



## War on Waste: Law, Original Accumulation and the Violence of Capital

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*ABSTRACT:* Bourgeois thought has been haunted by the idea of waste: waste land, waste persons, and wasted resources. Bourgeois law has facilitated the use of violence to eliminate this waste. This is especially the case with the early laws of war. In this sense, the fabrication of capitalist order was organized through nothing less than a war on waste. It is this war that has been at the heart of original accumulation. This can be seen historically in the work of a range of major and minor thinkers in the bourgeois canon, and remains with us in the present global war.

**I**N THE CHAPTER ON THE GENESIS of industrial capital in Volume I of *Capital*, Marx writes:

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 black skins, are all things which characterize the dawn of the era of capitalist production. These idyllic proceedings are the chief moments of original [*ursprüngliche*] accumulation. Hard on their heels follows the commercial war of the European nations, which has the globe as its battlefield. . . . These different moments are systematically combined together at the end of the seventeenth century in England; the combination embraces the colonies, national debt, the modern tax system, and the system of protection. These methods depend in part on brute force, for instance the colonial system. But they all employ the power of the state, the concentrated and organized force of society, to hasten, as in a hothouse, the process of transformation of the feudal mode of production into the capitalist mode, and to shorten the transition. Violence [*Gewalt*] is

the midwife of every old society which is pregnant with a new one. It is itself an economic power. (1976, 915–6).<sup>1</sup>

Marx here highlights the fact that capitalism is not a spontaneous order and that, in contrast to the myth of an idyllic origin of private property, in actual history “conquest, enslavement, robbery, murder, in short, force, play the greatest part” (1976, 874). What is at stake here, then, is the constitution of bourgeois order through the violence of original accumulation.

Original accumulation is the process that constitutes capitalist social relations as the separation of the bulk of the population from the means of production (1973, 489). This process is of obvious crucial historical importance, since without separating workers from the means of production capital could not have come into being; without such separation there could be no capitalist accumulation. As a process, this has also long been understood as an act of violence, its history “written in the annals of mankind in letters of blood and fire” (Marx, 1976, 874–5). I argue here that we need to understand this violence through the category of war. As Rosa Luxemburg puts it, capital accumulation has two different aspects. One concerns the commodity and the places where surplus value is produced, in which accumulation appears as a purely economic process in which “peace, property and equality prevail.” The other aspect concerns the relations between capitalism and the non-capitalist modes of production. In making their appearance on the international stage the predominant methods are colonial policy, an international loan system and war (2003, 432). In other words, and notwithstanding the differences between Luxemburg’s and Marx’s accounts of imperialism, if war is “a province of accumulation” (Luxemburg, 2003, 434) and “accumulation is the conquest of the world” (Marx, 1976, 739), then perhaps some critical analysis of bourgeois ideas about war and accumulation must be due. For this reason I want to consider here the role of some early liberal thinking about the laws of war. I do so, however, not by focusing on the “system of states” on the lines of the “Westphalian model” of international law, but in terms of the imposition of a global system of accumulation. This means dealing with the nexus of

1 This translation in fact has “primitive” for “*ursprüngliche*” and “force” for *Gewalt*. For reasons which will become clear, I have chosen to use “original” and “violence.”

state-making, colonial formation and early capital accumulation in terms of the ways in which the early laws of war were founded on some fundamental assumptions about the political economy of labor, trade and commerce. It also means dealing with the work of John Locke and the idea of waste.

Why Locke? And why waste?

Although widely understood to be one of the first key thinkers of bourgeois political thought generally, Locke is rarely considered in debates about international law and order. He is missing, for example, from widely used texts on political theory and international relations (such as Williams, 1992 and Brown, Nardin and Rengger, 2002). On the rare occasions he is discussed, it is usually in terms of just war theory (for example, Cox, 1960 and Johnson, 1975, 232–40; but cf. Tuck, 1999). This is because of a widespread assumption that Locke's main concern is not with war at all, but with property and the construction of a peaceful political order in which property ownership may flourish. Ellen Meiksins Wood (2003, 98) suggests that Locke's "theory of colonization is not a theory of war or international law but a theory of private property, which applies both at home and abroad." Yet there is a sense in which this misconstrues the extent to which Locke's theory of private property is *simultaneously* a theory of war, and thus the extent to which Locke contributed to an increasingly dominant liberal justification for war based on its assumptions about capitalist modernity. At the core of these assumptions is the category "waste."

Waste has been suggested by Zygmunt Bauman to be a key characteristic of modernity: just as weeds are the waste of gardening, so are "mean streets the waste of town-planning, dissidence the waste of ideological unity, heresy the waste of orthodoxy, strangerhood the waste of nation-state building" (1991, 15). My interest here is in the idea of the "waste" of the commons, because, *pace* Bauman, in bourgeois thought the most significant "waste" of modernity is the uncultivated land and idle labor that the commons represents. In being understood as waste, such things have been thought to require elimination: wasted land needs to be improved, wasted labor disciplined to work. Drawing these points together, I want to suggest that the outcome of this bourgeois obsession with uncultivated land and idle labor has been nothing less than a "war on waste."

Moreover, I want to suggest that this war is not just a historical phenomenon, but is at the heart of global accumulation. There has

been a tendency in commentaries on Marx's work to treat original accumulation as either a period of transition from feudalism to capitalism or as pertaining to the colonies (both are encouraged by the convention of translating "*ursprüngliche*" as "primitive" rather than "original"). In fact, original accumulation is the foundation of capital, not just historically but *permanently*. Marx comments that "accumulation merely presents as a continuous process what in original accumulation appears as a distinct historical process" (1972, 272). Hence the presuppositions of capital, "which originally appeared as conditions of its becoming . . . now appear as results of its own realization, reality, as *posited by it* — *not as conditions of its arising, but as results of its presence*" (Marx, 1973, 460). Or as he puts it elsewhere, it is the "divorce between the conditions of labor on the one hand and the producers on the other that forms the concept of capital, as this arises with primitive [original] accumulation," adding that this "subsequently appear[s] as a constant process in the accumulation and concentration of capital" (Marx, 1981, 354). In other words, as Werner Bonefeld has argued, original accumulation "is not just a 'period' from which capitalist relations emerged. Rather, it is the historical 'act' that constitutes the capitalist relations as a whole." As a permanently reproduced accumulation and thus the presupposition of capital, original accumulation "is the social constitution of capitalist social relations" (Bonefeld, 2001, 1, 2, 7; see also Perelman, 2000; Harvey, 2003, 137–82; 2005, 159–65). On this basis, I want to suggest that the war on waste that runs through the violence of original accumulation concerns not just a particular historical epoch, but is in fact a permanent feature of capitalist social relations. This article therefore concludes with some speculative comments on the current global war as the "colonial present" (Gregory, 2004) of this war on waste.

### *Haunted by Waste*

It is well known that the idea of the state of nature is crucial to Locke's theory. Many writers have suggested that such a state was for Locke either a "logical abstraction" (Macpherson, 1980) or "an ahistorical condition" (Dunn, 1969). In fact, there is a third possibility: "In the beginning all the world was *America*." For Locke, Indians "in the Woods of America . . . are perfectly in a State of Nature," since "if *Josephus Acosta's* word may be taken . . . in many parts of *America*

there was no Government at all"; the "*Kings of the Indians in America*" command their armies but "exercise very little Dominion, and have but a very moderate Sovereignty." The reason the Indians lack the institutions of political society is because their simple way of living confines their desires within narrow bounds and so generates few controversies and so no need for laws to decide them. Their system of property ownership, in other words, is such that they have "no temptation to enlarge their Possessions of Land, or contest for wider extent of Ground" (Locke, 1988, 276, 301, 335, 339).

Such a reference to enlarging possessions or land hints back to Locke's argument that God has given the world to men in common and that everyone is free to exercise their labor "to make use of it [the World] to the best advantage of Life, and convenience." This is in accordance with the natural law of preservation and can be carried out without the consent of others. For Locke, the "civilized" part of mankind recognizes that "God gave the World to men in Common; but . . . it cannot be supposed he meant it should always remain common and uncultivated." God directed man "to subdue the earth, *i.e.*, improve it for the benefit of Life," and thus "gave it to the use of the Industrious and rational . . . not to the Fancy or Covetousness or the Quarrelsome and Contentious. He that had as good left for his Improvement." This reinforces the idea that "*As much Land as a Man Tills, Plants, Improves, Cultivates, and uses the Product of, so much is his Property*" (1988, 286–7, 289, 290–2).

This reference to subduing and improving the land is important. Locke time and again refers to "improvement" both in and of itself, as in "improvement, tillage or husbandry," or through some other term which for Locke is synonymous to improvement: "cultivation," "pasturage," "tillage," "planting." These are the things the Indians fail to do. The Indians, he says, "whom Nature having furnished as liberally as any other people, with the materials of Plenty, *i.e.*, a fruitful Soil, apt to produce in abundance, what might serve for food, rayment, and delight; yet for want of improving it by labor, have not one hundredth part of the Conveniences we enjoy. Worse, in failing to labor on their land the Indians fail to create anything of any value — a bushel of wheat on Indian land being worth barely one-thousandth of a bushel of wheat in England" (1988, 296–8).

One of the defining features of the state of nature and the state of the Indians is therefore the sheer waste that comes with land and

nature going “unimproved.” “Land that is left wholly to Nature, that hath no improvement of Pasturage, Tillage, or Planting, is called, as indeed it is, *wast*” (1988, 297).

Whatsoever he tilled and reaped, laid up and made use of, before it spoiled, that was his peculiar Right; whatsoever he enclosed, and could feed, and make use of, the Cattle and Product was also his. But if either the Grass of his Inclosure rotted on the Ground, or the Fruit of his planting perished without gathering, and laying up, this part of the Earth, notwithstanding his Inclosure, was still to be looked on as Waste, and might be the possession of any other. (1988, 295.)

This is an argument that Locke applies directly to the condition of the Indians: “there are still *great Tracts of Ground* to be found, which (the Inhabitants thereof not having joined with the rest of Mankind, in the consent of the Use of their common Money) *lie waste*” (1988, 299). In other words, by virtue of the fact that they do not use money, the Indians allow land to “waste” and have thus failed to join mankind.

That this portrait is based on rather flimsy “evidence” from a selection of travelogues and is at odds with Locke’s own experience of colonial property, from which he made a profit despite some land remaining uncultivated,<sup>2</sup> reveals just how much Locke needed this argument as part of his political economy. But as we shall see, it is also important to his arguments concerning the wars of conquest. Because, initially at least, it is the avoidance of waste that explains and justifies commerce: it is a “foolish thing, as well as dishonest,” for a person to hoard more than they might use. So if the person “bartered away Plumbs that would have rotted in a Week, for Nuts that would last good for his eating a whole year, he did no injury; he wasted not the common Stock”; the important thing is that “nothing perished uselessly.” For Locke, exceeding the bounds of just property lies not “in the largeness of his Possession, but the perishing of any thing uselessly in it” (1988, 300). Hence money acts as a foundation of social life by being a mechanism for the exchange of things that might otherwise perish and be wasted.

2 “The Bahamas trade will turn to account if you meddle not with planting. . . . If other men will plant there (I mean the Bahamas) hinder them not, they improve our province. But I would neither have you nor my Lord Shaftesbury engage in it” (Sir Peter Colleton to Locke, May 1673, cited in Cranston, 1957, 156). Locke followed the advice and later sold the stock at a profit.

Supposing an Island, separate from all possible Commerce with the rest of the World, wherein there were but a hundred Families, but there were Sheep, Horses, and Cows, with other useful Animals, wholesome Fruits, and Land enough for Corn for a hundred thousand times as many, but nothing in the Island, either because of its Commonness, or Perishableness, fit to supply the place of *Money*.

The abstract example is used to suggest that in such a condition there could be no basis for enlarging one's possessions, yet the abstractness of the discussion is illustrated with reference to America.

I ask, What would a Man value Ten Thousand, or an Hundred Thousand Acres of excellent *Land*, ready cultivated, and well stocked too with Cattle, in the middle of the in-land Parts of America, where he had no hopes of Commerce with the other Parts of the World, to draw *Money* to him by the Sale of the Product? It would not be worth the inclosing, and we should see him give up again to the wild Common of Nature. (1988, 301.)

Similarly, he stresses the importance of agriculture as a productive form of labor compared to hunting by constant reference to "the vacant places of *America*" (1988, 293). The general claim about the benefits of appropriation is also connected to the example of America.

For I aske whether in the wild woods and uncultivated wast of America left to Nature, without any improvement, tillage or husbandry, a thousand acres will yield the needy and wretched inhabitants as many conveniences of life as ten acres of equally fertile land doe in Devonshire where they are well cultivated? (1988, 294.)

It is clear, then, that Locke's argument is focused on the waste that uncolonized and thus unimproved land might represent, a focus that reflects his deep concern over waste in general. Commenting to Locke's first biographer on Locke's character, his friend Lady Masham noted that "waste of anything he could not bear to see" (cited in Cranston, 1957, 426). As Bhikhu Parekh puts it, "Locke was deeply haunted by the idea of waste" (1995, 84).

Yet Locke was far from alone here; this is a haunting that saturates the developing bourgeois mind. Neil Wood points out that Locke's arguments concerning property cannot be fully grasped unless read in the context of the wider 17th century discourse of improvement (1983,

74; 1984, 51). The “gentleman’s desire,” noted the House of Lords in 1607, was “improvement” (Anon [1], 1972, 109), and the century that followed proved the Lords right. In 1649 there appeared Walter Blith’s *The English Improver, Or a New Survey of Husbandry*, which in its 1652 edition became *The English Improver Improved*. Andrew Yarranton published *The Improvement Improved* in 1663, and 1670 saw *England’s Improvement Revived*, by John Smith. Numerous books and tracts with similar such titles appeared through the 17th century, including a weekly journal, *A Collection for the Improvement of Husbandry and Trade*. “Improvement of wastes and forests” became the slogan of the age, notes Joan Thirsk (1970, 59, 167).

The *Oxford English Dictionary* notes that “improvement” refers in its original meaning to “the turning of a thing to profit or good account; making the most of a thing for one’s own profit,” and specifies that in its earliest sense it was applied to the cultivation of land. Where a term such as “subdue” had Biblical sources, “improve,” “improver” and “improvement” connoted technical agricultural innovations to increase productivity by enclosure and cultivation of waste land (Wood, 1984, 58). This was intimately connected to enclosures and the concept of waste: the OED’s second definition of “improvement” is “the turning of land to better account, the reclamation of waste or unoccupied land by inclosing.” Thus by the time Blackstone came to write his *Commentaries on the Laws of England* (1765–9) he could comment that the term used in law to signify enclosure, “improving,” is an ancient expression “signifying the same as ‘improving’” and the lord of the manor “may enclose so much of the waste as he pleases,” waste being defined as “uncultivated forest or desert” (2001, 7, 12, 27, 74).

As is well known, this was central to the domestic situation. The whole enclosures movement was founded on the joint belief that if left unimproved the commons would generate a masterless, idle and disorderly mass, and that as a consequence enormous amounts of profit were being lost. For Timothy Nourse, the argument to “uncommon wast grounds” was based on the fact that the “common people” are “rough and savage in their Disposition, being of levelling Principles, and refractory to Government, insolent and tumultuous” (1700, 15, 93; also 98, 102), while for Adam Moore the commons led the poor to “*Begging, Filching, Robbing, Roguing, Murthering*, and whatsoever other Villaines their unexercised brains and hands undertake” (1653, 30). “Common fields are the seat of disorder, the seed plot of contention,

the nursery of beggary," noted one anonymous writer in 1656 (Pseudonismus, 1972, 144). Enclosure, another anonymous writer notes, would therefore be "an effectual tendency to the anticipation and suppression of many robberies, thefts, burglaries, rapes, and murders, which do much annoy this Commonwealth, and do receive their nourishment and encouragement from those vast, wild, wide forests." This tract, called *Waste Land's Improvement* (1653), distinguishes the order of enclosures from the "wild howling wildernesses" and "deformed chaos" of the disorderly wastes, and warns that unless Parliament divides the wastes and provides work for the poor they "may in time make England's wastes a receptacle and harbor for troops of assassinating rogues like the Tories in Ireland, and the Moss-troopers in Scotland" (Anon [2], 1972, 136). The commons, on this view, equals disorder. But the main reason the commons equals disorder is because of the idleness said to result and which was distinctly at odds with the concept of "improvement." To leave people idle was to leave them to "waste" in the same way that the land might be "wasted." Appropriating the word from characterizations of land, Gervase Markham, in *The English Husbandman* (1613), proposes to use as unskilled employees "some Boyes and Girles, or other waste persons" (cited in McRae, 1996, 168). For John Bellars, writing late in the 17th century, the poor are like the scraps of pastry that cooks clip off the edges of pies and tarts: they "appear wast and useless" (Bellars, 1935, 128). Enclosure would therefore provide employment for idle people, mastering the "masterless men" without obedience or discipline. Wasted land, wasted labor and wasted time went hand in hand. What the reformers, jurists, merchants and publicists saw in the idleness of the poor was waste (Appleby, 1978, 154).

As is well known, at stake in these debates was the subsistence economy of the propertyless commoners, for whom "waste" meant access to a variety of things and opportunity to acquire the raw materials to make others. Incorporated under the "waste" of the commons were practices such as gleaning after harvest; grazing animals; catching wild animals; gathering wood and dung for fuel; picking rushes and reed to make into baskets, mats and thatch; procuring sand for use in scouring and for absorbing grease; acquiring herbs for cooking and medical use; picking nuts, fruit and berries; taking loose wool caught on bushes to use in blankets and clothes. The open-field system also allowed villagers to use strips of land in a field that had not been fenced

in. Moreover, beyond providing a fundamental means of subsistence, the commons was also a form of reciprocity and mutuality between commoners; Tawney calls it “practical communism” (Tawney, 1912, 244). In other words, what was at stake was the key issue in original accumulation: the separation of the bulk of the population from the means of subsistence outside the wage, a struggle between rival models of labor and subsistence: the commons on one side, the original accumulation of capitalist modernity on the other. If the commons and common rights over “waste” were an integral and indispensable part of the system of agriculture, then their removal threatened the whole structure of social relations and, more generally, reinforced a particular notion of labor and private property. The prolonged campaign to suppress traditional use-rights in common by enclosing the land was crucial to the proletarianization of the people.

On the one hand, then, one has to read the question of “domestic waste” in terms of the early class war which created wage-laborers out of the direct producers, as agricultural peoples were “whipped, branded [and] tortured . . . into the discipline necessary for the wage system” in a violent struggle to annihilate the pre- and anti-capitalist condition of the workers (Marx, 1976, 940). On the other hand, the hunters and gatherers on the waste lands of England had their counterparts on the waste lands of America and other colonies (Marx, 1975, 230; 1976, 915–6). The “improving class” of the 17th century knew this full well: in being “a hindrance to Industry, and . . . Nurseries of Idleness and Insolence,” noted Bellers (1935, 128), the forests and commons “make the Poor that are upon them too much like the *Indians*.” And so, just as Locke’s argument slips easily from enclosure at home to colonization abroad, so a huge amount of colonial discourse consisted of reflections on waste and improvement.

The underlying logic was that the colonized failed to properly “occupy” a space, that is, a “territory,” and so had a tendency to range rather than inhabit. They “range a great deal of ground,” says Hobbes (1991, 239), rather than cultivating “a little Plot with art and labor.” William Symonds (1609, 15) suggests that there can be no argument against a “peaceable colony, in a Wast country, where the people do live but like Deere in heards,” while William Bradford, Governor of the Plymouth plantation, talks of the land being “devoyd of all civill inhabitants,” consisting only of “salvage and brutish men, which range up and down” (Bradford, 1856, 24). In his hugely influential

contemporary account of the settling of Virginia, Samuel Purchas describes the American natives as “more wild and unmanly than that unmanned country, which they range rather than inhabite,” and connects “ranging rather than inhabiting” with “Devil-worshipping, brutishness and bloody wickedness” (cited in Berkhofer, 1979, 21). This logic saturated colonial thought (see Jennings, 1976, 78; Washburn, 1959, 23; Cronon, 1983, 63, 77; Mackenthun, 1997, 267–8). English lawyer, farmer and founder of the colony at New England, John Winthrop, for example, proposed in 1629 that the Lord’s garden gave the earth to man to be “tilled and improved,” but that “savage people ramble over much land without title or property,” meaning that “they inclose no ground, neither have they cattell to maintayne it, but remove their dwellings as they have occasion, or as they can prevail against their neighbors.” Since “that which is common to all is proper to none,” surely “Christians have liberty to go and dwell among them in their waste lands and woods?” (Winthrop, 1931, 112–3, 120). Two years later his fellow colonialist Robert Cushman thought that Indian “land is spacious and void, and there are few, and do but run over the grass, as also do the foxes and wild beasts.” As a consequence the land is “empty” and “wasted”: “all spoils, rots, and is marred for want of manuring, gathering, ordering, &c.” The colonists were therefore justified in taking over land which “lay idle and waste” despite being inhabited; “so is it lawful now to take a land which none useth, and make use of it” (Cushman, 1844, 243–4). Around the same time William Strachey described “the wast and vast uninhabited growndes” in which the Indians reside but do not “knowe howe to turne to any benefitt” and which “therefore lyes . . . vayne and idle before them” (Strachey, 1849, 19). In the eyes of the colonists, real dominion came through the improvement which follows cultivation. The colonizing impulse simply assumes that land and its resources belong to those who are best able to improve rather than waste them.

Yet, what has all this to do with the argument concerning the laws of war? Why a *war* on waste?

### *Criminals, Slaves, Workers*

Hugo Grotius is often described as the first major thinker on the laws of war; his major work *De Iure Belli ac Pacis* (1625) is regarded as one of the definitive texts on the laws of war and peace. In a far less

well-known text from 1622 he made the following observation: “If God has granted us something, we are not commanded to cast it into the sea, as some philosophers imprudently did; nor to let it lie useless by us, nor yet to lavish it away” (1819, 107). Appropriation, in Grotius’ view, is justified where there is “waste or barren Land.” Far from being a throwaway comment in a text that is now largely unread, this is a view that runs through *De Iure Belli ac Pacis*. In that work he suggests that God “gave to mankind in general a Dominion over Things,” but that God also allowed that “every Man converted what he would to his own use.” Labor and industry thereby led to the assigning of portions of lands to different families.

Thus also we see what was the Original of Property, which was derived . . . from a certain Compact and Agreement, either expressly, as by a Division; or else tacitly, as by Seizure. For as soon as living in common was no longer approved of, all Men were supposed, and ought to be supposed to have consented, that each should appropriate to himself, by Right of first Possession, what could not have been divided. (2005, 421, 423, 426–7.)

Moreover, it is this exclusive right that allows for appropriation of anything that might be “waste”: “If there be any waste or barren Land within our Dominions, that also is to be given to Strangers, at their Request, or may be lawfully possessed by them, because whatever remains uncultivated, is not to be esteemed a Property” (Grotius, 2005, 448). This is clearly a reference not to land in the “cultivated” realm of Europe, but to those areas of “primitive simplicity” — areas, in other words, which might lawfully be appropriated for cultivation and accumulation. Indeed, the logic of his argument is that this is a right that can not be claimed by the Indians, working as they are with a system “in Place of property.” In other words, Grotius is not discussing the relationship among commercial states, but between commercial states and “non-commercial” peoples operating with a different form of subsistence. And for Grotius, this right to appropriate for cultivation and accumulation underpins the right to make war. Thus, although *De Iure Belli ac Pacis* has been granted a status as one of the definitive statements of the laws of war and a major contribution to liberal thought in the international realm, one of the core arguments in the book is that there exists a fundamental right to wage war to appropriate certain types of territory not being “properly” used by

indigenous peoples; that is, being wasted. It is this which underpins the argument for war (declared, regulated and exercised in a way which renders it “just,” of course).

A similar set of arguments runs through Locke’s politics, and it is found at the very outset of the *Second Treatise*. The chapter on the state of nature at the beginning of the *Second Treatise* is regarded as one of the classic chapters in the history of political thought, outlining as it does the liberal case for natural rights. Yet the key question dealt with by Locke in the chapter concerns the right of punishment. To justify such a right the simplest claim would have been to say that it is derived from the limited rights of citizens over others once political society has been created. But making this claim would have meant Locke abandoning the doctrine he wishes to pursue through the opening chapters but which even he concedes is “strange” (1988, 272, 275): namely, that there is a natural right to punish. For Locke, this implies that every man has in the state of nature the right to punish a murderer with death. This power to punish is “to secure Men from the attempts of a Criminal” and is necessary because the criminal has “renounced Reason” and so figures as a savage beast, equivalent to “the *Lyon* or *Tyger*.” In this context, Locke makes an important additional claim: he says that beasts such as the lion, the tiger and the criminal can be understood as having “declared War against all Mankind” (1988, 274). The criminal is at war with society. And so with the criminal, as with the lion or tiger, security is impossible.

Now, Locke’s claim that “Governments all through the World, are in a State of Nature” (1988, 276) might suggest that his conception of war is the conventional one found in IR — that war is what takes place between organized politico-military nations. Yet this isn’t the real substance of his argument. Rather, he is more animated by the continued existence of criminality following the creation of political society. Locke’s argument concerning *punishment* in Chapter II thus segues into the argument concerning *war* in Chapter III, where he adds that it is a fundamental law of nature that we may kill anyone who makes war on us or *even shows enmity towards us*.

For by the *Fundamental Law of Nature* . . . one may destroy a Man who makes War upon him, or has discovered an Enmity to his being, for the same Reason, that he may kill a *Wolf* or a *Lyon*; because such men are not under the ties of the Common Law of Reason, have no other Rule, but that of Force

and Violence, and so may be treated as Beasts of Prey, those dangerous and noxious creatures, that will be sure to destroy him, whenever he falls into their Power. (1988, 278–9.)

This is not just about the murderer, and nothing to do with the relations between Governments of the world, but refers to anyone who might have a “sedate settled Design, upon another Man’s Life”: not just the thief who may use force to take our money but even “any one that joyns with him in his Defense.” It is also suggested that “*Force without Right, upon a man’s Person, makes a State of War.*” This appears initially to concern the state of nature: “force, or a declared design of force upon the Person of another, where there is no common Superior on Earth to appeal to for relief, *is the State of War.*” Yet within a few lines Locke adds that force without right makes a state of war “*both where there is, and is not, a common Judge*” (1988, 2801, last emphasis added). And this “Right to destroy that which threatens me with Destruction” extends to the most heinous threat of all: that of the man “who attempts to get another Man into his Absolute Power.” For as well as counting as criminal in itself, and thus a form of war, such an act would, of course, also “make me a Slave” and so “put [me] into a State of War” (1988, 278–82). With these comments Locke conjures up an image of a social body saturated by war, and it is clear that he holds his “strange” doctrine of the right to punish because it is this that generates a justification for war more generally (Ashcraft, 1986, 330–2; Glausser, 1990, 209; Tully, 1993, 142; Harrison, 2003, 146).

Moreover, making war runs into the more general hostility implicit in the idea of “enmity” — “The *State of War* is a State of Enmity” (1988, 278) — and, as such, constitutes a permanent threat. This permanence is taken further by the contrast of the innocent with the noxious rather than the guilty. And the “noxious” is illustrated again with the example of wild beasts of prey outside of any possible political order. Wolves, lions and other dangerous creatures offer a threat not because they are likely to break the law — in the way that they might be “guilty” compared to “innocent” — but because they constitute a pure physical threat to property as much as life, and the preservation of property is of course the very reason that political power exists.

Why is this important in terms of the political economy of waste? It is important because Locke’s comments on the colonial situation

in America and war against the Indians are mapped out in terms of the doctrine of war and punishment.

*Touching War, we see that Abraham Commanded an Army of 318 Souldiers of his own Family. . . . Is it not possible for a Man to have 318 Men in his Family, without being Heir to Adam? A Planter in the West Indies has more, and might, if he pleased (who doubts) Muster them up and lead them out against the Indians, to seek Reparation upon any injury received from them. (1988, 237.)*

This comment is from the *First Treatise* and thus, in essence, part of the argument against Filmer. Yet its core assumption is centered on the political economy of land and labor that was by then becoming entrenched in bourgeois political thought and which Locke more than anyone was doing so much to develop. Locke is suggesting that the European planters possess a right to execute the law of nature and that Indian resistance to the use of land by the planters is a *crime* and an act of *war*. Central to this claim is the belief that land which is not being “improved” is, in effect, being “wasted.” By “wasting” land the Indians in the colonies occupy a political space similar to the workers back home: standing in the way of improvement and private property. Acting against what is simultaneously a form of crime and an act of war, the colonial powers have a right to seek “reparations.” The violence of war and punishment are thus rolled together on the grounds of the political economy of land and labor.

Reference to war and the colonial situation raises the question of slavery and one of the central questions of war: the subjection of those conquered through force. Locke says that conquerors in an unjust war “*never come to have a right over the Conquered.*” Yet he also holds that captives taken in a just war can rightfully be enslaved: “*Slaves . . . being Captives taken in a just War*” forfeit their lives, liberties and estates. This argument, a common one in debates about slavery among Locke’s contemporaries, is important to his account of war more generally. Why? Because the condition of slavery is, for Locke, “nothing else, but *the State of war continued.*” The slave has no property, is outside the compact, and is therefore under a form of despotism, which is also a continuation of war: “As it arises not from Compact,” says Locke, “*Despotical Power . . . is the state of war continued.*” Furthermore, although Locke suggests that the slave is outside of civil society, the bulk of his argument presupposes the

place of the slave within civil society through being “united under the Domestick Rule of a Family” (1988, 284–5, 322–3, 383–5). Thus the state of war that is slavery rumbles on through any civil society that allows slavery. At the same time, Locke would also have been more than familiar with arguments that slave resistance is not only illegal but also, as an “unjust” rebellion, a form of war. Hobbes, for example, had argued that “*Rebellion*, is but warre renewed” (1991, 219). As Secretary to the Lords Proprietors of Carolina (1668 to 1675), Secretary to the Council of Trade (1672 to 1676), and Commissioner for the Board of Trade and Plantations (1695 to 1700), Locke would have known the reports of slave conspiracies and the various documents outlining the condition of “war” said to arise from such conspiracies (Arneil, 1996, 88).

The fact that despite his commitment to private property Locke remains wedded to the idea of slavery, that slavery is the state of war continued, and slave rebellions a form of intensified warfare, reinforces the idea that any social order which allows slavery is by definition an order of perpetual war. And it should be noted that Locke was not averse to recommending forced labor as a solution to the problem of England’s ill-disciplined and recalcitrant workers. As Commissioner on the Board of Trade Locke wrote a memorandum on the poor law along these lines in 1697 (Locke, 1997).

Thus the necessity of the state in Locke’s argument is comprehensible only through the logic of war, exercised in permanent fashion against rebellious slaves, antagonistic Indians, wayward workers, and, of course, the criminal more broadly defined. Government is nothing less than a continuous battle between the sovereign and these unsocial elements (Caffentzis, 1989, 69). Read through the lens of sovereignty, these unsocial elements are the enemies of security. Read through the lens of property, they are the enemies of improvement. The outcome can only be war against such enemies: a war of improvement; a war against the commons; a war of accumulation; a *war on waste*. This is the permanent war that becomes the underlying logic of the bourgeois order.

### *The Colonial Present: Wastes, Deserts, Yard Sales*

In his hugely influential *Commentaries on American Law*, the American jurist James Kent notes that

It was part of the original designee and duty of the human race to *subdue the earth, and till the ground whence they were taken*. . . . [I]f unsettled and sparsely scattered tribes of hunters and fishermen show no disposition or capacity to emerge from the savage to the agricultural and civilized state of man, their right to keep some of the fairest portions of the earth a mere wilderness, filled with wild beasts, for the sake of hunting, becomes utterly inconsistent with the civilization and moral improvement of mankind. (1866, 493.)

The first edition of his Commentaries was published in 1826, and Kent may have had in mind the opinion of the Court in *Johnson and Graham's Lessee v. McIntosh* in 1823, in which Chief Justice John Marshall argued against an unqualified sovereignty of the Indians on the grounds that "the tribes of Indians inhabiting this country were fierce savages . . . whose subsistence was drawn chiefly from the forest." To leave them in possession of their country, then, would be "to leave the country a wilderness." In other words: wasted. But Kent cites Emer de Vattel in his support, and clearly has one eye on Locke's *Two Treatises*. We know a little about Locke; but what had Vattel, who is almost as important as Grotius in the history of the laws of war, actually said?

In *The Law of Nations* (1758), Vattel describes the cultivation of the soil as "an obligation imposed by nature on mankind."

The whole earth is destined to feed its inhabitants; but this it would be incapable of doing if it were uncultivated. Every nation is then obliged by the law of nature to cultivate the land that has fallen to its share. . . . Those nations . . . who inhabit fertile countries, but disdain to cultivate their lands, and choose rather to live by plunder, are wanting to themselves. . . . There are others, who, to avoid labour, live by hunting, and their flocks. This might, doubtless, be allowed in the first stages of the world, when the earth, without cultivation, produced more than was sufficient to feed its small number of inhabitants.

Unsurprisingly, Vattel's example is from the Americas: "Though the conquest of the civilized empires of Peru and Mexico was a notorious usurpation, the . . . people of those extensive tracts rather ranged through than inhabited them." As we have seen in arguments from the previous century, this ranging means that "the establishment of many colonies on the continent of North America might . . . be extremely lawful" (Vattel, 1853, 35–8).

All mankind have an equal right to things that have not yet fallen into the possession of any one; and those things belong to the person who first takes possession of them. When, therefore, a nation finds a country uninhabited, and without an owner, it may lawfully take possession of it.

At this point Vattel adds a Lockean comment regarding waste, and there then follows what Vattel calls the “celebrated question”:

It is asked whether a nation may lawfully take possession of some part of a vast country, in which there are none but erratic nations whose scanty population is incapable of occupying the whole? We have already observed, in establishing the obligation to cultivate the earth, that those nations cannot exclusively appropriate to themselves more land than they have occasion for, or more than they are able to settle and cultivate. Their unsettled habitation in those immense regions cannot be accounted a true and legal possession; and the people of Europe, too closely pent up at home, finding land of which the savages stood in no particular need, and of which they made no actual and constant use, were lawfully entitled to take possession of it, and settle it with colonies.

Since the earth “belongs to mankind in general, and was designed to furnish them with subsistence . . . we do not, therefore, deviate from the views of nature, in confining the Indians within narrower limits” (Vattel, 1853, 98–100). This concerns not just colonization, but the act of war: nations which choose not to cultivate their lands, despite those lands being fertile, are “injurious to all their neighbors” and, as such, “deserve to be extirpated as savage and pernicious beasts” (Vattel, 1853, 36).

So when James Kent says that the Indians are “inconsistent” with civilization he is perhaps being a little coy. Read through the lens of Vattel or Locke, “inconsistent” is but half of it; it is extirpation that is at stake. It is, under the influence and in the language of Locke and Vattel, the violence of original accumulation written once more into the law of nations. It is what Derek Gregory (2004) calls the “colonial present” of international order.

As the colonial present, it is found wherever one looks. In 1936 Winston Churchill commented to the Palestine Royal Commission on a possible Jewish state in Palestine that there was no injustice in removing the Arabs from their land: “Why is there harsh injustice

done if people come and make a livelihood for more, and make the desert into palm groves and orange groves?," he asked. "The injustice is when those who live in the country leave it to be a desert for thousands of years." The land needed to be improved, not wasted. When one Commission member spoke up for the Arabs as the indigenous population, Churchill reiterated: "You have seen the terraces on the hills which used to be cultivated which under Arab rule have remained a desert." "It was good for the world," he told the Chair of the Commission a few moments later, "that the place should be cultivated, and it will never be cultivated by the Arabs" (cited in Gilbert, 1978, 176–7). Chaim Weizmann, president of the World Zionist Organization, told the same Commission that the Palestinian "revolt" was merely "the old war of the desert against civilization" (cited in Gregory, 2004, 81–2). Much hangs on "the desert" here — a wasteland if ever there was one.

By way of ending, and ending speculatively, we might say that we find ourselves now confronted by yet another war of "civilization" against the "desert": the global war on terror.

In Iraq, one of the greetings which serving soldiers offer to new arrivals is "welcome to Injun country." This is a term used by U. S. soldiers in the U. S.–Vietnam war and in more or less every military engagement since. "Welcome to Injun country" was the refrain I heard from troops from Columbia to the Philippines, including Afghanistan and Iraq," notes Robert D. Kaplan (2005, 4) of his time with the American military. This might sound like the crude language of soldiers in the field and the "grunt lit" that tends to be produced out of any war (Brown and Lutz, 2007), but the metaphor is telling. Stephen Silliman (2008) suggests that the metaphor conjures up the history of colonial encounters, most obviously with Native American "Indians." In that light it is easy to read the metaphor in terms of the "wild spaces" of the enemy territory and the "savage other." "What did Indian country refer to?" asked Congressman John Seiberling of Captain Robert B. Johnson during the Congressional war crime hearings following the My Lai massacre. Johnson: "I guess it means different things to different people. It is like there are savages out there, there are gooks out there" (cited in Richter, 2006). However, I would suggest that the term's current use concerns not just the idea of the savage other and enemy territory, but in fact harks back to the war on waste through which the violence of original accumulation has always been carried out. In Iraq, for example, the United States and its allies sought to

“improve” the economy by firing more than half a million employees of the 190 state-owned companies, removing protective trade barriers, introducing a flat tax policy, opening the Iraqi banking sector to foreign ownership, rewriting the patent, trademark and copyright laws to ensure access to foreign producers, and, most importantly, selling off all of Iraq’s state-owned enterprises. The intention was clear: the dispossession of the Iraqi people of their wasteful form of ownership. *The Economist* called it a national “yard sale” (Anon [3], 2003), but this makes it sound like a voluntary market transaction. In fact, it is the violent nature of the sale that needs to be emphasized, overseen as it was by some “bloody legislation against the expropriated” (Marx, 1976, 896–904), namely, a new constitution which stipulated that the Iraqi economy be run according to “modern economic principles.” As Retort comments, the only term that properly describes this combination of permanent war, capitalist accumulation, and the new enclosures is “original accumulation.” For what is most obvious about this military neoliberalism is its overtly *colonial* character and the brutality with which the appropriation for capital of the “wasted” resources of Iraq has been undertaken through *sheer forced dispossession* (Retort, 2005, 11, 43, 75). Obviously, a fuller account would need to situate such dispossession within the context of a neoliberalism that has been on the rise for some 40 years and which shows no signs of waning, but I would go further and suggest that the outright warfare through which this dispossession has taken place has been a feature of original accumulation since the inception of capital. It is the colonial present of the 500-year war on waste around which the power of capital has been organized, towards which the laws on war have been directed, and which political economy has sought to legitimize.

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