

Hed: Return of the Courthouse Square

Dek: Sweeping changes in the judicial system and society call for courts to become civic gathering spots

Public buildings often accurately reflect the beliefs, priorities, and aspirations of a people. ... For much of our history, the courthouse has served not just as a local center of the law and government but as a meeting ground, cultural hub, and social gathering place.

– Justice Lewis F. Powell, Jr.
(United States Supreme Court, 1972–1987)¹

[T]he story that a building tells through its design may be as important to the community it serves as is its function. By shaping our thoughts about ourselves and our institutions, it will directly affect our efforts to work productively together.

– Justice Stephen G. Breyer
(United States Supreme Court, 1994–present)²

The Challenge

The courthouse of the last century was a cornerstone of the community, a source of local pride and the nexus of social life and ritual. But today, courthouses and the public spaces that often surround them are, for the most part, physically and programmatically disconnected from public life, even though they regularly occupy central place in a community. Citizens don't visit their courthouses unless compelled to do so, and very few court spaces serve as public destinations – their artificial disengagement from the public realm, due in part to their inaccessible design and single-purposed programming, causes an unfortunate disservice to their history and potential role as cornerstone institutions.

The good news is that when there is positive leadership, open-minded management, and the desire for change, court properties have much potential for revitalization. Courts have an opportunity and a responsibility to serve as public gathering spots in their communities. Courts are, after all, the *people's* houses of justice, and only by becoming engaging places can they live up to their potential.

Early American courthouses often shared space with other public institutions –typically the customs house and the post office for federal courts, and the county clerk, tax collector, or jail in county courts.³ These buildings were filled with citizens and served as symbolic points of public pride. Over the past decades, however, the design of court buildings has followed the dictates of security and specialized uses– to the unintended detriment of meaningful public engagement. The design of court spaces and facilities has shifted from welcoming to foreboding.

The resulting decline of the courthouse's community role is indicative of a larger trend: the widening disconnect between the judicial system and public life. Judith Resnik – Yale Law School's Professor of Law and co-author of the forthcoming book Representing Justice: Adjudication's Rise and Fall as Seen From Renaissance Iconography to Twenty-First Century Courthouses – observes that today's justice system is experiencing a paradoxical shift: adjudication is both expanding and in decline. On one hand, we are more litigious than ever: the courts' work has mushroomed in terms of the number and complexity of cases. Federal judicial caseloads have more than doubled in the last fifty years,⁴ even as the number of judgeships has skyrocketed. At the same time, trials are vanishing as more disputes are heard in alternative (and non-public) forums: settlement, alternative dispute resolution (ADR) settings, and administrative agencies like Social Security and immigration boards. Between 1962 and 2002, the federal civil trial rate plummeted from 11.5% to 1.8%,⁵ while between 1976 and 2002 the average state civil trial rate dropped from 36.1% to 15.8%.⁶ Rather than regularly presiding over trials, judges have become multitasking “case managers,” with far greater levels of involvement in (nonpublic) pretrial resolution.

This paradox creates new problems for court space. Some courthouses strain to keep up with the spatial demands of more judgeships, more litigation, and new processes and programs.⁷ Very little of this activity meaningfully engages the public. At the same time, more and more disputes are resolved administratively in dreary office buildings, while new courtroom space nearby goes relatively unused. For example, as Resnik writes, each trial courtroom in Boston's Joseph P. Moakley Federal Courthouse was used for only about seven trials per year in 1998; a GAO review of federal district courtroom use in 1997 found that courtrooms were in use on only fifty-four percent of possible days, and on those days often for less than two hours.⁸

Through such privatization, the public is effectively denied access to adjudication—physically, socially, psychologically, and politically. Court spaces are no longer truly civic, and therefore can't sustain the vitality of communities or foster public engagement. People have a constitutionally and politically entrenched right to participation in court proceedings and democratic processes; this right is rendered meaningless when court spaces fail as public places.

The Opportunity

What is needed is a fundamental reconsideration of court space, interior and exterior. Courts and court spaces must find ways to recapture their relevance and resonance within communities; they must become civic destinations that engage with and respond to their users.

Some courts have attempted to represent their “public” nature through thoughtful design and public art projects. For example, San Francisco's new federal building features an innovative perforated “skin” that extends over the surrounding area to shelter a public plaza, daycare center, fitness center, and public meeting space. The

Morse United States Courthouse in Eugene, Oregon, features an engaging work called *Jury Pool*, which portrays small portraits of randomly selected Oregonians etched onto glass tiles (the color of which was selected by each subject). Nearby is a state map on which the favorite place of each subject is marked.

South Africa's Constitutional Court was built on the site of a former high-security prison in Johannesburg (in which Mahatma Gandhi and Nelson Mandela, among many others, were jailed). The new building's design reflects, in many thoughtful and inspiring ways, South Africa's efforts to build an inclusive and democratic society, while remembering the injustices and tragedies of the past. From the concrete roof beams – inscribed with the words “human dignity, equality, and freedom” in the handwriting of each of the Court's eleven judges – to the deliberate reuse of steel and brick from the prison, the Court stands in honor of the past and in hope for the future. It is truly a civic space, as Justice Albie Sachs explains: “We have lots of public functions ... book launches, exhibitions ... debates and discussions on important public holidays, theatrical and dance performances, films. So it really is a public place, used by the public in all sorts of ways.”⁹

One of the most promising possibilities for courts is to reengage the public by becoming multi-use centers where many activities go on. By integrating multiple functions, court spaces can regain their former prominence as civic centers that make real contributions to community life. It's notable that the post office, the frequent past partner of federal courthouses, is currently struggling to find its own way in a rapidly changing society, which has led to altered space needs – in May 2009, the USPS announced plans to close up to 3,000 post offices nationwide.

Another civic institution, the public library, has also rethought its role as a public destination in light of changing consumer demands. The Princeton Public Library in New Jersey had a profound effect on its community when it opened the doors to its new building in 2004; the library offers a wide variety of programming, including a café, public artwork, teen center, technological services, and a lecture series based on the interests of Princeton native Christopher Reeve. A plaza just outside the front doors allows for reading in the sunshine. Salt Lake City's public library is situated on a vibrant “library square”; the local Friends of the Library operate cafés, a comic book shop, and a gift shop on the library's block, and more than one thousand community groups use the library as a gathering space.¹⁰

Courts can learn from the experiences of libraries and other institutions in determining how to become great civic places – the “front porches” of the public realm. A synergistic multiple-use civic destination – including, for example, court space, a post office or library facilities, and flexible space for public events (for example, a public market) – can engage diverse audiences and foster civic identity. Properly maintained and managed, it can also serve as a community anchor that spurs economic revitalization and social interaction in the neighborhoods and downtowns proximate to it.

Of course, just opening the door isn't enough. Engaged building management, education, and programming are also key to involving the public in court activity in a meaningful way. Participation and a sense of welcome are crucial for creating institutional trust. The Moakley Federal Courthouse, the centerpiece of Boston's revitalizing waterfront, is becoming a true civic destination—amenities and gathering spaces around the courthouse help draw crowds to the space. Special programs help to engage the public in the life of the court; visitors are invited inside to view a variety of art exhibits, both permanent and temporary, as well as to view the court's unique architecture and harbor view. More than 75,000 children and adults have participated in the civic education programs housed in the courthouse, many of which partner with local elementary and middle school students to provide hands-on learning opportunities and promote civic pride.

Among civic institutions, courts face some unique challenges that must be considered, including a need to address security concerns and management issues particular to court spaces. But these challenges are not insurmountable. For instance, trial courts are typically designed to include segregated circulation routes for judges, defendants, and the public; this duplication of space can lead to deprioritization of public access. But a rethinking of court space can turn this problem around: if space must be segregated, then efforts must be focused on making those areas open to the public even more open and welcoming.

A one-size-fits-all solution won't suffice. We must develop tailored strategies to meet the needs of courts of all types and at all levels: trial and appellate; federal, state, county and municipal as well as the office buildings housing administrative bodies that have, often, the most direct impact on people's lives.

The Way Forward

We need a new way of looking at community institutions. Public buildings – including courts, as well as schools, government buildings, cultural institutions, theaters, hospitals, and many others – have become isolated from the surrounding communities, rather than integrated into them. Design, rather than a sense of place, has become the focus. We must find ways to help these institutions become better community anchors.

The first and most immediate step towards making this transition is to open a dialogue among stakeholders. By bringing diverse actors together – including state and federal property managers, judges and judicial personnel, law students and lawyers, architects, educators, public and community groups – new solutions and partnerships can be developed to turn court spaces into meaningful public places. There is a need for refocused, re-imagined approaches that emphasize context, use, comfort, and creating a sense of place within and surrounding courthouse facilities.

Project for Public Spaces is committed to playing a key role in facilitating these discussions. Since 1975, PPS has helped thousands of communities worldwide create

their own vibrant, vital places that contribute economically, culturally, and socially to public life. PPS has worked extensively to revitalize many types of civic centers, including courthouses, post offices, museums, libraries, government office buildings, city halls and other seats of government.

Since 1999, PPS has partnered with the General Services Administration's Good Neighbor Program, working to help GSA and community stakeholders envision new or revitalized public spaces that will draw a variety of people, uses, and activities. PPS has worked in this capacity in almost two dozen cities. PPS and GSA have also collaborated to produce *Achieving Great Federal Public Spaces: A Property Manager's Guide*, an invaluable resource for GSA managers to evaluate and improve their court spaces.

PPS's extensive placemaking experience with civic centers, and our history of collaboration with GSA, give us a strong foundation on which courts of all types can build in fulfilling their potential as true civic destinations.

Courthouses traditionally were found in the center of a town; inside one found public notices, public records, and trials, where passersby sometimes watched the law in action; outside the public picnicked, celebrated the Fourth of July, set off fireworks in surrounding parks. Historically, courthouses were not office buildings.

– Justice Stephen G. Breyer¹¹

* * * * *

By Karen Levy, with assistance from Fred Kent and Cynthia Nikitin.

Karen Levy is an attorney and a graduate student studying sociology at Princeton University. Her research concerns the relationships among law, architecture, democracy, and social control. Karen has been working with Project for Public Spaces as an Arthur Liman Public Interest Summer Fellow, a program sponsored by Yale Law School and Princeton's Program in Law and Public Affairs.

Fred Kent is Founder and President of Project for Public Spaces. Cynthia Nikitin, a Vice President at Project for Public Spaces, manages the organization's Civic Anchors program.

* * * * *

Further Reading for Courthouse Placemaking

Christensen, Karen, and David Levinson (eds.). *Heart of the Community: The Libraries We Love*. Berkshire Publishing Group LLC, Great Barrington, Massachusetts, 2007.

This book describes some of the most innovative, beautiful, engaging libraries in the United States and Canada. The experiences of these civic centers can serve as inspiring examples for the courthouse of the future.

Flanders, Steven (editor). *Celebrating the Courthouse: A Guide for Architects, Their Clients, and the Public*. W.W. Norton & Co., New York, 2006.

This beautifully illustrated book features essays that highlight the history, context, challenges, and future of the American courthouse. Includes writings by Judge Douglas Woodlock, Nathan Glazer, and a foreword by Justice Stephen G. Breyer.

Law-Viljoen, Bronwyn (editor). *Light On A Hill: Building the Constitutional Court of South Africa*. David Krut Publishing, South Africa, 2006.

A stunningly written and illustrated book that describes the process of building South Africa's new Constitutional Court, one of the most inspiring, beautiful, and truly public court spaces in the world.

Project for Public Spaces. [*How to Turn a Place Around: A Handbook for Creating Successful Public Spaces*](#). Project for Public Spaces, Inc., New York, 2000.

One of PPS's core publications, *How to Turn a Place Around* shares the placemaking philosophy and PPS's eleven principles of creating great places. Includes a workbook for evaluating public spaces.

Project for Public Spaces' website: <http://www.pps.org>.

See especially [our approach to civic centers](#) and information about [our collaborative work with GSA](#).

Resnik, Judith and Dennis E. Curtis. "Representing Justice: From Renaissance Iconography to Twenty-First Century Courthouses." *Proceedings of the American Philosophical Society* vol. 151, p. 139. 2007.

This piece explores the meaningful images displayed in court space, from ancient Babylonian icons to modern symbols of justice. Resnik and Curtis focus especially on how the meaning of the Renaissance figure of Justice, blindfolded with scales, has changed over time. They share suggestions for conveying broader messages in courthouse space that communicate the complexity of doing justice, memories of past injustice, and commitment to human dignity.

Resnik, Judith. "Courts: In and Out of Sight, Site, and Cite." *Villanova Law Review* vol. 53, p. 771. 2008.

This article traces the history of "public-ness" in court proceedings, and the corresponding changes in court spaces, from Renaissance town halls to modern "federal presence" architecture. She describes the paradoxical "triumph and death of adjudication," and makes a compelling argument for preserving the openness of adjudication and court spaces in light of new challenges.

Resnik, Judith and Dennis E. Curtis. *Representing Justice: Adjudication's Rise and Fall as Seen From Renaissance Iconography to Twenty-First Century Courthouses*. Yale University Press, New Haven, forthcoming 2010.

The forthcoming book from Professors Resnik and Curtis draws and expands upon their previously published articles, offering in-depth historical analysis of court space and judicial iconography. Resnik and Curtis's account traces the history of publicity

and democracy – from ancient Greek and Roman courts up to modern GSA programs and buildings for international adjudication.

United States General Services Administration. [Achieving Great Federal Public Spaces: A Property Manager's Guide.](#)

This interactive manual, a joint project of GSA and PPS, provides innovative tools for placemaking at federally-managed properties. The book is free, and may be ordered or downloaded at PPS's online bookstore.

* * * * *

Footnotes

¹ Powell, Lewis F., Jr., foreword to *Virginia's Historic Courthouses* (John O. and Margaret T. Peters, authors). University Press of Virginia, Hong Kong, 1995.

² Breyer, Stephen G., foreword to *Celebrating the Courthouse: A Guide for Architects, Their Clients, and the Public* (Steven Flanders, editor). W.W. Norton & Co., New York, 2006, p. 9.

³ Resnik, Judith, "Courts: In and Out of Sight, Site, and Cite." *Villanova Law Review* vol. 53, p. 771. 2008; Seale, William, "American Vernacular: The Courthouse as a Building Type," in *Celebrating the Courthouse* (see note 2).

⁴ Galanter, Marc, "The Vanishing Trial: An Examination of Trials and Related Matters in Federal and State Courts." *Journal of Empirical Legal Studies* vol. 1, p. 459. 2004.

⁵ *Id.*

⁶ Ostrom, Brian J., et al., "Examining Trial Trends in State Courts: 1976-2002." *Journal of Empirical Legal Studies* vol. 1, p. 755. 2004.

⁷ Phillips, Todd, S., "Courthouse Design at a Crossroads," in *Celebrating the Courthouse* (see note 2), p. 204.

⁸ United States Government Accountability Office, "Courthouse Construction: Better Courtroom Use Data Could Enhance Facility Planning and Decisionmaking." GAO/GGD-97-39. May 1997.

⁹ Law-Viljoen, Bronwyn (editor). *Light On A Hill: Building the Constitutional Court of South Africa*. David Krut Publishing, South Africa, 2006, p. 45.

¹⁰ Christensen, Karen, and David Levinson (eds.), *Heart of the Community: The Libraries We Love*. Berkshire Publishing Group LLC, Great Barrington, Massachusetts, 2007.

¹¹ Breyer, Stephen G., foreword to *Celebrating the Courthouse* (see note 2), p. 11.