

**Bargaining Power in City Development: A Case for Greater Community Representation
and Advocacy**

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Abstract

In this paper, I evaluate stakeholders involved in city planning and development such as private investors, businesses, city planners, real estate agents, and other community members. Each stakeholder exhibits a different level of bargaining power in the decision-making process. My analysis examines the consequences of this power imbalance and presents a normative claim such that city planners should promote adequate bargaining power in the decision-making process for affected community members to (1) improve understanding of relevant issues and subjective experiences and (2) empower vulnerable groups. By doing so, city planners will be in a better position to promote ethical decision-making in accordance with substantive principles of respect, self-determination, and no-harm. City planners provide an important role in community development by authorizing projects and zoning to ensure that residential, commercial, industrial, and natural areas are used efficiently. However, past and present cases of injustices in city planning and development show that city projects often cause harm to community members through pollution, economic consequences, and displacement. Groups of community members may experience high costs of organization, limited economic capital, or trends of marginalization. These factors contribute to power imbalances among stakeholders in the decision-making process for new city developments. I examine the interpersonal and ethical relationships among community members to explain a source of value in city spaces. I conclude that limited understanding of potential harms and power imbalances among stakeholders often lead to injustices and negative externalities for community members. I defend the position that by improving bargaining power for community members, especially marginalized groups, city planners can limit future cases of development-related injustices by creating an environment better suited to reach substantive ethical goals.

Bargaining Power in City Development: A Case for Greater Community Representation and Advocacy

Cities require effective economic and logistical planning to promote business and maintain sustainability. Some planning strategies include enabling private developments, crafting reasonable zoning tactics, and providing public goods within a local area. When considering a particular business opportunity, private developers are typically incentivized by economic factors such as location desirability, logistical concerns, and potential profits. They manage stakeholders' concerns, negotiate terms, and promote economic activity in the local area. City planners typically allow for the completion of private developments because of economic justifications and the influential power of developers. However, these factors alone do not adequately account for the complex relationships and ethical demands that community members have toward one another.

Economic aspects of community development are essential to successful productivity and wellbeing, but they are usually best understood as being within a different category than *ethical considerations*. For this reason, I distinguish the relevant categories within city development as ethical considerations and non-ethical considerations. By ethical considerations, I refer to normative substantive principles such as respect,¹ self-determination, and the no-harm principle.² Conversely, non-ethical considerations are merely considerations that are not driven by ethical demands. Instead, they are driven by other goods such as economic prosperity, useful logistics, or land desirability. In other words, non-ethical considerations can be *instrumentally good*, but only ethical considerations have *intrinsic value*. While promotion of both categories is important for effective city planning, I posit that the ethical considerations ought to have priority over non-ethical considerations in most cases when a tradeoff cannot be avoided. By analyzing both

ethical and non-ethical concerns, city developers and planners will more easily be able to examine or anticipate social, political, or economic issues that may arise from urban developments. Close examination of these issues is an essential component of minimizing the harm experienced by marginalized groups with inadequate bargaining power in city development. Thus, because it can improve understanding of consequences and subjective experiences, city planners and officials should promote adequate bargaining power for community members regarding city developments and projects to diminish cases of unjust domination in land allocation and urban development.

Improving bargaining power for community members, especially in cases of extreme gaps in power or significant negative externalities will achieve two goals. First, it will enable understanding of community needs by lowering barriers to meaningful participatory change. Second, it will empower groups by providing more attention to community needs when community members have limited bargaining power in other aspects such as economic, social influence, etc. Many cases of injustice are caused by either a lack of understanding about the situation or extreme gaps in power from other agents, so providing adequate bargaining power for community members will diminish cases of unjust domination regarding distributive justice in contemporary city planning.

In addition to preventing extreme power gaps in negotiations and achieving adequate understanding of urban consequences and subjective experiences, city officials should also consider the value of community members in terms of sociality and emotions, like a sense of community. Ultimately, by promoting robust, accessible systems of direct negotiation or adequate representation, city officials can diminish cases of injustice in accordance with

substantive ethical principles. This is especially important for groups who have been historically or presently vulnerable to negative externalities.

Goals to Prevent Harm

Bargaining power is an essential component to understanding the dynamics of urban development negotiations. By bargaining power, I refer to the ability of an individual or group to successfully negotiate according to their interests. Parties or individuals with high levels of bargaining power in a particular situation have substantial influence or sway over a decision due to their resources to contribute toward negotiation. Bargaining power comes in many forms and varies depending on the type of negotiation. It involves leverage to accept other offers or to exit a negotiation for more favorable terms. For example, a sports franchise may have significant bargaining power in a negotiation due to potential increases in economics activity. They also may have opportunities in other cities that serve as leverage in negotiations. As such, city officials and commissioners negotiate according to city interests regarding development goals, revenue, and costs. Small businesses or other community members typically have less influence or bargaining power because they do not have the same type of economic potential or leverage. Those with high levels of bargaining power often come of a negotiation with more favorable outcomes. This can be morally permissible when no substantive principles are violated, but it exposes a potential risk of harm such that the sway from non-ethical principles could overpower the normative ethical principles. When this occurs in urban development, community members will suffer an injustice due to violation of substantive ethical principles.

There are different ways that an individual or group may have disproportionate power in planning negotiations. For example, they may have economic power, prestige or social influence. Each type of power can sway community decisions in favor of the more powerful party.

However, the outcome of each negotiation can be beneficial, harmful, or neutral, so city officials should attempt to minimize extreme power gaps between developers and ordinary community members. By using methods of determining community needs through reaching out for their input and advocating on their behalf, city planners and officials can help minimize cases of unjust domination.

City developments are often the products of economic endeavors to establish businesses, jobs, or productivity. Markets demonstrate willingness and ability to buy and sell goods and services. Often, these developments are beneficial to the community and can serve as a source of justice by promoting public goods or charities. For example, a public university may be profitable to developers and a city by providing a service, attracting new residents, and boosting economic activity for local businesses. Also, it may also provide non-economic goods such as providing students education which is valuable in and of itself.

Conversely, markets can be misaligned with community needs and ethical requirements in cases of resource or worker exploitation, pollution, or social discrimination and exclusion. Community members elicit a type of normative ethical power on the basis of substantive principles such as respect, self-determination, and no-harm. These principles are always ethically binding, but levels of non-ethical, instrumental power for ordinary community members may be low due to factors like low levels of economic capital or influence. This means that community members may be vulnerable to unjust domination when city negotiations are primarily focused on non-ethical considerations. Thus, the ethical priority is required.

Substantive ethical principles hold priority over procedural principles, but imperfect knowledge and failure to maintain benevolence in all community decisions requires that community members should be involved in decision-making processes to limit cases of injustice.

Community participation improves situational knowledge and diminishes extreme gaps in stakeholder power. Improving representation through participatory processes and advocacy on community behalf is necessary in cases of extreme power imbalances in zoning or licensing negotiations. Differences in power are not always problematic; however, extreme gaps in power can potentially lead to harm and injustice when not regulated according to substantive ethical principles. Adherence to substantive normative principles determines the moral permissibility of an action. This means that powerful stakeholders whose interests align with promoting the common good of a community will be morally permissible despite the extreme gap in power. This is because the morally relevant determinant is the alignment with substantive moral principles. However, due to imperfect knowledge about situations and tendencies toward injustice in empirical cases, a procedure of promoting community participation and advocacy is required for two purposes.

First, collecting evidence of opinions, experiences, and needs directly from community members allows city planners and representatives to have adequate information about the past, present, or potential harms that come from city developments. For example, city planners and advocates may fail to take the time to reflect on housing prices in the market when offering compensation for a public project. Similarly, they may fail to account for social or economic losses that community members may experience. For example, community members may have disrupted access to transportation in a city, but the city planners may not have adequate access to this information. There may also be changes in schools and daily life that could not be accounted for apart from community member input. Second, providing a robust system to empower community voices according to their value to the community and substantive requirements of

respect, self-determination, and no-harm, diminishes extreme gaps in power imbalance that can potentially be problematic.

Thus, the procedure is necessary, but not sufficient for justice in city development. Complete adherence to substantive moral principles could, theoretically, be sufficient for justice, but this would require perfect knowledge and benevolence from city officials and other institutions, such as markets. Since this is not representative of current institutions, I conclude that the procedure of community participation must be present and robust in order to diminish cases of harm and injustice regarding city and community developments.

Limits of a Participatory Process

Making decisions in accordance with community input alone is *not sufficient* because groups could fail to understand complexities of how the decisions will affect other community members, or they could violate ethical principles such as denying the self-determination of others. Thus, procedural principles are necessary, but not sufficient to maintain an ethical result.

First, most community members are not experts regarding the relevant topics concerning real estate and development. They may lack the knowledge or interest required to make an informed decision. However, promoting input from community members serves the purpose of developing a deeper understanding of *subjective experiences* regarding changes that will happen in their local communities from a particular development. The scope of their focus is usually limited to their own experiences rather than more widespread or scientific components. This method of participation will usually involve few experts from the general public, but it serves an essential purpose. As such, the participatory process will improve understanding of subjective experiences and potential harms, but it does not substitute the need for evaluation by experts and consideration for others who may be harmed.

Additionally, monitoring solutions to ensure that developments do not violate substantive ethical principles is required because community members' decisions do not always align with such principles. For example, when a necessary or beneficial city development is proposed, groups tend to object and suggest that the project should be constructed in other neighborhoods.³ When the objection is reasonable, city planners can negotiate while respecting normative ethical principles. However, objections need *not* be negotiated when they are founded on unethical reasoning, like racial discrimination. These cases would *not* be ethically justified regardless of community approval. For example, a developer might propose the construction of a religious building to serve the needs to a religious minority within a community.⁴ However, those who are not a part of the religion or group may reject the development in an attempt to deny the self-determination of others. In cases where substantive normative principles are violated, city planners should protect the rights of community members in accordance with normative substantive principles of respect, self-determination, and no-harm.

Case Studies

Cases of injustice regarding urban development in the United Kingdom, the United States, and Canada suggest that a common feature in many cases of unjust domination is *inadequate bargaining power* for ordinary community members. The negative externalities of pollution, construction, or displacement often disproportionately affect systematically vulnerable or marginalized groups. The history of land injustices provides evidence and urgency to promote community-centered decision-making in community developments, especially for vulnerable groups. To reverse systems of marginalization and injustice, it is essential that we evaluate the roles in which city and community development have impacted vulnerable groups. Historically and presently, many urban communities with inadequate bargaining power have been disrupted

or displaced due to various negative externalities of production and development. The focus of inadequate bargaining power in the following case studies involve socio-economic factors such as poverty, racial inequality, or lasting effects of colonization.

Negative externalities from local developments often affect poor communities whose members have insufficient bargaining power to reject development plans within a city. Without binding bargaining power, poor communities have been more susceptible to pollution than wealthier communities. According to John Whitelegg (2000), poorer British communities disproportionately experience the “health-damaging pollution burden”⁵ of developments. This means that members of these communities may experience more instances of bad health outcomes than those who are not as exposed to the pollution. Members of these communities often have little bargaining power because of their relatively low levels of economic capital.

Similarly, poor communities are often negatively affected by unaffordable housing prices and rents due to gentrification. Gentrification refers to city renovation processes that quickly change the property values in a local area. This process raises the cost of living for those who live there. According to Schnake-Mahl, Jahn, Subramanian, Waters, & Arcaya, (2020), “neighborhood change processes can create neighborhoods of extreme income inequality and exacerbate income polarization; break down social cohesion and organizations; and displace culture, businesses, and political power.”⁶ In these cases, potential revenue for businesses and heightened aesthetic appeal are influential non-ethical reasons in favor of development, but they often come at a cost for the vulnerable community members. Local community members are often unable to provide sufficient bargaining power to reject or negotiate terms for new developments or appropriate compensation for damages like health challenges and economic hardships.⁷ Adequate representation and bargaining power is especially important for those with

little economic capital because they have fewer opportunities to relocate if it becomes hazardous. Wealth inequality affects the ability to find other suitable residences within budget for both homeowners and renters. As such, city planners can avoid or minimize these issues regarding displacement by adjusting development plans and zoning as necessary or providing adequate compensation according to the community's needs.⁸

A second case of injustice relating to land development is the historically limited access to private residential property for black Americans. In his book, *The Color of Law: A Forgotten History of How Our Government Segregated America*, Richard Rothstein (2018) explains the ways in which the United States government segregated American cities through redlining and zoning laws.⁹ The United States government used the process of “redlining” to limit home mortgages to white single families while excluding others from the 1930s until 1968 when the Fair Housing Act was passed.¹⁰ The 1968 Fair Housing Act prohibited the practice of redlining, but the damage from the racially unjust system continued even after the practice was prohibited. Housing prices increased after the Fair Housing Act of 1968, so it was often difficult to achieve equitable housing in a residential area due to insufficient funds for many potential buyers.¹¹ As such, insufficient bargaining power from racially discriminatory zoning practices led to lasting racial and income inequality in the years following the practice. Philosopher Ben Laurence (2021) explains that “segregation along racial lines” and “white flight... allowed wealthier white residents to underfund goods and social services in black neighborhoods, which also face high rates of joblessness, crime, and decaying housing stock.”¹² Property values tend to be higher when there are many economic opportunities such as businesses and when the population is large. Prior to the 1968 Fair Housing Act, when many white community members and businesses

moved from an area, black Americans did not have the same mobility due to discriminatory practices of redlining. Diminished economic activity in the local area lowered property values.

In addition to unjust zoning practices such as redlining, community developments that disrupt infrastructure such as businesses and residences disproportionately affect racial minorities in the United States. Journalist Andrew J Yawn (2018) explains how American highway construction in the city of Montgomery, Alabama disproportionately affected black community members.¹³ The displacement of locals in the community was compounded by the economic hardships resulting from receiving compensation that was below fair market value. Homeowners were offered less compensation than the market value of their homes. The compensation was significantly lower than the price of a comparable replacement. According to Yawn (2018), in 1960, “the state estimated an average payment of \$3,300 per house, a price the poor and elderly felt didn't cover the loss.”¹⁴ Because of the little compensation that previous residents received and the state of a segregated and expensive housing markets, those who were displaced were “essentially left homeless.”¹⁵ Disrupting the housing situations for the local community members was problematic for the locals’ own living situations and damaged the structures of the local communities. This case presents a clear instance of inadequate bargaining power that worsened the conditions of those affected.

Finally, the history of displaced indigenous peoples in the United States and Canada provides evidence to the moral urgency of respecting moral agents and their normative claims. Indigenous nations and community members often had insufficient bargaining power to resist occupation and construction promoted by an oppressive colonizing government. For example, the deputy superintendent of Indian Affairs from 1913 to 1932 expressed intentions to “get rid of the Indian problem” and to “continue until there is not a single Indian in Canada that has not

been absorbed by the body politic.”¹⁶ Throughout colonial history in the United States and Canada, land has been stolen from indigenous nations through force and genocide. This case of forceful land appropriation demonstrates extreme and widespread human rights violations that ignored the normative ethical claims of adequate representation of those affected.

Thus, city planners and officials should increase bargaining power in city project developments for vulnerable groups who experience disproportionate negative externalities or displacement. Establishing robust systems of community representation and advocacy will improve bargaining power for potentially vulnerable groups in development related decision making by improving understanding of community experiences and minimizing extreme gaps in bargaining power.¹⁷

Value of Community Members and Sociality

Our necessary sociality and intersubjective experiences with other agents within a community provide sources of value. All interactions require substantive principles of respect, self-determination, and no-harm. This focus is especially important for city and community planning due to the close, interactive encounters among community members. Sociality and close connections are frequent in urban communities. Additionally, changes to the physical environment and negative externalities can dramatically change the quality of life for those affected when there are high relocation costs, health consequences, or few substitutes for housing.

There are many types of communities that an individual may be involved with. The variety of communities grows as technology allows us to be increasingly more connected through social media. We are connected through online communities where we can share ideas about various subjects and interests. In this discussion, I focus on a particular type of narrow

community: the urban community. The urban community is like other kinds of communities such that it involves a type of social interaction among members. Members share ideas, collaborate, and create ethical demands of others. Agents share normative ethics and experience emotions such as a sense of place or a feeling of community over a particular timeframe. Unlike some other community types, the urban community has the unique feature of *physical space*. Within an urban community, physical space includes the land, natural resources, animals, and the built environment or infrastructure. Land in this sense is merely the physical location and objects within the space. Each of these features contributes to the composition of an urban community, but a community is not *merely* the sum of these parts. It is *not* merely a group of people on a plot of land over a certain time period. Rather, the interactions among these parts give rise to a lived experience and normative ethical requirements.

City planners can effectively utilize the ideas of pragmatism and a “trans-actional” approach to better understand the importance of humility when evaluating the importance of involving locals in community development decisions. Shared emotions and relationships among agents allow for subjectivity. A sense of place distinguishes the lived experiences and emotional aspects of a particular community from its mere location. Within a city, agents interact with a shared physical environment that gives rise to a sense of place or feeling of mutual belonging. Everyone subjectively experiences common objects within the environment, but the objects remain available for others to each have their own experiences. Subjective emotions can be communicated effectively because each agent interacts with a common shared environment.

Although each individual interaction is necessarily private or subjective, the common interaction with the space provides an ability for mutual understanding and communicability.¹⁸ For example, I may experience the beauty of Mount Royal in autumn by feeling the crisp, cool

air and admiring the colorful leaves around me. Through this experience, I feel a pleasure. An individual's pleasure cannot be *felt* by anyone else because it is not strictly transferable.¹⁹ Experiencing pleasure from a beautiful scene can only be captured by the individual interacting with the object. By interacting with the same object, other agents can experience their own pleasure (or other emotions) and communicate those emotions in a way that other agents can understand and relate to. So, if Jack has a similar experience at the same place, then we can effectively communicate our subjective emotions due to the commonality of the shared object. These encounters do not have to take place at the same time. Jack could experience the beauty of Mount Royal four years after my experience, but we may still be able to effectively communicate our emotions because we have interacted with the same objects.

Shared emotional experiences are important for urban communities because they contribute to a sense of place and connectivity among community members. These emotions within an urban community are valuable to be able to effectively empathize with fellow community members. One may feel as though something is “shared” among those who experience the same objects and communicate similar emotions; however, it is not clear what exactly is “shared” among them. Even if their emotions are similar, such as a melancholy emotion, they are each feeling it for themselves only. They can never feel it for someone else. Instead of understanding communal emotions as something that can be shared and static, communal emotions are best understood from a more relational or socially dynamic view. According to Philippe Lorino (2018) in *Pragmatism and Organizational Studies*, a *trans-actional* approach is preferred to the “sharedness” or “commonality” view that agents experiencing the same object “share” the communal emotions.²⁰

The trans-actional approach “refers to a relational ontology that fuses temporality and sociality.”²¹ This means that instead of focusing entirely on what appears to be shared beliefs or experiences, scholars instead focus on the relationships among agents that take place within a certain time frame. This approach is effective because it allows for more humility and intersubjectivity.²² By taking the trans-actional approach, pragmatists propose that sociality is a “process rather than a state, and...the inherent property of the human Self.”²³ In other words, the social and temporal process gives rise to an agent’s own subjectivity.²⁴ According to Lorino (2018), “sociality is not based on shared representations; actors continuously and actively co-develop the social situations by fine-tuning their actions to each other; sociality is a relational, temporal, and situated co-construction.”²⁵ It is not possible to understand one’s own subjectivity as static or separate from other agents.

We must recognize the different perspectives that are necessarily separate from the Self. George H. Mead (1925) in “The Genesis of the Self and Social Control” compares the relationship between an agent and the Self to the act of buying and selling property. When two parties engage in an exchange, both perspectives are necessary components that cannot merely be reduced to the other. For example, the act of buying can only make sense from the opposite perspective of selling and vice versa. We do not exist as mere individuals forming our own paths independently of others. As such, in local communities, our relationship with others is essential beyond mere pragmatic reasons. Our relationship with others allows for our own subjectivity.

In addition to ethical components in a community, there are many other useful features that arise from local sociality. Interactions with other moral agents are essential for our own thriving within local and global economies and contribute to our sense of place and feelings of belonging within a community. Shared spaces within a city such as schools, parks, or

commercial areas create a sense of connection among community members. Normative values of shared respect for others, as well as future generations, can be realized through experiencing and maintaining one's physical environment. Even private businesses are largely publicly accessible and contribute to the shared sense of place.²⁶ According to Whitelegg (2000), place differs significantly from mere location because it encompasses a community's relationship to the environment and is closely related to "the processes through which human use gives place a rich, multilayered significance."²⁷ In other words, a sense of place and community is usually valuable and promotes emotional and cultural needs of a community. As such, city planners should encourage social interactions and public works to promote feelings of community and connection.

City Planning Strategies and Property Rights

When designing a city space, many philosophical questions arise regarding who originally controls the rights to natural resources and commons, and how the rights can be exchanged, if at all. Throughout the history of urban development in the United States, several different ideas and strategies have been tried and can be explained by examining different eras in planning history. In "Urban Design and Public Space," Ali Madanipour (2015) provides an overview of the history of city planning and development in the United States by briefly describing the planning eras. Prior to the 1970s, industry and city planning was heavily regulated by the government. Prior to World War II, Franklin D. Roosevelt's New Deal Policies contributed to housing and public developments. The government managed housing construction and regulated loans following the war. Urban design in the United States shifted in the 1980s from a period of high regulation toward a more laissez-faire phase in which "private companies were supported by public subsidies to take on the role of urban development and regeneration."²⁸

Projects that were once completed as public works were now more commonly developed by private companies and contractors. This shift in focus in urban development from many public developments to more private developments altered economic power in negotiations for urban development.²⁹ Private developers were granted the rights for construction and business so they could manage the projects in a cost-effective way.

In a purely descriptive case, the concentration of power to manipulate or control an urban environment shifted back and forth from public to private agents throughout the history of urban planning. Those who can alter the environment include state agents with the role of providing public funds, granting licenses and permissions, and creating state-run projects. This power comes from the communities that the planners represent to provide what they need. Depending on the type of project, developers often have a lot of bargaining power to manipulate an environment. This results from economic factors such as promises of revenue beneficial to a city and the potential to lower unemployment for those in the area. This bargaining power is significant enough that large and powerful companies can negotiate with government officials for tax cuts and protection against competition. I do not intend to diminish the economic importance of economic development in an area, nor do I intend to diminish potential harms of developments (such as threats of environmental problems, inequality, etc.). Rather, I intend to expose the disproportionate power imbalance between developers with significant economic capital and other community members who may be susceptible to unjust domination.

Another group who holds the power to develop includes those who have sufficient economic capital and incentive to alter the urban environment. Since the shift in the 1980s, these individuals are mostly private agents who have been granted special permissions by the state planners and officials. Some justify this type of private ownership and development because it

allows for greater cost effectiveness and does not burden cities with the responsibility of the construction and development process. Thus, private investors often improve communities by promoting economic activity and providing jobs for community members. When negative externalities are minimal or ethically insignificant, then this is a process that ought to be encouraged by city planners.

Economic growth and production rely on new developments or continued use of existing developments. Promoting industry and business within an urban community often brings jobs, revenue, or products to the local area. However, it is not always clear who owns the right to the commons or shared natural resources. Economists Ekelund and Tollison (1988) describe various ways in which externalities can be corrected to achieve a socially optimal level of production. These strategies include “defining property rights, taxing negative externalities or subsidizing positive ones, selling rights to create an externality, and establishing regulatory controls.”³⁰ They explain that externalities can be caused by property rights that are not adequately defined, so promoting clearly defined property rights can limit market failures. Community members are often negatively affected, yet they often do not have the economic bargaining power required to achieve a socially optimal outcome (change of plans, just compensation, etc.).

When determining who owns the rights to natural resources and the shared environment and thus who should be compensated for its use, the structure that is established changes the way in which negotiations regarding production will work out. Ekelund and Tollison (1988) state that “many externality problems do not fit the assumption of zero or low transaction and bargaining costs.”³¹ This means that the cost of organization among those who are affected by a development is typically higher than the cost of organization for a firm likely with a relatively smaller number of people. Ekelund and Tollison (1988) provide an example of a polluting

factory and evaluate the options depending on whether the firm or the affected neighborhood owns the air space. They explain the following:

“If the firm had the right to pollute, it is not likely that the neighborhood could... get organized, and offer the firm money to cut pollution... [If] the neighborhood owned the air space, the firm would find it costly to track down all homeowners and arrange for the purchase of their consent to produce up to [the desired] output.”³²

This means that the larger a group is in number, the more difficult they are to organize.

Depending on who is determined to have the right to ownership or pollution, the cost of organization will fall on the other party. The cost of organization cannot be diminished, but the party who pays the price of the organization will differ.

It certainly would be challenging, or impossible, to gain consent from each homeowner,³³ and if it could be possible to contact everyone in the area, then unanimous approval would be an unlikely result. This dilemma addresses an important issue regarding organization and power for ordinary community members who may be vulnerable to negative externalities. Although community members have a unique relationship with their local communities and should be granted a say in decision making, this does not *require* them to do so. Many community members are indifferent to projects, even in cases where there are negative externalities. They may not want to take the time or make the effort to get involved. For this reason, complete contribution and unanimous consent by community members does not seem feasible or desirable. This leads to questions concerning who holds the rights to shared features of the commons and how the rights can be transferred.

Political philosopher Elizabeth Anderson (2018) describes and evaluates the political philosophy of the Levellers in 17th century Europe. She states that “the Levellers saw the state as

underwriting all kinds of oppressive private governments – of landlords, the established church, guilds, [and] patriarchy”³⁴ They had goals of escaping domination that was present in multiple areas of life through monopolies of power. “Opposition to economic monopolies was part of a broader agenda of dismantling monopolies across all domains of life” such as “monopolies of church and press monopolization of the vote by the rich, and monopolization of family power by men.”³⁵ Philosophers such as John Locke, Adam Smith and Thomas Paine believed that self-employment opportunities would liberate those suffering from domination by others. These ideas of non-domination through employment were largely connected to land ownership and opportunity. Anderson (2018) goes on to explain Paine’s idea of social insurance paid through a land tax. Paine believed that “this was just, because landowners, in inclosing a part of the earth that was originally held in common by all, had failed to compensate everyone else for their taking.”³⁶ This means that it is owed by virtue of private land ownership that others in the community are compensated for enclosure due to the public nature of land and natural resources.

According to John Locke, a person acquires property rights when he mixes his labor with it. Before this happens, there is only “the commons,” but the mixing of labor effectively brings the object out of the commons and into the status of privately owned property. He claims that “taking any part of what is common and removing it out of the state of nature”³⁷ creates value and establishes an item as property. According to Locke, without this process, “the common is of no use.”³⁸ However, this perspective regarding property rights does not account for other sources of value or potential for unjust domination by violating substantive normative principles. These ideas can be plausible in theory, but it does not sufficiently provide a permissible applied ethical theory. In practice, ideas of property rights only exist within a context of historic discrimination and colonization. Any theory of property rights would have to address the context of stolen lands

through colonization and denied housing for racial minorities. As such, the history of land ownership in Canada and the United States has violated normative substantive principles,³⁹ thus Locke's conception is not morally permissible in applied real estate ethics.

Further, when someone holds a property right, it typically involves a particular relationship between the owner and the object in their possession. It also involves certain duties from others who do not have a claim-right to the object. For example, if a car is someone else's object of property, then I may have a duty not to take it without permission. Wesley Newcomb Hohfeld (1913) explains that a part of having a right to an object of property involves the ability to buy and sell that right to another agent. When doing so, the previous owner "extinguish[es] his own interest" which is then transferred to the next owner as "a new and corresponding interest."⁴⁰ This implies that if someone has a right to an object, then it must be transferable. Hohfeld (1913) refers to the ability to make this transfer as the process of abandonment. The process of abandonment may be applicable in ordinary exchanges of goods, but the rights to a common resource becomes more complicated when the community members have both normative claim-rights to the physical space *and* high costs of organization. Thus, community members should also have the power to influence most decisions when they directly experience a negative externality, provided that no substantive ethical principles are violated. In these cases, it is the political responsibility of the city planners to provide a space to voice grievances and provide alternatives or negotiations when applicable. By providing a more robust system of negotiation for community members who are subject to negative externalities and unjust domination, the claim-rights of the community can be respected in urban development.

When evaluating the legitimacy of real estate, scholars may come to different conclusions about the permissibility of certain actions depending on their perspective. Johannes Brinkmann

(2009) argues in “Putting Ethics on the Agenda for Real Estate Agents,” that “law and traditional ethics share an idealistic and normative focus.” Sociological role theory “[focuses] on underlying social roles and on typical *role behaviors*, rather than on single agents and their behaviors in specific situations.”⁴¹ This evaluative strategy allows scholars to evaluate the various social roles of real estate agents. For example, real estate agents often have complex relationships with their clients, buyers, real estate firms, as well as the general community and legal institutions. As such, there are many responsibilities and potential conflicts regarding the ethics of these relationships. Brinkmann (2009) explains the various roles that a real estate agent may have with various individuals. In some roles, the agent may be required to be partial toward her client, but in others she could be expected to be an impartial intermediary or advisor.⁴² A real estate agent’s relationships with stakeholders such as clients, community members, and staff exposes a variety of interests involved in the exchange of land. In a real estate purchase, a buyer and seller negotiate terms to make an exchange. This process allows for their own interests to be compensated accordingly. This is efficient in cases with no public externalities. Negative externalities for community members provide reasons to include them in the exchange as necessary.

It is important to note that markets do not exist outside of our social institutions. Rather, they are composed of buyers and sellers. They are permitted and exist *by virtue of* the members in the market. Many market decisions lie beyond the scope of city planner capabilities to regulate. City planners have a limited scope regarding zoning, licensing, and negotiating on behalf of the community. Thus, many market decisions happen independently of the profession. This is often desirable since it produces maximum market efficiency and minimal deadweight loss. However, markets are subject to the same normative substantive principles as other

interactions within a community. As such, they should be regulated when they cause significant harm. City planners can have a role in the regulation regarding their limited scope of power to do so, but other regulations, as necessary, would occur on a different state level.

Potential Solutions for Improving Bargaining Power in Communities

A common issue within political philosophy discussions involves an apparent gap between philosophical political theory and practice. Critics argue that theory is often separate from feasible solutions because it does not allow for the nuances and limitations that exist in real situations of injustice. Conversely, Ben Laurence (2021) argues that “theory is complete only when it reaches all the way to action.” This allows for “the realization of the purpose intrinsic to the theory of justice.”⁴³ As such, a discussion of community member power imbalance and domination is incomplete without potential solutions that align with a theory prioritizing ethical considerations when a tradeoff cannot be avoided.

This section presents various potential solutions to achieve goals of adequate community representation, non-domination, and decolonization. Striving toward these goals is an imperative conclusion to my argument., but it is not my intention to imply a strict prescriptive political solution. Rather, each area of political philosophy and business ethics described below involve careful consideration by philosophers and scholars whose details surpass the scope of my discussion. I intend for my contribution to be the prioritization of increased representation for community members regarding development-related changes. This may look different depending on governments, existing institutions, or cultures, but the imperative goals should remain the same in each case.

City planners and officials are in a unique position to promote economic well-being and development within a community while also protecting communities from harms that may come

from the projects. Two ways to promote adequate bargaining power include 1) advocacy of communities by an individual or group making decisions on the group's behalf or 2) direct representation and voting when necessary. However, the procedure alone is necessary, but not sufficient due to potential violation of substantial ethical principles. Conversely, to adequately understand how to act in accordance with substantive normative principles, a procedure of participation is required to ensure adequate understanding and minimization of extreme gaps in bargaining power.

Advocacy and diversity within the field of planning can improve community bargaining power in some instances. June M. Thomas (2015) in "Race: Ethnicity and Urban Planning" argues for a connection between urban planning and social justice. She addresses that the role of city planner is a profession that comes with many social responsibilities. They often have complex relationship with their clients and employers that demand a certain set of professional obligations. She argues that because they have "advisory power and implement some programs... they need to have a sense of planning professionalism that eschews social oppression and promotes social justice."⁴⁴ In other words, the position of a city planner should hold a high degree of responsibility because of its lasting effects on those whose lives change because of certain developments or zoning. This is especially important for groups who may be vulnerable to social injustice. Because of the impacts of planning that fail to protect the needs of potentially vulnerable groups within a community, she suggests that development planning "uses a participatory process to help empower marginalized people."⁴⁵ She suggests one way of doing this is to promote more diversity within the planning profession. A participatory process seems to adequately represent those affected by developments in many cases, but this kind of process may not always be feasible or required in a situation. For example, communities are diverse and

have needs that cannot always be immediately anticipated by city planners. Advocacy serves an important role in the representative process, but it cannot reasonably reflect the full share of unique issues that may be relevant for a community. Still, a goal of greater diversity within the profession of city planning is a step in the right direction to achieve improved community representation.

Further, to adequately address a community's needs, city officials may provide a platform for local direct representation from the affected community members themselves. The goal is not only adequate representation of the community within the profession of urban planners themselves, but also to directly represent and gain insight from the community members who are not in the planning profession. Depending on the type of project, various degrees of participation should be encouraged. If the type of project is expected to disrupt the housing situations or health outcomes for many community members, then those potential externalities should be explained to those who will be affected. If city planners determine that a democratic process best serves the needs of the community for a certain project, then affected community members can vote on an outcome or collectively decide on terms for project negotiation.⁴⁶ Other options for representation include conducting surveys and interviews to measure subjective experiences. Surveys could ask questions about how an individual interacts with a particular area in their daily life, or how they will be affected from a development. By doing so, planners can empower these communities to advocate for what is best for them and provide insight to their subjective experiences. Direct representation may not always be possible, but working toward this goal puts community negotiations on the right path toward morally permissible development decisions.

For pragmatic purposes, although the rights are inherent to the persons which make up a community, a state or government negotiates on behalf of community members. The local

government engages in buying and selling real estate on public levels and to allows for private land trading. However, although these institutions of public and private trade are pragmatically useful, this does not ethically allow for unchecked trading, nor does it follow that we should prioritize economic considerations over ethical ones. It is essential for a functioning society to have a stable and sustainable economy and to be involved in trading and development.

In many cases, there may be no infringement on the rights of community members. Additionally, we may sometimes use economic institutions, such as public or private companies or banks, as tools for social justice to improve the economic conditions of community members. As such, many economic institutions are beneficial both economically and socially. However, I posit if we wish to protect the rights of community members and diminish negative externalities (which we should), then we must enact more robust systems of community representation and bargaining power, especially those who are vulnerable to unjust domination for social or economic reasons. This is a positive right for community members, meaning that it is a duty for a state to provide sufficient means of doing so. It can be accomplished by improving bargaining power in negotiations such that state commissioners (or other departments) prioritize ethical considerations of community members and appropriately examine external institutions or social concerns that could raise concerns outside of mere economic considerations.

City planners or officials should examine city projects for potential or anticipated harms to community members and advocate on their behalf. If land is used for a public project, then state agents must consider the negative consequences that this will have on affected individuals. If housing is lost because of a development, then failing to either provide a reasonable alternative or failing to allow negotiations for unjust compensation is insufficient. Failing to take these into

account or offering just compensation leads to unjust domination and diminishes the legitimacy of state power over the affected community members.

Conclusion

Extreme differences in power and inadequate knowledge about community members' personal experiences can lead to unjust domination or misalignment with substantive ethical principles in cases where powerful stakeholder interests do not represent the common good of a community. The harms from these cases can be minimal or extreme. In order to feasibly meet goals to promote respect, self-determination, and no-harm, city planners and officials should construct accessible means of participation, representation, and advocacy to understand community needs and empower communities. This is especially important for groups who experienced past or present injustices.

City planners have a responsibility as community representatives to evaluate economic and social power imbalances within stakeholder decision making. Allowing for domination of community members due to a significant power imbalance would fail to represent the community's needs. Because of the representative power of a state, community members have a positive right to advocacy when their bargaining power is otherwise insufficient to avoid cases of unjust domination.

Inadequate bargaining power for community members, especially marginalized groups, has led to development-related injustices in cities and communities in the United States, Canada, and United Kingdom. City planners can diminish cases of injustice by improving bargaining power and encouraging a participatory process for community developments. This will enable better understanding of subjective experiences by gaining insight directly from community members. Additionally, advocating on their behalf will minimize extreme gaps in bargaining

power between community members and other influential stakeholders. Thus, planners will be in a position to address and minimize potential harms and negotiate for the wellbeing of community members. This is especially important for groups who have experienced past or ongoing marginalization.

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Endnotes

¹ Respect can be understood from a Kantian perspective such that each agent has a duty to treat others as ends rather than means to another end. See Christine Korsgaard's *Creating the Kingdom of Ends*, especially pages 137-143.

² Self-determination and the no-harm principle work together such that agents should allow others to determine choices and actions for their own lives if doing so will not harm others. These principles are compatible with respect because they acknowledge individual autonomy over their own lives. See Korsgaard, pp. 178.

³ See Corianne Payton Scally (2014), "Who, Why, and How Communities Oppose Affordable Housing."

⁴ Assume, *ceteris paribus*, that there is no contestation or harm from the development, and funding comes entirely from the religious minority.

⁵ John Whitelegg (2000), "Building Ethics into the Built Environment," pp. 32.

⁶ A.S. Schnake et al (2020), "Gentrification, Neighborhood Change, and Population Health: A Systematic Review," pp. 3.

⁷ Ibid.

⁸ Following the growing popularity of the "nuclear family" in the 1940s through the 1960s, Americans became more financially strained as they lived in smaller family units. See David Brooks (2020) "Why the Nuclear Family was a Mistake" and Elaine Tyler May (1988) *Homeward Bound: American Families in the Cold War Era* for an in depth analysis of the financial strain and cultural changes (such as moving toward more consumerism) that came from organizing into small family units during the Cold War.

⁹ Richard Rothstein (2018), *The Color of Law: A Forgotten History of How Our Government Segregated America*.

¹⁰ Matthew Waggoner (2018), *Unhoused: Adorno and the Problem of Dwelling*.

¹¹ Terry Gross (2017), A ‘Forgotten History’ of How the U.S. government segregated America.”

¹² Ben Laurence (2021), *Agents of Change*, pp.126.

¹³ Andrew J. Yawn (2018), “Cleaved by Concrete: The Legacy of Montgomery’s Interstates and the Neighborhoods They Destroyed.”

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Duncan Campbell Scott, quoted from Robert L. McDougall’s (2008) article, “Duncan Campbell Scott.”

¹⁷ The types of injustices listed in this paper are limited to wealth inequality, racial inequality, and colonization injustice; however, there are many other kinds of injustice such as environmental, feminist, etc. I hope that the cases explained above provide more than enough evidence to support my position of the moral urgency to enact robust systems of representation so that we may avoid future injustices caused by inadequate bargaining power.

¹⁸ Arata Hamawaki (2006), "Kant on beauty and the normative force of feeling."

¹⁹ Ibid.

²⁰ Philippe Lorino (2018), *Pragmatism and Organization Studies*, pp. 125.

²¹ Ibid.

²² Theo Verheggen and Cor Baerveldt, (2007), “We Don’t Share! The Social Representation Approach, Enactivism and the Ground for an Intrinsically Social Psychology”

²³ Philippe Lorino (2018), *Pragmatism and Organization Studies* pp. 124.

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- ²⁴ G. H. Mead (1925). “The Genesis of the Self and Social Control” pp. 278.
- ²⁵ Philippe Lorino (2018), *Pragmatism and Organization Studies*, pp. 133.
- ²⁶ Carter, E., James, D., & Squires, J. (1994). *Space and Place: Theories of Identity and Location*.
- ²⁷ John Whitelegg (2000), “Building Ethics into the Built Environment,” pp. 39.
- ²⁸ Ali Madanipour (2015), “Urban Design and Public Space” pp. 790.
- ²⁹ This does not imply the beginning of power imbalances in negotiation with private companies and land development. It is merely recognizing a trend and shift in general tendencies.
- ³⁰ Robert B. Ekelund and Robert D. Tollison (1988), *Microeconomics* pp. 432.
- ³¹ Robert B. Ekelund and Robert D. Tollison (1988), *Microeconomics*, pp, 434.
- ³² Ibid.
- ³³ It also seems that non-homeowners such as renters would be affected in this case and should be addressed as well.
- ³⁴ Elizabeth Anderson (2018), *Private Government: How Employers Rule Our Lives (and Why We Don't Talk about It)*, pp. 26.
- ³⁵ Elizabeth Anderson (2018), *Private Government*, pp. 17.
- ³⁶ Elizabeth Anderson (2018), *Private Government*, pp. 29.
- ³⁷ John Locke and Thomas Preston Peardon (1997), *The Second Treatise of Government*, Chapter 5 “Of Property,” pp. 28.
- ³⁸ Ibid.
- ³⁹ See Yawn (2018) and McDougall (2008).
- ⁴⁰ See Wesley Newcomb Hohfeld (1913), “Some Fundamental Legal Conceptions as Applied in Judicial Reasoning,” pp. 45-46.

⁴¹ From Johannes Brinkmann (2009), “Putting Ethics on the Agenda for Real Estate Agents,” pp. 67.

⁴² From Johannes Brinkmann (2009), “Putting Ethics on the Agenda for Real Estate Agents,” pp. 69.

⁴³ From Ben Laurence (2021), *Agents of Change* pp. 142.

⁴⁴ From June M. Thomas (2015), “Race: Ethnicity and Urban Planning,” pp. 821.

⁴⁵ From June M. Thomas (2015), “Race: Ethnicity and Urban Planning,” pp. 823.

⁴⁶ This type of direct representation is not always desirable or feasible, but it can be appropriate in some cases. It can be difficult to organize large groups because of high opportunity costs for community members. Additionally, not everyone will be knowledgeable about the type of project or the terms. It is not always clear how much participation will be required or exactly how much information that each voting member should be required to know about the project. See Philip Pettit (2012) for more information about the merits and challenges regarding this type of democratic assembly.