought into force February 2014 in reaction to two 18-year-olds being killed by “king hits” (sucker punches) in night-time brawls. At first blush, it appears to have succeeded in decreasing violence. A New South Wales (NSW) Bureau of Crime Statistics and Research report suggests that assaults in Kings Cross have decreased by 26% in the CBD since 2014. However, it is not clear whether that success is because there is less violence or simply because the streets are empty. Research statistics suggest that the latter may be the case –

since the lockdown laws came into effect, foot traffic in the area has dropped by 84%, profits at cordoned bars have decreased 40%, and over 40 venues have closed. Additionally, a hotspot map released in April 2015 by the Bureau of Crime Statistics and Research makes clear that at least some of the violence has simply migrated to other areas, such as the Star Casino in Pyrmont, where assaults have doubled over the same time period. Not that the executives from the Star Casino are complaining; they have made over \$100 million in extra profit in the 2013/14 financial year from the flood of woozy late-night revellers fleeing the lockdown zone.

The protest, prompted by Reclaim the Streets, was described as “a celebration of what our public life could be”. It was a hot afternoon as the 1,000-person procession trundled from Sydney’s Hyde Park to Kings Cross, temporarily pedestrianising the streets in between. Multiple ambulatory sound systems, one rolling atop two shopping trolleys lashed with cable ties, pounded bass through a canyon of skyscrapers. The procession was sluggish; sweaty dancers clogged the tarmac, more than one sound system wheel snapped, audio cords were accidentally ripped out, patch-ups took place on the move. From above, people yelled encouragement from high-rise apartments, often waving bottles of booze. On the pavement, corner shops cashed in as protesters stopped for supplies along the route. The police seemed relatively relaxed about the whole affair, one even eating a fast-melting popsicle and scrolling through his phone feed as we rattled past.

Whether or not this protest will influence any decisions made by the council remains to be seen; however, the protesters did manage to create public space for a day where strangers met. The protest, to be fair, was a mess, but then attempts to make cities safer also sedates urban space, clearing it of the some of the messiness that makes urban life alluring precisely because it encourages us to negotiate space.

Where there is exchange, where strangers meet and where ideas are debated, conflicts will arise. The notion that conflict between strangers in cities can be legislated away through curfews, closures and lockdowns is naive at best and undemocratic at worst - only totalitarian cities can be frictionless and under those cities, far more violent discontent simmers. In the words of Will Wiles, “the city needs places of solace, calm, order and beauty - even prettiness. But prettiness and concealment are anaesthetic. The urban mind needs its regular confrontations with tangle, too, a bracing shock that places the world in perspective and informs us, without either warmth or rancour ...”

Part of the allure of cities is their messiness. While it is desirable to have parts of our cities be efficient, convenient and secure, many of us also move to or stay in cities to get gritty, to participate in (rather than spectate on) planning and development, to have our senses overloaded, to work through our frustrations and to escape. These things often happen in the night. The neoliberal tendency to curb routine public freedoms in the name of security after dusk is flawed; it is a simple exchange of one kind of violence for another. A more empathetic response to urban violence might be to consider giving people additional venues to air their grievances and debate appropriate remedies, which would undoubtedly result in the proposal of more nuanced solutions. Or, following the Amsterdam model, open the space up even further so that the night becomes a place of diverse coordination.

Like prohibition in 1920s America, the most likely outcome of oppressive night laws is simply that violence moves horizontally into other spaces or underground - sometimes literally - into less surveilled zones. David Leyonhjelm, a Liberal Democrat senator in NSW, referred to the Sydney lockdown laws as a “collective punishment” based on a few isolated, if horrific, anecdotes; a case of “using an axe when a scalpel would do”.

Before we begin cutting into the city, surgically or otherwise, we must disavow ourselves of the notion that cities will ever be frictionless, because frictionless cities would be dead cities. This is precisely what the dance party protesters tried to make clear through their unapologetically messy “celebration of what our public life could be”.

Perhaps if we take the lead from the Netherlands, and begin making more diverse use of public space at night rather than continuing to govern it in the spirit of the suspicions of William the Conqueror, we can both expand our rights to the city at night, *and* make our night-time cities safer by making night space participatory rather than exclusionary.

Follow Guardian Cities on Twitter and Facebook and join the discussion

More comment

Topics

Privately owned public space (Pops)

Urban exploration

Urbanisation

Freddie Gray

Save for later Article saved

Reuse this content