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Between Equal Rights: Primitive Accumulation and Capital's Violence

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Abstract

This paper attempts to elaborate a political theory of capital's violence. Recent analyses have adopted Karl Marx's notion of the "primitive accumulation of capital" for investigating the forcible methods by which the conditions of capital accumulation are reproduced in the present. I argue that the analytic function accorded to primitive accumulation can be better performed by a pair of new concepts: "capital-positing violence" and "capital-preserving violence." I refine the conceptual core primitive accumulation (coercive capitalization of social relations of production) by focusing on the role of colonial violence in the history of capitalism, which I then elucidate with reference to Carl Schmitt's account of European colonial expansion and Walter Benjamin's reflections on law-making and law-preserving violence. The resultant concepts of capital-positing and capital-preserving violence, I conclude, can illuminate both the historical and the quotidian operations of the politico-judicial force that has been constitutive of capital down to our present moment.

Keywords: capitalism, violence, colonialism, Karl Marx, Walter Benjamin, Carl Schmitt

Introduction

The global restructuring of capitalism in the last four decades and the new regime of accumulation that has come to be labeled "neoliberalism" have rekindled scholarly interest in the relationship between capitalism and violence at a level unforeseen since the early-twentieth century debates over imperialism. Rampant global inequality; hyper-exploitation of labor, especially domestic and migrant labor, in global value chains; finance driven dispossessions, ranging from the structural adjustments of the 1980s to the Asian crisis of 1997-1998 to the home foreclosures and fiscal austerity after the 2007-2008 financial implosion; meteoric rise in transnational land acquisitions in the Global South and especially Africa for food and biofuel

production; production of surplus populations thrown into slums, refugee flows, and prisons... These social and ecological “expulsions” have turned attention to the aggressive vectors of capitalist expansion and intensification in which they originate.¹ A principal and flourishing line of inquiry has been to re-appropriate and update Marx’s notion of the “primitive accumulation of capital,” discussed in the last section of *Capital*, Volume 1, to restore its conceptual relevance and power for contemporary analysis. The resultant literature is rich, variegated, and replete with disagreement, yet it is united by a common focus on the role of extra-economic force/violence in the institution, expansion, and reproduction of the conditions of capitalist exploitation.²

Departing (in both senses of the term) from this scholarship, this essay offers an exploratory attempt to theorize the force/violence operative in the primitive accumulation of capital.³ As I have argued elsewhere, while the notion of primitive accumulation is vital to any analysis of historical capitalism, the conceptual intension and the empirical extension of the term are often conflated, generating multiple and conflicting definitions and applications. On the one hand, Marx’s designation of the English Enclosures as the “classic case” has caused unnecessary confusion amongst scholars who then turned the English story into a modular template, condensed in the neologism “new enclosures,” by which to explain capitalist transformation in cases that are centuries and continents apart.⁴ On the other hand, efforts to delink the concept from its historicist moorings, David Harvey’s “accumulation by

¹ Saskia Sassen, *Expulsions: Brutality and Complexity in the Global Economy* (Cambridge: Harvard University Press, 2014).

² A detailed survey of this scholarship need not detain us here. For a useful survey, see Derek Hall, “Primitive Accumulation, Accumulation by Dispossession and Global Land Grab,” *Third World Quarterly* 34.9 (2013): 1582-1604.

³ Throughout the paper, I will be using “force” and “violence” interchangeably. The word used by the primary interlocutors of this essay – Karl Marx, Walter Benjamin, and Carl Schmitt – is “*Gewalt*,” which refers not only to sheer violence but also to “legitimate power, authority, and public force.” This point will become especially important in discussing the agency of the state in primitive accumulation. Jacques Derrida, “Force of Law” in *Deconstruction and the Possibility of Justice*, ed. Drucilla Cornell, Michael Rosenfeld, and David Gray Carlson (New York: Routledge, 1992), 234.

⁴ Midnight Notes Collective, “The New Enclosures” (1990), <http://www.midnightnotes.org/newenclos.html>; for a critique, see Robert Nichols, “Disaggregating Primitive Accumulation,” *Radical Philosophy* 194 (2015): 18-28.

dispossession” chief amongst them, have risked over-extending its range of reference in a way that leaves little outside the ambit of primitive accumulation.⁵ Different analytic priorities accorded to the functions, strategies, effects, and logics of extra-economic force under capitalism have translated into different, and sometimes mutually unintelligible, understandings of primitive accumulation.⁶

The main conjecture I hazard here is that “primitive accumulation” perhaps has fulfilled its critical role and it is time to reconceptualize its theoretical intension in a way that releases it from the baggage attached to its historical uses.⁷ Drawing theoretical inspiration from Walter Benjamin’s treatise on law-making and law-preserving violence, I propose “capital-positing” and “capital-preserving” violence as the two interlinked modalities in and through which extra-economic force operates in the establishment and perpetuation of the institutional and normative conditions of capital accumulation. I suggest placing within the same analytic field the “originary/foundational” and the “pandemic and quotidian” role of extra-economic force in the (re)production capitalism, in a manner attentive to the specificity of each modality.⁸ I submit that the interrelation between the two forms of violence can be better visualized like a Möbius strip, in which capital-positing violence that is constitutive of capitalist social forms is *suspended*, but *not superseded*, in the institutions, laws, norms, and practices that maintain the

⁵ Harvey’s accumulation by dispossession encompasses strategies of resource transfer for arresting profitability bottlenecks as well as processes of social transformation that deepen and expand the scope of capital. Saskia Sassen deploys primitive accumulation in a similar fashion by focusing on its effects (disposability, hyperexploitation) rather than its logic. David Harvey, *The New Imperialism* (Oxford: Oxford University Press, 2003); Saskia Sassen, “A Savage Sorting of Winners and Losers: Contemporary Versions of Primitive Accumulation,” *Globalizations* 7 (2010): 23-50. For a critique and conceptual disaggregation, see Daniel Bin, “The So-Called Accumulation by Dispossession,” *Critical Sociology*, online publication (2016).

⁶ Before we proceed, a methodological point should be clarified. As Marx’s discussion of primitive accumulation in *Capital* is the starting point of all recent scholarship on the subject, there is the temptation to veer into exegetical disputes about how Marx envisioned primitive accumulation to function in his analysis of capital – the question of historicist, diffusionist, and Eurocentric tendencies in Marx’s account and the counter-tendencies that can be invoked to redeem it. One can find ample textual evidence in Marx’s writings that would support either portrayal. In this paper I resist this temptation and instead focus on gleaning fragments on capital, violence/force, and primitive accumulation that lend themselves to a different theorization.

⁷ An effort in this direction is Robert Nichols’s treatment of “dispossession” as the conceptual core of primitive accumulation. Nichols, “Disaggregating Primitive Accumulation.”

⁸ Dipesh Chakrabarty, *Provincializing Europe: Postcolonial Thought and Historical Difference* (Princeton: Princeton University Press, 2000), 44

conditions of capital accumulation on a daily basis.⁹ Violence constitutive of capital (the violence of primitive accumulation) returns at those moments where capital's mediation of the access to the means of production and subsistence are threatened by claims to control the terms of laboring process (strikes, occupation of land and factories) or by practices of appropriation that undercut the dependency on capital circuits for livelihood (squatting, gleaning, scavenging).

Instances of capital-preserving violence are necessarily context-specific, depend on the concrete constellation of social forces on the ground, and can assume disciplinary, punitive, and even murderous forms; yet, its structural logic is recognizable across diverse empirical manifestations insofar as the latter uphold the imperative to generate surplus value as the condition of access to means of social reproduction. I admit that this task involves operating at a high level of abstraction and treating the extant literature on primitive accumulation as an indispensable yet ultimately instrumental scaffolding for constructing a more refined theory of capital's violence, a scaffolding that should fall away in proportion to the progress of theoretical construction. Nonetheless, I believe this conceptualization is consistent with the common focus on the element of extra-economic force/violence and remains mutually translatable with more specific meso-level theories and empirical studies on primitive accumulation. The attempt presented here is a preliminary one that invites further research and theorization than claims decisive conclusions.

My exposition begins with selective discussion of recent Marxian debates on primitive accumulation in order to locate and extract the theoretical fragments that can be used to reflect on capital's violence. After thus outlining the conceptual intension of primitive accumulation, the second section reworks this conceptual core into capital-positing and capital-preserving

⁹ The analogy of a Möbius strip is inspired by Giorgio Agamben's conception of the relationship between the normal state and the state of exception. Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life* (Stanford: Stanford University Press, 1998), and *State of Exception* (Chicago: University of Chicago Press, 2005).

violence through an engagement with the works of Carl Schmitt and Walter Benjamin. I illustrate the interconnected workings of these two modalities of violence with reference to Peter Linebaugh's study of class struggle in eighteenth-century London. The paper concludes with remarks on the broader analytic purchase of capital-positing and capital-preserving violence for a political theory of capitalism today.

I. Primitive accumulation and capital's violence

Utilizing the optic of primitive accumulation, recent scholarship has exposed as untenable a series of assumptions that marked the understanding of capitalism in its postwar Keynesian phase: the stadial view of overt extra-economic violence as a concluded chapter in the history of capital; the assumed identity between capital accumulation and expanded reproduction; the uniform conception of capitalist surplus extraction as the exploitation of wage labor.¹⁰ To some extent, these assumptions were held as much by a number of Marxist scholars as by liberals or Keynesians.¹¹ After much debate, reconsideration, and reinterpretation of Marxian categories in the light of post-Keynesian, neoliberal capitalism, there is an emerging consensus on a few broad principles: primitive accumulation is not a historical stage but a permanent or cyclical feature of capitalist reproduction; even under "mature" capitalism, accumulation takes place as much through predatory strategies of expropriation and

¹⁰ A tremendous exception was of course the momentous intervention of feminist Marxism that powerfully and correctly pointed out the impossibility of capitalist accumulation without unpaid reproductive labor disproportionately borne by women. This insight has later been expanded to broader theories of capital's structural and parasitic dependence on non-capitalist domains. See Mariarosa Dalla Costa, and Selma James, *Power of Women and the Subversion of the Community* (Bristol: Falling Wall Press, 1975); Maria Mies, *Patriarchy and Accumulation on a World Scale: Women in the International Division of Labour* (London: Zed Books, 1998); Nancy Fraser, "Can Society Be Commodities All the Way Down? Post-Polanyian Reflections on Capitalist Crisis," *Economy and Society* 43 (2014): 541-58.

¹¹ Robert Brenner, Ellen Meiksins Wood, and Bill Warren, for instance, consign extra-economic force to the discreet episodes in capital's emergence (e.g. English Enclosures) or expansion into non-capitalist societies (e.g. imperialism). Non-market coercion is treated as a strictly *historical* category that does not belong to a *theory* of capital. Robert Brenner, "Agrarian Class Structure and Economic Development in Pre-industrial Europe," *Past and Present* 70 (2016): 30-74; E. M. Wood, *The Origin of Capitalism: A Longer View* (London: Verso, 2002), and *Empire of Capital* (London: Verso, 2003); Bill Warren, *Imperialism: The Pioneer of Capitalism* (London: Verso, 1980).

appropriation as through (or even instead of) investment in productive capacity and employment of labor; the extraction of value from living labor proceeds through an irreducible, structurally necessary, and hierarchical plurality of social forms, amongst which wage-labor is only one. A brief review of the key interventions in this revisionist orientation furnishes a good starting point to triangulate the conceptual core of primitive accumulation.

First, a significant misconception about primitive accumulation is the crude economic view of it as “prior accumulation,” that is, a preliminary stockpiling of wealth by coercive methods before capitalist investment can commence.¹² The objection to this view has been to extend Marx’s social-relational understanding of capital to primitive accumulation and conceptualize it as a process of *social transformation*. In Marx’s account of the “classic case” of primitive accumulation in England, the latter comprised (1) the expropriation of direct producers of their means of production, such as the eviction of the peasantry from the land and the destruction of the guilds, and therefore the “separation” of labor from its conditions of realization; (2) the proletarianization of the dispossessed through repressive measures, for example, the “bloody legislation” against vagrancy, beggary, brigandage, and theft, which forecloses options of provisioning other than laboring for the class that now monopolizes the means of production and subsistence; (3) the commodification of productive inputs (land, raw materials, capital goods, and labor) and subsistence goods (food, raiment, shelter, and so on); (4) the socialization of the bulk of the population into accepting the competitive labor market and the wage earned therefrom as the principal source of livelihood.

As has been correctly noted, here Marx offers a historical description of what he retrospectively called primitive accumulation of capital in England, and this description ought

¹² Economic historian Kenneth Pomeranz writes, “It has not helped matters that these arguments have emphasized what Marx called the “primitive accumulation” of capital through the forcible dispossession of Amerindians and enslaved Africans (and many members of Europe’s own lower classes). While that phrase accurately highlights the brutality of these processes, it also implies that this accumulation was “primitive” in the sense of being the beginning step in large-scale capital accumulation.” Kenneth Pomeranz, *The Great Divergence: Europe, China, and the Making of the Modern World Economy* (Princeton: Princeton University Press, 2000), 3.

not to be conflated with the *concept* of primitive accumulation.¹³ Two efforts are particularly noteworthy in the way of disentangling the conceptual intension of primitive accumulation from its historical expressions. First of these is Massimo de Angelis's predication of primitive accumulation on the concept of "separation," which forcibly opens up a distance between producers and the conditions of laboring (means of production and subsistence), the abridgment of which is then mediated by the capitalist imperative to produce surplus value (profit and accumulation).¹⁴ Another innovative attempt is by Robert Nichols, who centers on the "dispossession" character of primitive accumulation that "entails appropriation of, and consolidated class monopoly in, the mediated 'metabolic interaction' of humanity and the productive resources of the earth."¹⁵ The notion of *capital's enforced mediation of access to the conditions of labor* is useful for admitting into the analysis of global capitalism a range of social forms of production that appear pre-capitalist when viewed through the lens of "transition."¹⁶ One such form, is of course, colonial slavery, which was once dismissed as an atavistic, irrational, and overall peripheral labor regime, but which is now increasingly

¹³ Commentators have noted the peculiar position of the section "So-Called Primitive Accumulation" at the very end of *Capital*, Volume 1. The story of the historical origins of capital begins when Marx's logical exposition of the inner dynamics of capitalist accumulation ends in the chapter, "The General Law of Capitalist Accumulation." A common explanation of this choice is that primitive accumulation can be presented as belonging to the historical emergence ("becoming") of capital only after one grasps the immanent laws ("being") of capital. That is to say, once the secret of capitalist accumulation is revealed to be the extraction of surplus value from dispossessed and legally free labor, then the historical processes of expropriation and repression recounted in the last section of *Capital* cease to be blind, wanton violence and reappear as the primitive accumulation of capital: the violent separation of direct producers from the means of production, which creates capitalist private property, on the one hand, and proletarian wage labor, on the other. Etienne Balibar, for instance, notes the "different and independent origins" of the historical elements that converged to give rise to the capitalist mode of production. Such convergence set the conditions in the early-modern period for the then-peripheral practices of capitalist accumulation to become, in Bob Jessop's words, "ecologically dominant" by proliferating, colonizing, reshaping, or subordinating other forms of production and exchange. Etienne Balibar, "Basic Concepts of Historical Materialism," in Louis Althusser and Etienne Balibar, *Reading Capital* (London: Verso: 2009), 281; Bob Jessop, "What Follows Neoliberalism?" in *Political Economy and Global Capitalism: The 21st Century, Present, and Future*, ed. Robert Albritton, Robert Jessop and Richard Westra (London: Anthem Press, 2007), 67.

¹⁴ Massimo de Angelis, "Separating the Doing and the Deed: Capital and the Continuous Character of Enclosures," *Historical Materialism* 12 (2004): 57-87, and *The Beginning of History: Value Struggles and Global Capital* (London: Pluto, 2007), especially 133-142.

¹⁵ Nichols, "Disaggregating Primitive Accumulation."

¹⁶ For a critical overview of the "transition" paradigm, see Kalyan Sanyal, *Rethinking Capitalist Development: Primitive Accumulation, Governmentality and Post-Colonial Capitalism* (New Delhi: Routledge, 2007).

considered to be a modern capitalist form and a keystone in the emergence of global capital.¹⁷

Yet, as has long been argued by Jairus Banaji, the spectrum of capitalist mediation extends much further to include, among others, indenture, sharecropping, putting out, and peasant agriculture, once these formally pre- or non-capitalist deployments of labor lose their status as independent social forms and become overdetermined by the logic of capital:

The colonial system was a legacy of commercial capitalism and the forms of exploitation used within it were not independent modes of production in any strict historical sense but forms of productive organization and control of labor peculiar to specific configurations of capital.¹⁸

In short, *historically*, capital accumulation has been characterised by considerable flexibility in the structuring of production and in the forms of labour and organisation of labour used in producing surplus-value. The liberal conception of capitalism which sees the sole basis of accumulation in the individual wage-earner conceived as a free labourer obliterates a great deal of capitalist history, erasing the contribution of both enslaved and collective (family) units of labour-power.¹⁹

In fact, Marx himself offered theoretical tools to account for the heterogeneity of capitalist social forms, as when he floated the notions of labor's "formal subsumption" and "real subsumption" under capital.²⁰ Understood as a continuum rather than a binary opposition, this distinction hinges on the degree of capital's domination of the laboring process. At the end of "real subsumption" lies the *assimilation* of non-capitalist forms of organizing labor into capital through the technical recomposition of the laboring process in order to maximize supervision, control, labor productivity, and thus relative surplus value. At the end of "formal subsumption," one finds the *articulation* of a plurality of non-capitalist productive forms subordinated to capital by various economic and extra-economic strategies, ranging from debt

¹⁷ Eric Williams, *Capitalism and Slavery* (Chapel Hill: University of North Carolina Press, 1944); C. L. R. James, *The Black Jacobins: Toussaint L'Ouverture and the San Domingo Revolution* (New York: Vintage, 1963); Robin Blackburn, *The Making of the New World Slavery* (London: Verso 1997); Sven Beckert, *Empire of Cotton: A New History of Global Capitalism* (London: Penguin, 2015); Edward Baptist, *The Half Has Never Been Told: Slavery and the Making of American Capitalism* (New York: Basic Books, 2014); Nikhil Singh, "On Race, Violence, and So-Called Primitive Accumulation," *Social Text* 34.3 (2016): 27-50.

¹⁸ Jairus Banaji, "Reconstructing Historical Materialism," unpublished manuscript (2009), 4.

¹⁹ Jairus Banaji, "The Fictions of Free Labour: Contract, Coercion, and the So-Called Unfree Labour," *Historical Materialism* 11 (2003): 69-95, 85-6. See more broadly, Jairus Banaji, *Theory as History: Essays on Modes of Production and Exploitation* (Leiden: Brill, 2010).

²⁰ Karl Marx, *Capital* Vol. 1: *Critique of Political Economy* (London: Penguin, 1976), 1019-1038.

bondage to physical coercion, for the production of absolute surplus value.²¹ Various combinations of these two modes of subsumption constitute the social terrain in which to situate and analyze historical capitalism down to our present day. On this terrain we find not only the symbiosis between slave labor and free labor that made the first industrial revolution possible, but also the racialized and gendered logics of interdependence between paid and unpaid labor (of women, migrants, children) that today structure the extraction of surplus value under the new international division of labor.²²

The variegation of capitalist mediation in history becomes perceptible, however, only when the analytic aperture is widened to capture global networks of production and exchange as the historical condition of capitalism, which in turn entails abandoning the nation-state for the “colonial empire” as the politico-legal unit of analysis.²³ At the imperial or global scale, it becomes possible to discern those vectors of primitive accumulation that are otherwise unrecognizable because they do not fit the modular script of the English case. These include, for instance, expropriation without exploitation that is the signature feature of settler colonialism, “export-led exploitation” under commercial imperialism that depends on “semi-dispossessed” producers rather than proletarian labor, indentured labor whose mobility is

²¹ An exemplary expression of this logic was the political economy of the early-modern “Atlantic system” that “depended on the connection of vastly different systems of production and power and had different consequences for each point in the system.” Frederick Cooper, *Colonialism in Question: Theory, Knowledge, History* (Berkeley: University of California Press, 2005), 103.

²² Marx offered the germinal insight into this symbiosis when he wrote, “In fact the veiled slavery of the wage-labourers in Europe needed the unqualified slavery of the New World as its pedestal.” This insight has recently been picked up and updated along gender and racial dimensions to which Marx paid scant attention. Fraser writes, “the subjection of those whom capital *expropriates* is a hidden condition of possibility for the freedom of those whom it exploits.” Singh remarks, “*Capital ceases to be capital without the ongoing differentiation of free labor and slavery, waged labor and unpaid labor*. This differentiation provides the indispensable material and ideological support, prop, or pedestal on which capitalism’s development depended and on which it continues to depend.” In Beckert’s account of the empire of cotton, this symbiosis instantiates between the “lords of the lash” (planter capitalists) and “lords of the loom” (industrial capitalists). Marx, *Capital*, Vol. 1, 925. Nancy Fraser, “Expropriation and Exploitation in Racialized Capitalism: A Reply to Michael Dawson,” *Critical Historical Studies* 3 (2016): 163-178, 166; Singh, “On Race, Violence,” 37; Beckert, *Empire of Cotton*, 192. Also see, Michael Dawson, “Hidden in Plain Sight: A Note on Legitimation Crises and the Racial Order,” *Critical Historical Studies* 3 (2016): 143-161.

²³ I elaborate this argument in detail in Onur Ulas Ince, “Primitive Accumulation, New Enclosures, and Global Land Grabs: A Theoretical Intervention,” *Rural Sociology* 79 (2014): 104-131

ensured not through the market but through imperial schemes of labor allocation, and colonial plantation slavery that weaves together the most radical modes of expropriation and exploitation.²⁴

Insofar as extra-economic coercion is deployed for creating, reshaping, and destroying local economies so as to effect their articulation to global circuits of self-expanding value (M-C-M'), we are squarely in the land of global primitive accumulation.²⁵ This much was conceded by Marx, who carried his story of primitive accumulation beyond Britain when he wrote:

The discovery of gold and silver in America, the extirpation, enslavement, and entombment in mines of the indigenous population of that continent, the beginnings of the conquest and plunder of India, and the conversion of Africa into a preserve for the commercial hunting of blackskins, are all things that characterize the dawn of the era of capitalist production. These idyllic proceedings are the chief moments of primitive accumulation.²⁶

This violent ensemble of appropriation, expropriation, and enslavement, in Nancy Fraser's formulation, "works by *confiscating* capacities and resources and *conscripting* them into capital's circuits of self-expansion." Amidst the variety of productive assets expropriated and the modes of their integration, "what is essential, is that the commandeered capacities get incorporated into the value-expanding process that defines capital."²⁷ Not crude stockpiling of resources, but the subsumption of labor and land on a planetary scale and their (re)constitution

²⁴ On settler colonialism, see Patrick Wolfe, "Settler Colonialism and the Elimination of the Native," *Journal of Genocide Research*, 8 (2006): 387-404; Lorenzo Veracini, *Settler Colonialism: A Theoretical Overview* (Palgrave MacMillan, 2010). On "export-led exploitation" and "semi-dispossession," see Amiya Kumar Bagchi, "Nineteenth Century Imperialism and Structural Transformation in Colonized Countries," and Farshad Araghi, "The Invisible Hand and the Visible Foot: Peasants, Dispossession, and Globalization," both in *Peasants and Globalization: Political Economy, Rural Transformation and the Agrarian Question*, ed. Haroon Akram-Lodhi and Cristobal Kay (eds), in (London: Routledge, 2009). On imperial labor allocation, see Madhavi Kale, *The Fragments of Empire: Capital, Slavery, and Indian Indentured Labor Migration to the British Caribbean* (Philadelphia: University of Pennsylvania Press, 1998); Lisa Lowe, *Intimacies of Four Continents* (Durham: Duke University Press, 2015). The desirability and feasibility of formal and real subsumption in every historical context are delimited by the concrete configuration of social and political forces on the ground. A paradigmatic example is the failure of the British entrepreneurs to introduce the plantation system (especially in cotton) in India and the continued reliance on small peasant households, wealthy farmers, and other local intermediaries for the cultivation of cash crops. See David Wahsbrook, "Law, State, and Agrarian Society in Colonial India," *Modern Asian Studies* 15 (1981): 649-721; Beckert, *Empire of Cotton*, 242-73.

²⁵ de Angelis 2007, *Beginning of History*, 46-7.

²⁶ Marx, *Capital*, Vol. 1, 915.

²⁷ Fraser, "Expropriation and Exploitation," 166, 167.

as “abstract social labor” and “abstract social nature” is what stamps this violent ensemble as the primitive accumulation of capital.²⁸

Keeping the level of analysis to global connections forged by colonial empires does not only attune us to the multiple arrows of primitive accumulation and their various conjunctions. It also brings into sharper relief the specific theoretical status of the violence by which such primitive accumulation is carried out. Scholars of slavery and capitalism, from C. L. R. James and Eric Williams to Sydney Mintz and Edward Baptist, have long recognized the special intensity and brutality of extra-economic coercion in the organization of colonial production.²⁹ To the liberal mind, of course, such violence appears inexplicably excessive and therefore economically irrational, which then leads it to seek its causes outside of capitalism, as when Schumpeter chalked up modern imperialism to the psychological atavism and lingering feudal ethos of Europe’s ruling classes.³⁰ Primitive accumulation offers a contrasting key for decoding the apparent surplus of violence in colonial economies, if we consider it as a “frontier” phenomena that arises at the interface between accumulative and non-accumulative logics of social reproduction. The analogy/trope of the frontier is theoretically illuminating in several respects. First, it signals an encounter between different ontologies of appropriation, distribution, and production, where capital’s conceptually universal and spatially global horizon comes up against limits which it then recasts as barriers to overcome, by force if necessary.³¹ Second, it indicates the absence of a shared legal, institutional, and normative framework on the basis of which rival claims to land and labor, and alternative organizations of time and space can be negotiated and adjudicated. Third, it entails the severe attenuation, if

²⁸ Jason Moore, *Capitalism in the Web of Life: Ecology and the Accumulation of Capital* (London: Verso, 2015).

²⁹ See note 17 above. Sydney Mintz, *Sweetness and Power: The Place of Sugar in Modern History* (New York: Viking, 1985), and *Caribbean Transformations* (Baltimore: Johns Hopkins University Press, 1984).

³⁰ Joseph Schumpeter, *Imperialism and Social Classes* (New York: Meridian Books, 1966). Schumpeter was targeting early-twentieth century explanations of imperialism from “mature capitalism,” espoused most notably by Rosa Luxemburg, Rudolf Hilferding, V. I. Lenin, and John A. Hobson.

³¹ The most radical formulation of this idea is Jason Moore’s argument that capitalism has no frontiers; it is itself a frontier. Moore, *Capitalism*. The most comprehensive focus on the limits and barriers to capital is offered by David Harvey, *The Limits to Capital* (London: Verso, 2006).

not altogether suspension, of the laws, norms, and customs that sanction the range of acceptable means that can be employed in pursuing acquisitive ends. The stark combination of these three features at imperial frontiers offers an explanation of the massive use of force that underwrote “the ability of Europe’s states and their capitalists to rearrange global economic connections and to violently expropriate land and labor.”³²

An illuminating, if unlikely, source of insight into the violence of global primitive accumulation is Carl Schmitt’s account of European colonial expansion and especially land-appropriation (*Landnahme*) in the Americas. The utility of Schmitt’s account lies not in the originality or even the accuracy of its historical content but in its keen perception that early-modern colonial expansion heralded a fundamental transformation and planetary reorientation in modes of appropriation, distribution, and production. At stake was the emergence of a new human order: the modern order of state and capital. In the words of one his acclaimed critics, Schmitt was putting his finger on the fact that European statehood did not emerge alone but as a political form specific to capitalist social relations that presumed a constitutive distinction between public power, exercised through claims of sovereign jurisdiction (*imperium*), and private power, exercised by private law ownership (property, *dominium*), paradigmatically through the market.³³

Schmitt’s notion of “*nomos*” can offer theoretical leverage in grasping the magnitude of this historical change, as it denotes a comprehensive pre-legal orientation to the world that is the foundation of customs, legal norms, and formal institutions. In *The Nomos of the Earth*, Schmitt writes, “the history of colonialism in its entirety is a spatially determined process of settlement in which order and orientation are combined. At this origin of land-appropriation law and order are one; where order and orientation coincide.”³⁴ The obverse of establishing the *nomos* of capital and state in the colonial context was the dismantling of the existing indigenous orders

³² Beckert, *Empire of Cotton*, 95.

³³ Martti Koskenniemi, “International Law as Political Theology: How to Read *Nomos der Erde*?”, *Constellations* 11 (2004): 492-511, 498. For further elaboration of this distinction, see Justin Rosenberg, *The Empire of Civil Society: A Critique of Realist Theory of International Relations* (London: Verso, 1994), 83-90, 126-9.

³⁴ Carl Schmitt, *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (New York: Telos Press, 2003), 81.

that rested on alternative ways of organizing the metabolic interaction with the earth through appropriation, transformation, and distribution. Unlike those violent acts of land-appropriation amongst European polities “that proceed *within* a given order of international law, which readily receive the recognition of other peoples,” colonial land-appropriations “uproot and existing spatial order and establish a new *nomos* of the whole special sphere of the neighboring peoples.”³⁵ This was nowhere more clearly demonstrated than the settler variant of colonialism, where, as eloquently put by Patrick Wolfe, “invasion is a structure, not an event.”³⁶

“*Anadasmoi*” is the term Schmitt reserves for this radical annihilation or assimilation of an order by another. Recast in this conceptual vocabulary, primitive accumulation as outlined above represents a specific form of *anadasmoi*, a world-historical reorientation and reordering of property, exchange, and labor relations on a planetary scale, through which the *nomos* of capital is extended and consolidated at the expense of the plurality of other social orders. This casts in brighter light the significance of the colonies to the history of primitive accumulation and capitalism “as a crucible in which economic, social, and political experimentation with new ideas and approaches, both imported from the old world and spawned in the new, were allowed to flourish, often unfettered.”³⁷ The principle of profit flourished “unfettered” in the colonies because, to return to Schmitt, the latter lay beyond the purview of customs and conventions of *jus publicum Europeum* that limited the use of force in relation to appropriation, distribution, and production in Europe. “Everything that occurred ‘beyond the line’ remained outside the legal, moral, and political values recognized on this side of the line. This was a tremendous *exoneration* of the internal European problematic.”³⁸ The colonial exoneration of force/violence can go a long way to explain why colonial entrepreneurs

³⁵ Ibid., 82.

³⁶ Wolfe, “Settler Colonialism,” 388.

³⁷ Adrian Leonard and David Pretel, “Experiments in Modernity: The Making of the Atlantic World Economy,” in *The Caribbean and the Atlantic World Economy: Circuits of Trade, Money and Knowledge, 1650-1914*, ed. Adrian Leonard and David Pretel (New York, Palgrave MacMillan, 2015), 8.

³⁸ Schmitt, *Nomos*, 94.

such as planters, slave traders, settlers, and chartered companies enjoyed more freedom and less compunction in forcibly reshaping systems of production and exchange in non-European contexts. Expropriation and exploitation in Europe could be contested by variously invoking and interpreting the laws and customs of the land, which on the one hand, reined in the extremities of primitive accumulation, and on the other, offered a politico-legal medium of resistance, reversal, and negotiation. Colonial primitive accumulation was otherwise. The lack of a common politico-legal or customary framework greatly attenuated, if not simply foreclosed, the possibility of a similar recourse to contestation and negotiation. The result was the constitution of “expropriable subjects further afield, in peripheral zones of the capitalist world system ... – shorn of political protection, ripe and ready for confiscation.”³⁹ The genocidal displacement of indigenous populations in the Americas, reduction of men and women to mobile property under the New World slavery, and the extraction of subsistence goods out of a famine-stricken India or Ireland are certainly dramatic cases of how far human and natural material can be coerced to the relentless logic of accumulation, but they are by no means anomalies. Put another way, precisely because it is disentangled from the web of institutions and norms that delimited the scope of expropriation and exploitation in Europe, primitive accumulation at the colonial frontier can throw in sharper relief the element of force/violence that has been essential to the establishment of capitalist relations.

II. Beyond primitive accumulation: capital-positing and capital-preserving violence

The theoretical significance of this formative element has unfortunately been occluded by instrumental conceptions of violence as the “midwife” of history (Marx) or a “permanent weapon” of capital (Luxemburg).⁴⁰ I suggest that one way of rendering visible the fundamental

³⁹ Fraser, “Expropriation and Exploitation,” 172.

⁴⁰ Marx, *Capital*, Vol. 1, 916; Rosa Luxemburg, *The Accumulation of Capital*, (London: Routledge, 2003), 351. For a detailed treatment of the conceptual triad of power-force-violence in theorizing capitalism, see Onur Ulas

significance of capital's violence is to reformulate it using the conceptual apparatus offered by political theories of "constituent" and "constituted" power. Particularly conducive to this purpose is Walter Benjamin's discussion of "lawmaking" and "law-preserving" violence/force (*rechtsetzende und rechtserhaltende Gewalt*) as the key morphologies of political power in its relation to a legal order. For Benjamin, the paradigmatic case of lawmaking violence is military violence precisely because of its status outside a legal order, which is to say that it can be justified only by being directed to natural or just ends that do not refer to a system of positive laws for their validity.⁴¹ Such extra-legal force has a "lawmaking" capacity that is realized when it ceases to be purely instrumental and culminates in a new legal condition, to which it sanctions obedience both from the victors and the vanquished. At the moment "it proves its worth in victory," lawmaking violence morphs into law-preserving violence. At this point, the naturalness or justness of the ends of the law becomes less important than "the subordination of citizens to laws." Law-preserving violence sets as its main purpose to "divest the individual, at least as a legal subject, of all violence, even that directed only to natural ends."⁴² The distinction between lawmaking and law-preserving violence, however, is neither categorically absolute nor temporally sequestered. A trace of the lawmaking violence remains in the law-preserving violence which constantly reminds the subjects of the law that the existing legal order is the one to which its subjects are fatefully subordinated.⁴³ Distinguishing between the two functions of violence becomes particularly difficult in the institution of the "police" insofar as the police formally functions to uphold the law but is also authorized to decide on the ends of the law in specific circumstances within broad limits set by right of decree.

Ince, "Bringing the Economy Back In: Hannah Arendt, Karl Marx, and the Politics of Capitalism," *The Journal of Politics* 78 (2016): 411-426.

⁴¹ Walter Benjamin, "Critique of Violence," in *Reflections: Essays, Aphorisms, Autobiographical Writings*, ed. Peter Demetz (New York: Harcourt Brace, 1978), 283.

⁴² *Ibid.*

⁴³ *Ibid.*, 286.

Shot through this prism, capital's violence refracts into what we can call "capital-positing" and "capital-preserving" violence, around which the theoretical fragments on primitive accumulation constellate. Expressed formulaically, capital-positing violence captures (1) the moment of extra-economic, non-market coercion that enacts the capitalization of social reproduction (2) through the "separation" of labor from its conditions of realization, and (3) the enforced mediation of the access to the means of subsistence by the imperative to generate surplus value. This process can, and indeed often does, proceed as much by the subordinate articulation (formal subsumption) of different social forms of production as by their destruction and the confiscation and conscription (real subsumption) of the productive assets thus released.⁴⁴ Furthermore, it can be effectuated through a plurality of methods with varying forms and intensities of coercion (legislation, executive decrees, intimidation, naked violence) and by a plurality of actors with varying levels of legitimacy (states, corporations, private capitalists), which often coalesce into what Saskia Sassen labels "assemblages" that enable systemic transformation.⁴⁵ While such violence is at times simply instrumental and predatory, its real significance lies in laying down and regularizing the conditions under which socially produced wealth assumes the historically specific value-form that can be privately appropriated.

The capital-positing character of the violence that institutes private property is perhaps best captured by Marc Neocleous's military analogy that echoes Benjamin's discussion of lawmaking violence: "the mechanism by which people were made to work within the conditions posited by capital *is a form of war*. That is: class war. And what is at stake in this war is the constitution of bourgeois order through the violence of primitive accumulation. Law

⁴⁴ See Ince, "Primitive Accumulation" for a preliminary exposition.

⁴⁵ For a discussion of the role of "complex assemblages" in yielding "brutal" or "primitive" results, see Sassen, "Savage Sorting," and *Expulsions*.

in general was (and is) central to this war.”⁴⁶ What we have here, then, is the “lawmaking character of primitive accumulation” that marks the “point of transition between violence and right.”⁴⁷ Yet, as the “constitution of bourgeois *order*” implies, capital-positing violence involves more than just the formal juridification of a concrete situation, namely, the codification (and thereby *pacification*) of expropriation and bloody repression into capitalist private property rights and wage labor. Insofar as capital-positing violence partakes of the order-destroying and order-creating character of constituent power, it encompasses a fundamental reorientation in the organizing principles of the metabolic interaction with nature: a new way of perceiving human beings’ purposeful relationship to one another and to the non-human world, a new cosmography of power and property, a new *nomos*.

The comprehensive scope of capital-positing violence is signaled by the ideological terms in which colonial primitive accumulation was justified in the early-modern period, when the bourgeois lexicons of political economy and international law were born together with global networks of capital accumulation. In Europe, violent expropriation and exploitation often collided with custom, if not with codified or common law; at imperial frontiers, the legal status of such violence, if it existed at all, was at best radically indeterminate and contested.⁴⁸ In both cases, capital-positing violence was ultimately underwritten, not by arguments from legality, but by metaphysical claims about the natural, just, and universal ends to which it was directed. This is where the languages of political economy, natural jurisprudence, and moral philosophy bled into one another in disquisitions on improving the waste of the earth for the

⁴⁶ Marc Neocleous, “International Law as Primitive Accumulation: Or, the Secret of Systematic Colonization,” *The European Journal of International Law* 23 (2012): 941-62, 950 (emphasis in the original).

⁴⁷ Jason Read, *The Micro-Politics of Capital: Marx and the Prehistory of the Present* (Albany: State University of New York Press, 2003), 28-9.

⁴⁸ This is not to suggest that capital-positing violence/force is always and everywhere extra-legal. The history of English Enclosures is illuminating. Most acts of enclosure by landlords from the fifteenth century through the seventeenth were contrary to customary and common law, and Tudor and early Stuart monarchs issued decrees to rein in, if not to reverse, the process. From eighteenth century onwards, however, the process of land expropriation proceeded under the legal aegis of Parliamentary Enclosures, which sanctioned previous enclosures while authorizing new ones.

benefit of mankind, fighting idleness and ignorance through the discipline of labor and industry, or extending the conditions of civilization and progress to the benighted savages – claims staked in the universal register of humanity, regardless (or precisely because) of the fact that these principles as well as the social practices that subtended them were not shared by the victims of capitalist expropriation and exploitation in Europe and beyond.

If capital-positing violence is recorded in history in “letters of blood and fire,” then capital-preserving violence lurks beneath what Marx famously called the “silent compulsion of economic relations [that] sets the seal on the domination of the capitalist over the worker.”⁴⁹ What is “preserved” is the aforementioned separation from the conditions of labor/subsistence and the enforced mediation of the metabolic interaction by capital. Like its capital-positing counterpart, capital-preserving violence/force is not uniformly manifested but operates through assemblages comprising the state, law, and ideology that reproduce the social conditions of capital accumulation. The unity of “silence” and “compulsion” is critical. As has been argued by as dissimilar theorists as Ellen Meiksins Wood and Michel Foucault, power exercised under capitalism is “economic” in the double sense of the term. First, although it is ultimately framed by law and state coercion, the quotidian exercise and experience of power takes place in the institutionalized practices of the market, where “the worker’s dependence on capital” and the “despotism of the workplace” supplant extra-economic coercion as the principal means of surplus extraction.⁵⁰ Secondly, the disciplinary institutions and ideological state apparatuses that underpin a capitalist economy fashion docile “subjects of interest” who accept reality and respond to environmental variables in ways that can be statistically aggregated, predicted, and manipulated. This renders operable the liberal *dispositifs* of “security,” which govern

⁴⁹ Marx, *Capital*, Vol. 1, 899.

⁵⁰ Marx, *Capital*, Vol. 1, 279-80, 768; Wood, *Empire of Capital*, 7-8; Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time* (Boston: Beacon Press, 2001).

populations and their wealth-creating capacities through the production and management of spheres of freedom rather than through blunt and costly instruments of repression.⁵¹

On the other hand, the compulsory character of capitalist exploitation does not vanish by virtue of its silence. First, the wage-contract and the juridical freedom it projects are ultimately a mediation of the coercion of capital over living labor, leading some to conclude “the incoherence of the concept of free labor under capitalism.”⁵² Secondly, the liberal governmental rationality that manages populations with minimum *economic* intervention presupposes a heavy dose of *legal* engineering: *dispositifs* of security depend on the prior and ongoing operation of the disciplinary apparatuses that transform “people” into “population” by making them “governmentalizable” (intelligible/transparent and responsive to technologies of governmentality).⁵³ Capital-preserving violence, as the institutionalization of coercion *within* capitalism, thus encompasses not only the domain of law but a whole panoply of infra-legal administrative techniques of micro-coercion, both public and private, necessary for the reconstitution of “capital-positing labor” from one day to the next.⁵⁴

What is brought into focus by capital-preserving violence is what Ernesto Laclau and Chantal Mouffe called the “politics of production,” a field of force relations between the workers and the capitalists structured along social, technical, and institutional axes.⁵⁵ One of the famous expressions of this point is of course Marx’s quip “between equal rights, force decides” (“*Zwischen gleichen Rechten entscheidet die Gewalt*”).⁵⁶ Crucially, Marx here is referring to the struggle over the length of the working day under the assumption of perfectly

⁵¹ I am referring here to Foucault’s lectures on the historical emergence and operative logic of liberal rationality of governmentality. See Michel Foucault, *Security, Territory, Population: Lectures at the College de France, 1977-1978*, ed. Michael Senellart (New York: Picador, 2007), and *The Birth of Biopolitics: Lectures at the College de France, 1978-1979*, ed. Michael Senellart (New York: Palgrave MacMillan, 2008).

⁵² Banaji, “Fictions of Free Labor,” 71. For a response, see Tom Brass, “Why Unfree Labour is Not “So-Called”: The Fictions of Jairus Banaji,” *The Journal of Peasant Studies* 31 (2003): 101-36.

⁵³ Foucault, *Security*, 44; *Birth*, 252-3.

⁵⁴ On “capital-positing labor,” see Rakesh Bhandari, “The Disguises of Wage Labor: Juridical Illusions, Unfree Conditions and Novel Extensions,” *Historical Materialism* 16 (2008): 71-99.

⁵⁵ Ernesto Laclau and Chantal Mouffe, *Hegemony and Socialist Strategy*, (New York: Verso, 2001), 79-80.

⁵⁶ Marx, *Capital*, Vol. 1, 344.

valid laws of commodity exchange, in other words, under the hypothetical conditions of “mature capitalism.” This implies that even after primitive accumulation is assumed to have been consummated, there remains an element of force/violence (*Gewalt*) that can be cannot be derived from, dissolved into, or adjudicated in the institutionalized order of the “economy.” If, as Neocleous contends, “the act of violence that constitutes accumulation is always already a politico-juridical act,” then the violence of the politico-juridical persists into and thereby prevents the closure of the economic as the domain of freedom, equality, and property.⁵⁷ At this level, capital-preserving violence reveals its conceptual continuity with capital-positing violence: a continuum political force that is juridified into property relations that modulate access to the conditions of labor; a torsional continuum, like a Möbius strip, that bends back and forth between the silent compulsion of the market and the workplace, and the open repression of the law enforcement and the police when silent compulsion is challenged.⁵⁸

This last point echoes Marx’s caveat to silent compulsion: “Direct extra-economic force is still of course used, but only in exceptional cases. In the ordinary run of things, the worker can be left to the ‘natural laws of production.’”⁵⁹ What is left indeterminate in this passage is the nature of the exception: What is the threshold beyond which the politics of production escalates into an exceptional situation? At what point does resistance to silent compulsion forces it to break its silence and assume the thunderous form of extra-economic coercion? Again, this question cannot be determined at the level of the economic.⁶⁰ Instead it directs us

⁵⁷ Neocleous, “International Law,” 954.

⁵⁸ Of course, at the racialized and rapidly expanding margins of the global capitalist economy, as in the management of extractive industries or employment of migrant labor, the boundary between capital-positing and capital-preserving violence is very thin and porous. As Singh notes, “the institutionalization of coercion within capitalism, specifically militarization” remain more salient than ever, “not only in the retention of the option of primitive accumulation but also as the guarantor of capitalist discipline and disposability at the shifting borders of its circulatory movement.” Singh, “On Race,” 39.

⁵⁹ Marx, *Capital*, Vol. 1, 899.

⁶⁰ One objection would be to invoke the secular “tendency of the profit rate to fall”: when resistance to capitalist discipline begins to threaten profitability, the Rubicon of extra-economic coercion is crossed. This is difficult position to sustain, only if because the legion of “countervailing tendencies,” none of which strictly derive from the logic of the market, render the tendency of the profit rate to fall as much a politico-juridical as an economic trend.

to the domain of the political – though preferably not through the shortcut of Schmitt’s sovereign decisionism on the “exception.” An illuminative case would be the right to strike, which was the chief example that Benjamin focused on when interrogating the fraught boundary between law-preserving and lawmaking violence.⁶¹ While Benjamin’s discussion of the revolutionary general strike as a supreme political act is insightful, the unfortunate implication is to reduce “normal” instances of strike to legally sanctioned, instrumental, and thereby non-political acts. In a brilliant recent study, Alex Gourevitch has suggested otherwise. According to Gourevitch, the right to strike is a paradoxical right insofar as it sanctions the right to quit work while holding on to the job. This juridical perplexity dissolves, however, if one focuses on the political balance of forces that structure the edifice of capitalist exploitation, in which workers have the right to quit the job but cannot quit working without at the same time renouncing their livelihood.⁶² The temporary “reversal of power” that the strike enacts as well as the capitalist response to reclaim control essentially take place, not at the level of the economic or even the strictly juridical, but in the politico-juridical plane of the capital-positing and capital-preserving violence.⁶³

The strike, the collective withholding of labor as an organized exercise of force, in fact has been coeval with and devised in reaction to the attempt to press workers into a more regimented, tightly monitored, and efficient division of labor. In his brilliant study of the eighteenth-century London proletariat, Peter Linebaugh locates the birth of the strike in the politico-juridical struggles over the consolidation of capitalist private property and the creation

⁶¹ Benjamin, “Critique of Violence,” 282-3.

⁶² Alex Gourevitch, “Quitting Work but Not the Job: Liberty and the Right to Strike,” *Perspectives on Politics* 14 (2016): 307-323.

⁶³ The recent general strikes in Greece and France, for instance, were triggered by legislative or executive acts imposing fiscal austerity, longer working hours, and flexible hiring policies, and once underway, they were met largely with police response underwritten by a discourse of law and order that volubly invoked an impending state of emergency (financial collapse in Greece, Euro 2016 in France) and designated the acquiescence of labor as essential to surviving it.

of the wage-form.⁶⁴ Linebaugh's account tracks the interlinked cascades of capital-positing violence from the enclosures in England and colonization of Ireland to the formation of an urban working class in London, whose customary rights to appropriating materials at the workplace were increasingly targeted by the economic elites in the eighteenth-century. In both cases, we witness practices of commoning providing a lifeline to the economically marginalized and therefore a bulwark against total dependence on the money wage and its draconian labor discipline. Such materials were extremely varied in kind, size, and shape (staves of wood, scraps of cloth, tobacco shakings, etc.) and in their modes of utilization (direct use, barter, or sale in the alter-market of the urban poor), but their common denominator was to secure some non-wage access to subsistence. This was reflected above all in the attitude of London workers who, while always attuned to the power of money and covetous of it, defended their customary claims to workplace appropriation more fiercely than they demanded higher wages.⁶⁵

The point was not lost on the economic elite, who decried customary rights in urban production the same way John Bellers had attacked the commons as "Nurseries of Idleness and Insolence": as a morass that swallowed up economic value at the same time it bred lower-class insubordination. Customary entitlements was all the more intolerable in commercial and industrial ownership, where large scale investment in manufacturing and commerce meant huge amounts of raw materials in workshops and commodities in ports and workhouses amenable to appropriation.⁶⁶ Multiple appropriations along the production and circulation of commodities posed a twofold challenge for capital. First, it presented a problem of accumulation *qua* a constant and undetectable hemorrhaging of wealth in lost materials and lost labor time. Second, and relatedly, it prevented the precise calculation of production costs

⁶⁴ Peter Linebaugh, *The London Hanged: Crime and Civil Society in the Eighteenth Century* (New York: Verso, 2003), 309-11.

⁶⁵ *Ibid.*, 377.

⁶⁶ Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York: Vintage Books, 1979), 84-5.

not only in raw materials but also in labor – the latter because the monetary wage bill on the books represented a fraction of what was necessary for the reproduction of London’s working class, which was supplemented by unaccounted “self-payments.”⁶⁷ That is to say, customary practices of urban commoning presented a competing logic of subsistence that militated against the organization of production by the law of value, the socially necessary labor time for producing commodities including labor-power.

As Werner Bonefeld puts it succinctly, “the rule of the law of value presupposes the force of the law of private property that primitive accumulation established.”⁶⁸ The assault on customary appropriation relied on criminal law to define and solidify the boundaries of private property. Eighteenth century, both in Britain and in Continental Europe, saw the proliferation of legal offenses against private property by redefining and codifying a myriad of appropriations as legal transgressions. The staggering growth of such offences in number was matched only by the severity of the penalties attached to them: forced labor, transportation, and above all, death penalty. “Most of those hanged [at Tyburn],” Linebaugh remarks, “had offended against the laws of property.”⁶⁹ We are reminded of Benjamin’s insight into the apparent disproportionality of capital punishment of crimes against property: that it is better conceived as a species of lawmaking violence, which is in essence not the punishment of a legal infringement but the establishment of a new law or the law’s affirmation of its own existence.⁷⁰ The repressive acts passed by the eighteenth century British “thanatocracy” – most notably, the Riot Act, the Transportation Act, the Combination Act, the Inclosure Act, and the infamous Waltham Black Act – can be construed together as a principal vector of capital-positing violence.

⁶⁷ Linebaugh, *London Hanged*, 256-87.

⁶⁸ Werner Bonefeld, “Primitive Accumulation and Capitalist Accumulation,” *Science & Society* 75.3 (2011): 379-399, 396.

⁶⁹ Linebaugh, *London Hanged*, xxii.

⁷⁰ Benjamin, “Critique of Violence,” 286.

This juridico-political offensive, particularly ruthless in the counter-revolutionary 1790s, would pave the way for architectural and technological techniques for surveilling laborers, foreclosing opportunities for appropriation, and transferring the power to define tasks and the paces of work from the workers to the capitalists. Emblematic of this imposition of the law of value was the agreement of the shipwrights' union in 1801 to relegate customary entitlements in return for an addendum ("chip money") to the monetary wage and the right to collective bargaining, or in Linebaugh's words, to "acquiesce in the technological recomposition of the labor process in exchange for a system of wage payment."⁷¹ Essential to perpetuating this defeat, on the other hand, was the institutionalization of the "police" – first the Thames River Police, followed by the Metropolitan Police and County Constabulary – as the principal agent of protecting property and production.⁷² Planted and fastened by the capital-positing violence of the state, the acquiescence in the wage-system, capitalist control of the production process, and the regularization of the exercise of power in the police replaced the sovereign spectacle of hanging as the mainstays of capital's dominance. What emerged was the "silent compulsion" of economic relations subtended by the infra-legal and administrative techniques of capital-preserving violence.

Conclusion

The embodiment of capital-positing violence in the law, the state, and the police has its historical origins in early-modern Europe, but its fundamental logic continues to manifest itself at our present moment in multiple and interlinked forms. Some of these manifestations are conspicuous, as when people are physically displaced from land by extractive ventures or

⁷¹ Linebaugh, *London Hanged*, 438.

⁷² "Police" in the early-modern period encompassed a much wider field of administrative and regulatory functions (such as health and sanitation as well as security) than our contemporary uses of the term imply. The police was broadly tasked with the orderly functioning of "civil society" and accordingly vested with powers of inspection, supervision, intervention, and punishment. See Foucault, *Security*.

infrastructure projects, or find themselves thrown into an ever-hostile labor market due to having lost their habitation or entitlements (what has been labeled “*in situ* displacement”) in the enclosure of the “second commons.”⁷³ Other manifestations are subtler, such as when unsold food and other perishables in supermarkets that end up in trash are deliberately rendered inaccessible or useless (by toxic foam, locked trashcans, or hydraulic pressing), when squatters are evicted from abandoned buildings, or when workers face disciplinary and punitive measures when they appropriate non-monetary goods at the workplace, like discarded coupons or scrapped merchandise. The common denominator of these disparate instances is the enforced mediation of the access to the conditions of livelihood by the imperative to create surplus value. That the immediate point of this logic is *not* wealth generation and utility maximization (as classical and neoclassical economics would respectively hold) is attested by the fact that capital would rather see excess capacity lie idle and subsistence goods perish rather than countenancing access to them on conditions other than the law of value. With the demise of the Keynesian valorization of laborers as consumers, the workings of this logic increasingly resembles settler-colonialism of the eighteenth and nineteenth centuries which had expropriated indigenous peoples with no intention of incorporating them into capital as laborers.⁷⁴ Contemporary expropriation without incorporation spawns an ever-expanding global surplus population that does not even belong to the “reserve army of labor” and inhabit what Kalyan Sanyal labels the “wasteland of capital.”⁷⁵

⁷³ On *in situ* displacement, see Shelley Feldman, Charles Geisler, and Louis Silberling, “Moving Targets: Displacement, Impoverishment, and Development.” *International Social Science Journal* 55 (2003): 7–13. David Lloyd and Patrick Wolfe define “second commons” as “those public goods historically wrested from the state by social movements in compensation for the original loss of commons: social security, public utilities, education and, in the form of both urban and national parklands, even the remnants of public space.” David Lloyd and Patrick Wolfe, “Settler Colonial Logics and the Neoliberal Regime,” *Settler Colonial Studies* 6 (2016): 109-118, 109.

⁷⁴ Lloyd and Wolfe, “Settler Colonial Logics”; Mahmood Mamdani, “Settler Colonialism: Then and Now,” *Critical Inquiry* 41 (2015): 596-614; Joshua Page and Joe Soss, “The Predator State: Race, Class and the New Era of Indentured Citizenship,” talk delivered at CUNY, 31 March 2016; Ruth Hall, “Land Grabbing in Southern Africa: The Many Faces of the Investor Rush,” *Review of African Political Economy* 38 (2011):193–214.

⁷⁵ Sanyal, *Rethinking Capitalist Development*.

Set against this background, the analytic of capital-positing and capital-preserving violence can expand our view of the element of force in capitalist reproduction in two directions. First, it reveals that the current trends of disposability, redundancy, and waste are not the accidental extremes but the unadulterated expressions of a logic that is inherently violent and violently indifferent to social and ecological reproduction. Secondly, at the same time it helps us recognize those instances as *capital's* violence, it brings into view the common logics and subterranean connections between seemingly disconnected vectors of its exercise. In these subterranean webs, we find the state-led creation of a floating Chinese proletariat whose hyper-exploitation is enjoyed by global capital and costs of reproduction devolve back to rural communities in China; marking of black Americans as at once a surplus population to be sequestered through zoning laws or warehoused in prisons, *and* a source of value to be squeezed through police and judicial predation in order to make up budgetary shortfalls in times of neoliberal austerity; a voracious appetite for acquiring global farmland, particularly in Africa, to stave off the prospect of food insecurity for the world's affluent, which however means expropriation, displacement, and repression for those who find themselves inhabiting and cultivating those lands.⁷⁶

Benjamin once mused if the revolution was not the “emergency break” in the train of progress, in the name of which his contemporaries condoned the catastrophes of his time. Especially in the wake of the 2008 crisis, we seem to have lost a collective meta-narrative that could endow with meaning the social and socially and ecologically destructive effects of capital that pile up at our feet. As we continue to lurch like lemmings towards a future where it is easier to imagine the end of the world than to imagine the end of capitalism, the violence of capital can serve as a reminder of its political and thereby contestable nature.⁷⁷

⁷⁶ Chris King-Ki Chan, Pun Ngai, and Jenny Chan, “The Role of the State, Labour Policy and Migrant Workers’ Struggles in Globalized China,” *Global Labor Journal* 1 (2010): 132-51;

⁷⁷ REF. Benjamin, “On the Concept of History.”

