

The cover features a black background with various light-colored biological illustrations. In the top-left corner, there are several spherical, spiky structures resembling viruses or pollen grains, along with a small, knotted, ring-like structure. On the left side, there are more spiky spherical structures and a few oval, bean-like shapes. In the bottom-left corner, there are more spiky structures, a knotted ring-like structure, and some small, diamond-shaped geometric patterns. In the bottom-right corner, there are more spiky structures, a knotted ring-like structure, and several oval, bean-like shapes.

# Contract & Contagion

*from biopolitics to oikonomia*

Angela Mitropoulos

*Contract and Contagion* presents a theoretical approach for understanding the complex shifts of post-Fordism and neoliberalism by way of a critical reading of contracts, and through an exploration of the shifting politics of the household. It focuses on the salient question of capitalist futurity in order to highlight the simultaneously intimate, economic and political limits to venturing beyond its horizon.

“In this stunning reworking of the philosophical fibres of economy, Angela Mitropoulos provides an expansive realignment of how risk is apportioned and contingency valorised. The result is a febrile politics of debt and credit to pre-occupy the movements in and for the future.” –

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“Angela Mitropoulos’ work moves beyond the impasses of autonomist Marxism and queer theory to forge a critical analysis of the imbrications between economy, nation-state and family. Locating the dynamic of capital in the ‘double movement’ of contract and contagion, Mitropoulos radicalizes the Marxian critique of contract while refusing the foundational nostalgias of the left. Most forcefully, Mitropoulos proposes the prism of household politics (or *oikonomia*) as a means of interrogating the shifting nexus between the sexual and the economic across different regimes of accumulation. Baroque and incisive, this book will unsettle the most familiar of political categories.” – Melinda Cooper, author of *Life as Surplus: Biotechnology and Capitalism in the Neoliberal Era*

Angela Mitropoulos is a political theorist whose corpus spans the registers of radical movements and sustained philosophical enquiry. Her writing has appeared in numerous journals, including *Social Text*, *South Atlantic Quarterly*, *Mute*, *Cultural Studies Review*, *Borderlands*, and *ephemera*; and it has been widely translated, disseminated and taught in both academic and activist contexts.

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## PREFACE:

# THE LIQUIDATION OF FOUNDATIONS

The crowd is fluid. An institution is stable, solid. The foundation solidifies the crowd. Sickness and contagion invade the space – germs spread, the plague contaminates the expanse .... There is destruction, violence and war. These are the images of the multitude. These are the avatars or apparitions of population. These are its performances as well. Foundation, then, is the passage from water to stone, the transition of phases. ... The [seditious] clamour of the multiple makes noise; it suddenly takes form as hope or deception; it achieves harmony, and this harmony is the contract.

– Michel Serres, *Rome: The Book of Foundations*.

**For the ancients, contagion was intimately associated with the collapse and restoration of empire, the liquidation of foundations and their re-foundation.** In his “Chapters from the Foundation of the City,” the Roman historian Livy wrote of many plagues, but also of sedition spread by contagion. There “was the greatest danger,” he warned, “that the contagion of sedition might spread from the city, and the camps [of soldiers] also be involved in the confusion.” In Livy’s telling, the contagion moved from home to city to battlefield, and back again.<sup>1</sup> Cicero similarly

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1 Titus Livius, *The History of Rome, Volume 1*, 443.

wrote of sedition as contagious, and the plague as prelude to re-foundation and contract, the restoration of limits and identity. But as Cicero attempted to translate what he called Greek philosophy into a Roman idiom of genealogical lines of obligation, it is to the Stoics and not the Epicureans that he turned.<sup>2</sup> Which is also to suggest that Cicero preferred to relate a story of the inexorable necessity of the re-imposition of scarcity, rather than observe the fact of abundance.<sup>3</sup> That is to say, unlike the Roman poet Lucretius, for whom catastrophe however terrible did not signal an eschatological end of time or final reckoning of accounts but instead the way, at times, of all things. For Lucretius, contagion was, very simply, the story of the fall of the Athenian empire. His *On the Nature of the Universe* – which includes a nascent version of germ theory and atoms, and still informs current understandings of chemistry, biology and physics<sup>4</sup> – ends with a chapter on storms and pestilence. But what is significant here, and what distinguishes his from a modern understanding of the political, is that for Lucretius there was no necessary re-foundation of the *polis*. The *clinamen* – the stochastic swerve of atoms – creates worlds and ends them. By contrast to Cicero, for whom re-foundation implied the expansion of spheres of obligation traced from the familial to the political, in the Lucretian narrative of contagion genealogical ties only serve to tragically multiply the corpses. In Lucretius, moreover, there is no demand for austerity, no dream of re-foundation. Nor is there providence. For him, the “fear of the gods” – whether they incite hope or pessimism – makes people “take to themselves cruel taskmasters, whom the poor wretches believe to be omnipotent.”

Lucretian aetiology does not belong to the order of divine or transcendental causes but to the *clinamen*, its turbulent

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2 Marcus Tullius Cicero, *Orations, Volume 4*. See also Adrienne Aranita, “A Plague of Madness: The Contagion of Mutiny In Livy 28.24-32.”

3 Daniel Heller-Roazen explores Cicero’s relegation of the pirate beyond the Roman spheres of obligation in the introduction to *The Enemy of All: Piracy and the Law of Nations*. While this remains an important reading, Heller-Roazen does not discuss any further the connection between the *genealogical* character of Cicero’s spheres of obligation and the question of piracy as a putatively illegitimate distribution.

4 See for instance Michel Serres, *The Birth of Physics*; and Ilya Prigogine and Isabelle Stengers, “Postface: Dynamics from Leibniz to Lucretius.”

effects on the intervals and encounters between bodies in the laminar flow. He wants to show, in his telling of the story of the fall of empire and catastrophe, that it is merely this particular way of life – and not life as such – that ceases when the Athenian empire falls. He insists that all the realms of the universe are mortal, without for a moment implying that the universe ends. “For time changes the nature of the whole world, and one state of things must pass into another, and nothing remains as it was.”<sup>5</sup> In Book VI, he maps it like this: there are atoms which fly around by chance. Some of these atoms cause disease and death. By some chance they amass in the migratory flows from periphery to city. The universe is transformed at a molecular level, the aleatory movement of atoms continues. The swerve that bumps one atom up against another or more cannot, entirely, be predicted, pre-empted or channelled. But it can change everything.<sup>6</sup>

In opening with this preamble, my suggestion is not that there exists some grand continuity between the time of the Ancients and that of the current moment. These texts are read and rewritten, by myself and others, in the preoccupations of the present, their significances amplified and translated in the aftermath of the discontinuities of centuries. Serres’ reading, accentuated in a later work, emphasises the *foedera naturae*, the natural contract.<sup>7</sup> Leo Strauss, Louis Althusser, and Antonio Negri resort to the strategic subjectivity of Niccolò Machiavelli and Baruch Spinoza’s philosophy of affective attachment to reconstruct the foundations of the political, which is also, as it were, its boundaries.<sup>8</sup> To be sure, there are significant disputes: whereas Strauss presents Lucretius as a proto-liberal, the others situate him as a proto-communist; where Althusser was concerned to avoid all traces of theology, not least those of a subject posited as *causa sui*, Negri makes subjectivity and recognition central to his arguments. But all reference some variant of the princely seizure of opportunity as the very definition of the political act or decision in circumstances of uncertainty. These post-Machiavellian renditions of Lucretius

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5 Lucretius, *On the Nature of Things*, 497

6 Ibid, 443 and 575-91.

7 Michel Serres, *Rome: The Book of Foundations*; the later text is *The Natural Contract*.

8 Niccolò Machiavelli, *The Prince*.

presuppose a specifically capitalist understanding of uncertainty and the form of subjectivity – gendered, sexualised and more – capable of leveraging uncertainty into risk. For Negri, this takes the form of the “self-valorization of the proletarian subject,” a figure that moves from recognition to auto-determination to revolution, all taking place on the terrain of consciousness.<sup>9</sup> Strauss remarks of Machiavelli’s approach that “man’s well-being depends on his vanquishing Fortuna .... Fortuna is the enemy,” going on to write that according to Machiavelli “mixed bodies must frequently be restored to their beginnings. Such restoration can take place in the case of republics through ‘intrinsic prudence’ or through ‘extrinsic accident’.”<sup>10</sup> This problem of the combination of the extrinsic and intrinsic recurs, for Machiavelli, Spinoza and Blaise Pascal, in albeit different ways, but nevertheless as an instance of the problem of the contractual. In any case, while the political divergences between these readings of Lucretius via Machiavelli are in no way slight, they nevertheless all recompose the political on a shared sexual politics, a definition of political agency in masculine terms, a particular understanding of re/production and of the political, and through a significant reconfiguration of the classical political binary of *virtù* and *fortuna* that is specific to the rise of an intimate self-management.<sup>11</sup> Derived from the Latin *vir* – that is, man

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9 Negri, *Marx Beyond Marx: Lessons on the Grundrisse*, 162-63. Where Negri cites Marx as suggesting that the “recognition of its [the proletariat’s] products as its own ... is an enormous (advance in) awareness (*Bewusstsein*), itself the product of the mode of production resting on capital,” he goes on to argue that “there is no part of capital that is not destroyed by the impetuous development of the new subject. This subject shows such a power of subjective upheaval that all the vestiges of the old order are carried away.” I do not think the reading is an accurate one, nor is it analytically sustainable – though it follows a long more or less Hegelian tradition of Marxian theory, from Lenin on, which makes recognition and consciousness pivotal to historical transformation. I would argue that this is an idealist theory of subjectivity.

10 Leo Strauss, *Thoughts on Machiavelli*, 216.

11 See in particular Strauss, “Notes on Lucretius” and *Thoughts on Machiavelli*; Antonio Negri, “Alma Venus: Prolegomena to the Common” and “Virtue and Fortune: The Machiavellian Paradigm;” Louis Althusser, *Machiavelli and Us* and “The Underground Current of the Materialism of the Encounter.”

– *virtù* suggested the capacity for self-government and autonomy as the essential characteristic of Renaissance manliness. Political decisiveness is defined – as Augusto Illuminati will put it in reading Althusser – as “the Machiavellian ability to seize *fortuna* by the hair at the right moment, realising in the moment all of its *virtù-potenza*.”<sup>12</sup> The attempt, by Negri among others, to sustain a distinction at the level of subject formation between the expression of *virtù* as a political principle of the “common good” and the turn to tyranny,<sup>13</sup> is neither evident in Machiavelli nor, I would suggest, theoretically or historically plausible. The Machiavellian subject is established by its recourse, as it were, to domestic tyranny and the fantasy of auto-teleological production. This is the crux of *oikonomia*, the combination of equality and hierarchy that rests on the precepts of the management of self and others. Where Aristotle, Cicero and Livy distinguished between the *polis* and the household, Machiavelli – having alighted upon the singular question Lucretius posed about uncertainty – realigned them in his initiation of the framework of a modern politics; or, as I will argue later, he ushered in an oikopolitics. It is this which re-founds decision – posited as a condition and expression of property in one’s self – under conditions of uncertainty.

Machiavelli turns to Xenophon, notable among the ancient texts on the *oikos* for his preoccupation with self-mastery, to insist on the connection between the arts of household management and the management of self. Furthermore, as Hanna Fenichel Pitkin shows, but does not quite state, in Machiavelli’s writings *virtù* and *fortuna* are not simply distinct poles that recite a gender binary; more precisely, the accusation of effeminacy shores up masculine decisiveness and constitutes its distinctiveness: “no epithet is more frequent or more powerful in Machiavelli’s vocabulary of abuse than ‘effeminate.’ What men and states must avoid at all costs is resembling women.”<sup>14</sup> The important shift here is not only in the way in which the Machiavellian political subject wields the structural negativity of

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12 Augusto Illuminati, “Recent Italian Translations of Althusser’s Texts on Aleatory Materialism.”

13 Negri, “Virtue and Fortune,” 70.

14 Hanna Fenichel Pitkin, *Fortune is a Woman: Gender and Politics in the Thought of Niccolò Machiavelli*, 109-10.

a rather insecure masculine identity, but the precise interlocking of masculinity, productivity (*potenza*), the borders of the political, the household, and the calculation of risk in a simultaneously intimate and political register.<sup>15</sup> In the *Discourses on Livy*, Machiavelli wrote:

But should it seem that the world has grown effeminate and Heaven laid aside her arms, this assuredly results from the baseness of those who have interpreted our religion to accord with indolence and ease rather than with valour [*virtù*]. For were we to remember that religion permits the exaltation and defence of our country [*patria*], we would see it to be our duty to love and honour it, and would strive to be able and ready to defend it.<sup>16</sup>

In this text, there are both references to Lucretius' understanding of uncertainty (the remark above about the world having grown effeminate, but also later in what he calls the accidents of floods and plague), and a traversal of the classical republican distinction between the supposedly moral order of the household and the ostensibly virtuous one of politics. It is Hannah Arendt who situated the emergence of a politics of the *oikos* in this modern re-composition of the ancient distinction between the *polis* and the household. Astutely, she placed this alongside the emergence of statistical reasoning; less astutely, though perhaps prudently, she ascribed to Machiavelli a politics he did not share.<sup>17</sup> My argument

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15 While Negri has insisted on a distinction between *potestas* and *potentia* – respectively defined as fixed and fluid power – the suggestion here, simply put, is that this distinction is anachronistic, which is to say: that it is pre-Machiavellian and pre-capitalist.

16 Machiavelli, *Discourses on Livy*, 93.

17 Hannah Arendt, *The Human Condition*. In that book, Arendt routinely lauds Machiavelli, though I discuss the implications of this further in Chapter Three. In “What is Authority?” Arendt wrote that “*virtu* is the response, summoned up by man, to the world, or rather to the constellation of *fortuna* in which the world opens up, presents and offers itself to him, to his *virtu*. There is no *virtu* without *fortuna*, and no *fortuna* without *virtu*; the interplay

here, however impolitic it might seem, is that the transformation of political subjectivity granted by the oikopolitical not only seeks to overcome but, in doing so, to actively calculate and take advantage of the circumstance of uncertainty – this is what I call, in what follows, the valorisation of contingency. As I elaborate on this below, and return to Machiavelli (and Arendt) later, for the moment suffice perhaps to note that Machiavelli's particular riposte to the apparently effeminate arguments Lucretius makes of *fortuna* is highlighted by Negri's reading, which locates in Machiavelli a preoccupation with mutation, one in which (according to Machiavelli via Negri) "the fatality of mutation becomes the dissolution of *virtù*."<sup>18</sup>

Mutation, of course, is not unique to contagions, but it does specify their generative power. Bacteria, the 'germ' of modern germ theory, can transform their own genetic structure and that of others. Contagions reproduce, if indeed such a word can be applied here, without recourse to the implicit paradigm of a binary sexual difference, and with no inclination to a dialectic – which is not to say that contracts and contagions, in their empirical and figurative senses, have often become entangled, precisely because they both turn around the question of generation. Most obviously, for Girolamo Fracastoro writing of syphilis in the sixteenth century, the disease was explicitly thought of as a pathology of non-procreative sex, rather than particular sexual acts being the manner of its transmission.<sup>19</sup> It was Fracastoro who inaugurated the theory of contagion, of disease transmitted through contact.<sup>20</sup> In any case, in mathematical (and topological) rather than biological terms, a mutation is defined as a

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between them indicates a harmony between man and world – playing with each other and succeeding together – which is as remote from the wisdom of the statesman as from the excellence, moral or otherwise, of the individual, and the competence of experts." Cited in Dana Richard Villa, *Arendt and Heidegger: The Fate of the Political*, 55.

18 Negri, "Virtue and Fortune," 45.

19 As Valeria Finucci puts, Fracastoro argued that syphilis was caused by a "poison" intrinsic to menstruation" (*The Manly Masquerade: Masculinity, Paternity, and Castration in the Italian Renaissance*, 46).

20 Girolamo Fracastoro, *Fracastoro's Syphilis*; Fracastoro, *De contagione et contagiosis morbis et eorum curatione, libri III*.

knot that creates other knots of a different kind.<sup>21</sup> Contagion, after all, and as with contract, indicates not only a form of generation but also of relation and subjectivity. As in the contractual, contagion implies a kind of contact. Yet, as François Delaporte has noted, contagion (as well as contamination) “are words derived from the Latin for ‘contact with filth’;”<sup>22</sup> whereas contract, I would add, signifies the making of a bargain or drawing together. At any rate, the Machiavellian response to Lucretian uncertainty reconstitutes the boundaries of the political through a recourse to notions of sexual difference and the gendered reconstitution of the links between production and reproduction in the restoration of genealogical order. Valeria Finucci has shown that the specific preoccupation of Renaissance manliness was not only concerned with *virtù*, but with its temporal persistence and transfer – that is to say, the definition of masculinity as paternity, (its) reproduction.<sup>23</sup> The classical premise of self-management is property in one’s self; situated as a question of temporal persistence, it becomes a matter of genealogy, the legitimate and unadulterated transfer of both property and properties (construed as attributes).

Reading Machiavelli, Negri writes that mutation “acts on the structure of history, and proposes political reality as second nature. The return to equilibrium of the elements shaken by the crisis and now reconfigured in a new pattern takes place according to mechanisms similarly charged with naturalism and historicity according to determinations marked by popular conflicts.” In this account, time (or *fortuna*) is characterised as the substantive ground upon which political subjectivity as such is defined and enacted, as Negri puts it, by way of the “vigorous intervention of praxis.” With more than an echo of the Lucretian story of the Athenian plague,<sup>24</sup> reading Machiavelli

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21 Colin Conrad Adams writes that “Knot theory is a subfield of an area of mathematics known as topology. Topology is the study of the properties of geometric objects that are preserved under deformations. ... For instance, a topologist does not distinguish a cube from a sphere, since a cube can be deformed into a sphere by rounding off the eight corners and smoothing the twelve edges.” Adams, *The Knot Book: An Elementary Introduction to the Mathematical Theory of Knots*, 6, 51.

22 François Delaporte, *Disease and Civilization: The Cholera in Paris, 1832*, 159.

23 Finucci, *The Manly Masquerade*.

24 I am far from suggesting that Machiavelli was not preoccupied with actual



Negri suggests that the “first structure of truth is therefore ‘mutation’.” Nevertheless, he quickly recomposes the distinctions he sees, by way of Machiavelli, as central to a definition of the political, construed as “the common body.”<sup>25</sup> In this, the question of spatial boundaries is pivotal to the understanding of temporality as it assumes a gendered disposition in the demarcations of *virtù* and *fortuna*. Machiavelli’s political theory of the nation-state-to-come exemplifies the imbrication of nation-state and households in the conflation of the domestic economy, or *oikonomia* put more generally, precisely situating its history and its current incarnations within the problematic of a nascent understanding of capitalist uncertainty. Contingency, for Machiavelli, implied risk in its modern economic sense as the potential for either profit or loss. For Machiavelli, there was no qualitative distinction between gain and loss, but on the contrary a quantitative notion of risk, in which “prudence consists in knowing how to recognize the nature of disadvantages and how to choose the least bad as good.”<sup>26</sup> The conditions of this, both in its later jurisprudential and economic or probabilistic senses, are the demarcations of *oikonomia*. In thinking of and at these boundaries, in their transitional state – which is also to say, of mutation in its simultaneously biological and mathematical senses – politics risks exposing itself to the impolitical, to a sense of movement and politics beyond their conventional socio-political definitions and its calculable registers.<sup>27</sup>

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plagues. Indeed, his references to mutation are an attempt to theorise the existence of plagues at the times through his readings of the classics.

25 Negri, “Virtue and Fortune,” 37-40.

26 Machiavelli, *The Prince*, 153.

27 In a previous essay (“Autonomy, Recognition, Movement”) I argued of the spatial dimensions at work here that at “stake in every politics of border controls is control over the border of the political. In presenting the act of migration as outside the field of politics, the very definition of what a movement and politics is remains tied to the organisation of democratic representation in a very precise sense, and so, in turn, the terrain in which migration appears as that which must of necessity be controlled, regulated and mediated.” In a later essay co-authored with Brett Neilson (“Exceptional Times, Non-governmental Spacings, and Impolitical Movements”), we put the issue in this way: “questioning the eternity of the border, or its necessity as it is posed in anti-neoliberal analyses that distinguish state and capital, is to refuse both the anti-political fetishism of a world ruled by uncontrollable

In his particular approach to contingency, Machiavelli introduced the oikonomic conventions of modern political theory. Encapsulating the temporal divergence of Machiavelli's forceful prudentialism from the Lucretian impolitical, Negri puts the question in this way: "The logic of historical time is entirely structured by mutation, but is the 'true' merely the recognition of this logic? Is mutation something irresistible and uncontainable? Or, rather, is there a second definition of truth that reveals it as the possibility of modifying this logic? This second definition does exist, and it resides in force, or better, in the synthesis of prudence and arms."<sup>28</sup> This is an implicit re-inscription of the classical Aristotelian-Platonic distinction between form and matter. It not only parallels the dualist ascriptions of a binary model of gender (and classical theories of generation in the dualism of active creation and passive vessels) but it also serves to buttress the labour theory of right as the ergonomic, democratised echo of the Scholastic principle of divine authorialism.

Nevertheless, what Machiavelli, Negri and Althusser – and I too – glean from Lucretius is the question of the origin, transition and persistence of forms of life in an aleatory universe. Lucretian materialism is, if I might put it like this, a de-foundationalising insight, posing the questions of origin and lines of descent as the very premise of an unmitigated materialism which, in eschewing transcendental guarantees, exposes genealogy as the unsteady foundation of *oikonomia*. Althusser put this question in terms of the difference between that which takes place and that which takes hold. Negri goes further in assuring a foundation for the political in reproduction and *kairos*. These are all ways to read Lucretius, given his discussion of reproducibility. But the reproductive futurism<sup>29</sup> of any

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economic forces and the unrealisable dream of a politics that would 'once again' master the world. Politics is not determined by that which lies beyond its borders but remains limited only by what it is. In other words, it is to declare an end to the 'end of the political'. There is a need to acknowledge that at stake in every politics of border control is an attempt to control the borders of the political." My references to the impolitical are a reworking of Roberto Esposito's *Categorie dell'impolitico*; while the mention of knots emerged from my reading of Jean-Luc Nancy undertaken for "Cutting Democracy's Knot," co-authored with Brett Neilson.

28 Negri, "Virtue and Fortune," 36-39.

29 On heterosexual futurism in its psychoanalytic sense, see Lee Edelman, *No*

continuist reading of the *foedera naturae* (founded on the metaphysics of reproduction and *kairos*) is, I would suggest, undone by Lucretius' own insistence on the impermanence of worlds: for him, worlds might be bounded, but the universe is infinite; and the infinite did not serve (as it did for the Scholastics) as a place-holder for the divine.

The Athenian empire, more explicitly put, is finite. Against the understanding of the Scholastics, the distinction between finite and infinite was not for Lucretius the corollary of the demarcation of what the former referred to as the difference between temporal and divine power. Moreover, where Machiavelli denounced a feminised world and called for a vigorous, re/productive religiosity, Lucretius' argument is that one sets oneself on the path of Fortuna by eschewing fear of the gods and mortality. Indeed, by contrast to Machiavelli's insistence on the conquest of Fortuna, Lucretius' first illustration of the terrible consequences of piety is the sacrifice of Iphigenia. This refusal of teleology and eschatology is the gist of what Lucretius attempts to explain to Gaius Memmius, to whom *On the Nature of Things* is addressed. At the level of Lucretian cosmology, there is a spatio-temporal singularity – an “immeasurable time” and unpredictable swerve – that cuts through any settled, ahistorical distinction between the affirmative<sup>30</sup> and the generative. The Lucretian story of the Athenian plague scrambles every reified definition of re/production, makes it both integral to a particular world and marks its terminus in the encounter with a very different form of generation. In reading Lucretius in this way, I would like to dramatise the paradoxical condition of capitalism, simultaneously dependant upon contingency (which is to say, its valorisation) and endangered by it; a mode of production and reproduction, in other words, that is historically specific but by no means the only form of generation which takes place. In this argument, the dynamic of the liquidation and re-/foundation of *naturalised* contracts marks a ‘dialectic’ internal to capitalism,<sup>31</sup> its

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*Future: Queer Theory and the Death Drive*. In my usage of reproductive futurism, it relates more precisely to the role of oikonomics and the contractual in capitalist reproduction.

30 On the affirmative, see Werner Hamacher, “Affirmative, Strike: Benjamin's ‘Critique of Violence’.”

31 The argument regarding a finite ‘dialectic’ was developed in a paper given at the “Measure for Measure” Symposium – “Two Remarks on Invisible Value” – held at Queen Mary, University of London, in September 2008.

particular predicament in which it both tends, for its very existence, toward a seemingly infinite expansion (a generative complexity) and, at the same time, requires the spatio-temporal persistence afforded by genealogical foundationalism, which is to say, a very specific mode of re/production. In this, “forces of mutation and its innovative dimension” are indeed “welcomed by indifference,” but not perhaps in the sense Negri had in mind.<sup>32</sup> Contract intervenes as the proliferation of limits and as the reinstatement of the genealogical order of an *oikonomia*. I elaborate on this dynamic not as a binary, nor as a dialectic replete with its own variant of determinism as the unfolding of ideas or essences, but as the unreliable entanglement of contracts and contagions. The connection between the contractual and the contagious is, as I argue shortly, not only an appropriate trope but offers a critical analytic of contract’s axiomatic bearing. The relation between contract and contagion is, in this regard, both figurative and empirical: it illustrates the history and practice of actually-existing contracts as the allocation of risk, and gives an account of contagions as the field of the valorisation of contingency. It is, in other words, the always-present circumstance of a transitional phase in which things neither had to transpire as they did and could always turn out to be otherwise than anticipated.

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32 Negri, “Virtue and Fortune,” 40. One could read the critique of indifference as being of the abstraction of the universal equivalent. Yet, given Negri’s embrace of global citizenship and absolute democracy, this seems unlikely. My sense is that it implies, given the context of this discussion, to the conflation of sexual difference and political decision, the putative ground of the autonomy of the political from economics (which is to say, the Aristotelian understanding of the distinction and relation between *polis* and *oikos*). I discuss the persistence of this assumption further in the subsequent chapter on *oikonomia*, as it shapes the divergences between and limits of Foucault’s and Arendt’s critiques of biopolitics and oiko-politics respectively.

I.

## CONTINGENCY, NECESSITY, PERFORMATIVITY

The external must be joined to the internal.

– Blaise Pascal, *Pensées*.

In modern contract litigation ... the issues have been completely reoriented around the question of risk. The fact that some change in conditions led one of the parties to breach the contract is only the beginning of the inquiry. The issue before the courts is which party should bear the risk of the change in conditions that impelled the breach.

– George L. Priest, “Allocating Risk: The New Legal Structure of Risk Control.”

The law has nothing to do with the actual state of the parties’ minds. In contract, as elsewhere, it must go by externals, and judge parties by their conduct.

– Oliver Wendell Holmes, *The Common Law*.

Kneel down, move your lips in prayer, and you will believe.

– Blaise Pascal, *Pensées*.

**The contract is capitalism’s most cherished axiom.** It is a projective geometry of obligation and its interiorised calculus. Emerging simultaneous with capitalism, it has been crucial,

among other things, to the organisation of private property and the subjective dispositions of capitalist legal architecture. It is also, I would suggest, the very sense of the performative. Briefly put: contracts are preoccupied with the transformation of contingency into necessity as a specifically capitalist problem. For the linguistic philosopher John Langshaw Austin, the performative “is, or is a part of, the doing of an action,”<sup>1</sup> and so, it might be added, contracts are part of the making of what they say. The claims made in Austin’s 1955 lecture have been taken up or modified by many, particularly in the wake of Jean-François Lyotard’s arguments on performativity as the socio-technical optimisation of efficient performance,<sup>2</sup> yet very little of that discussion has explicitly been about the performative character of the contractual. While Lyotard pointed to some of the significant shifts of post-Fordism, his account remained somewhat pessimistic in tone, a variant of technological determinism that, in a sense, echoed Martin Heidegger’s earlier despair about the displacement of (divine) creation by technics.<sup>3</sup> More recently, Austin’s account of the performative has been addressed by queer theorists such as Eve Kosofsky Sedgwick and Judith Butler, not least because one of the exemplary performative cases Austin refers to is the marriage vow, but also as a response to Lyotard’s implicit lament. For the most part, however, the contractual appears here obliquely.<sup>4</sup>

Perhaps, then, it does not go without saying that the examples of performative utterances Austin gives – the wedding

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1 J.L. Austin, *How to Do Things With Words*, 5.

2 Jean-François Lyotard, *The Postmodern Condition: A Report on Knowledge*.

3 Martin Heidegger, “Only a God Can Save Us: The *Spiegel* Interview.”

4 Much of Judith Butler’s work (from *Gender Trouble* to *Excitable Speech*) could be read as a lengthy meditation on contracts, as could Eve Sedgwick’s *Epistemology of the Closet* and her collaborative work with Andrew Parker, *Performativity and Performance*. While the word contract rarely appears in these texts, and I might be accused of shifting the sense of the questions they pose, the ways in which Butler turns around the question of (Hegelian) recognition and the “heterosexual contract,” or Sedgwick remarks on coming out “as a breaking of representational contract,” their respective discussions of Austin and iteration/citation, points I would argue to a specifically post-Fordist terrain of the contractual, or what I call here neocontractualism. Butler, *Gender Trouble*, 154. Sedgwick, *Epistemology of the Closet*, 254.

vow, the ceremonial naming of ships, bequests to a brother, and the wager – are all contracts. If the baptism of ships with champagne bottles appears as the least obviously contractual in this series, it is however a continuing reminder that the history of insurance begins in shipping. This is the most salient clue to rethinking the sense of the other contracts on Austin's list. The first maritime insurance companies were established in the fourteenth century, and the joint-stock company and the mutualisation/distribution of risk is significant.<sup>5</sup> But if discussions of the performative (or performativity) rarely or explicitly concern themselves with contract, when it comes to the socio-political contract, many critics often seem concerned to point out the ways in which contract is an artifice, involving fiction and not always fact. In this, the performativity of contract assumes the character of a violent aesthetic. Discussing Spinoza, Negri notes that "social contract theory is an explicit sociological fiction that legitimizes the effectiveness of the transfer of Power and thus founds the juridical concept of the State."<sup>6</sup> David Hume, writing in the eighteenth century of the factional adherents of covenant versus those of contract, remarked that the "speculative principles of the two parties" exhibited a misshapen "workmanship," since the "arts" by which most governments were established were those of "usurpation or conquest, or both, without any presence of a fair consent or voluntary subjection of the people."<sup>7</sup> Friedrich Nietzsche echoed Hume more than a hundred years later, declaring that the state did not originate in the "fantasy" of the social contract but rather under the "hammer strokes" of an artistic force.<sup>8</sup> Even for these critics, then, contract was a powerful artefact. Still, one does not need to resort to Nietzsche's heroic rendition of artistic

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5 On maritime insurance, see Shoutir Kishore Chatterjee, *Statistical Thought: A Perspective and History*, 146; and on the second point, see in particular Tim Armstrong, "Slavery, Insurance, and Sacrifice in the Black Atlantic."

6 Negri, "*The Political Treatise*, or the Foundations of Modern Democracy," 31. Yet Spinoza, I will suggest later, revised the contractual in ways it becomes crucial to acknowledge in the present conjuncture of neocontractualism, contrary to Negri who follows Alexandre Matheron (*Individu et Communauté chez Spinoza*) in arguing that, with the writing of the *Ethics*, Spinoza abandoned a contractarian approach altogether.

7 David Hume, "Of the Original Contract," 457.

8 Friedrich Nietzsche, *On the Genealogy of Morals*, 58.

creation to note that contract is the often-violent projection of a genealogy and an infrastructure of obligation or – put in simultaneously moral and economic terms – of indebtedness. Indeed, for social contract theorists such as Thomas Hobbes and Jean-Jacques Rousseau, their origin-stories of the social contract were explicitly put forward as fiction, albeit as they saw it, a necessary fiction. It is this apprehension of necessity that both shapes contract theory and hints at the specific logic and field of its violence. In other words, contract theory – in its particular appearances as theory and as aesthetics (informing the legal variety and histories of contract) – is not so much the legitimization of sovereignty, the state or other political forms as it enacts the scene of conflict over that very legitimacy in an attempt to reimpose necessity.

Undoubtedly, it is possible to distinguish particular versions and histories of contracts, to designate them as, say, wage contracts or implied social contracts or commercial contracts, and more. Yet, in each case such contracts are composed of political, affective, economic, legal, linguistic, sexual, moral and aesthetic dimensions. At times they have been compared and contrasted; sometimes one kind of contract serves as template of others; and so on. And it is this complex imbrication that concerns the following. For instance, a history of the wage contract cannot proceed without a consideration of the shifting terms of the sexual contract; just as it is not possible to read classical theories of social contract without coming across persistent attempts to mark the divergence of the wage contract from slavery (as with Locke and Rousseau), or the preoccupation with correlating or distinguishing the political contract from the marriage contract (as in the debate between Robert Filmer<sup>9</sup> and Hobbes), or to be struck by the generally literary character of the texts. To insist on the complex aesthetics at work here is not to mount a defence of contractarianism; rather, I offer a critical history of the contractual that takes its artfulness seriously, what amounts to an often-violent containment or framing of the speculative, a harnessing of the affirmative to the performative in the rise of an intimate self-management.

As performative statements, contracts involve claims which are, strictly speaking, neither true nor false; or, to use

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9 Robert Filmer, *Patriarcha and Other Political Works*.



Aristotle's terminology rather than Austin's, they are contingent propositions.<sup>10</sup> They are future-oriented technologies, aleatory in form if not always in the classification. Aleatory contracts, as they are usually defined, are those contracts whose effects – the determination of gains and losses, to one or more parties to the contract – depend on the occurrence of an uncertain event. Insurance, gambling, derivatives, options, and prenuptials are usually classed as aleatory contracts. However all contracts contend (and increasingly explicitly so) with the future contingent, in the most minimal sense as the assumption of consequences in the case of a breach. The distinction between contract and covenant is not firm but appears as limit. While it may be posited, at least initially, as a voluntary relation between God and man – to the extent that it is specified by a difference between assent and consent – is irrevocable. Covenant requires assent to what is asserted as true, a faith that infinitely binds; and its logic of gift ultimately secures the contingency and exchange of contractual projection. God creates men as equal, grants them inalienable rights, in order to make contractual exchange between these men possible, *for all time*. Rousseau's social contract, while it is generally understood as conditional upon consent, nevertheless contains a significant and constitutive caveat that indicates less the criterion of consent than that of assent. As it is generally understood, Rousseau's argument was that the "social compact" requires "unanimous consent;" or, more specifically put: that "no one, under any pretext whatsoever, can make any man a subject without his consent." While this is often read as a foundational democratic argument against slavery and involuntary submission, it is more accurately the democratic substitution of the figure of the 'born-slave' with that of the 'foreigner-by-choice.' In this way, the existence of involuntary submission (or slavery) is redefined as the consequence of an individual's choice to reside

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10 Aristotle, *The Organon, Or Logical Treatises*. Austin's definition of a performative class of utterances assumes the same place as do Aristotle's contingent propositions. Both Austin and Aristotle distinguish them from the category of statements which may be true or false. Austin, however, does not mention Aristotle. My use of Austin and Aristotle, however, should not be read as confirmation of their theories or approaches, but as significant parts of the history of thinking about the contractual. It might also be noted that ships, albeit those which are anticipated to go to war, figure explicitly in Aristotle's discussion of contingent propositions.

within borders in which they do not belong – and they do not belong because they do not agree to the contract. Rousseau’s egalitarianism is presented as a function and expression of divine creation, a gift. In the *Social Contract*, after positing the natural foundations of the nation state in voluntary agreement, Rousseau goes on to argue: “If then there are opponents when the social compact is made, their opposition does not invalidate the contract, but merely prevents them from being included in it. They are foreigners among citizens. When the state is instituted, residence constitutes consent; to dwell within its territory is to submit to the Sovereign.”<sup>11</sup> Hobbes similarly combined covenant and contract to argue for the irrevocability of sovereignty. For Abraham Lincoln, the distinction between contract and covenant is almost indiscernible, its traversal necessary to the redemption of the social contract presented in the ostensibly unbreakable form of the marriage covenant. Speaking against those who would dissolve the Union, Lincoln famously compared it to a family composed by “regular marriage,” which is to say, one without the possibility of divorce, and certain as to its genealogical lines. “In their view,” he argued, “the Union, as a family relation, would not be anything like a regular marriage at all, but only as a sort of free love arrangement, ... to be maintained on what that sect calls passionate attraction.” These ‘fine print’ conditions which reassert the unbreakable contract, the recourse by concepts of exchange to a foundational bond declared essentially illiquid and a logic of gift regarded as divine or natural, is – more often than not, as I will argue – the re-imposition of the necessity of oikonomics and its genealogical reproduction.<sup>12</sup> For much of contract theory, the egalitarian transactions between men are made possible, on the one hand, by divine power and, on the other hand, by the gift of reproductive futurity afforded by “regular marriage.” Exemplified by Locke’s three temporal orders (of divine providence, prudential self-management, and the naturalized, heritable properties of servitude), contract theory presupposes a trinity of value, exchange, and surplus.

There are threads which run through the history of contract but also those which unravel and become the occasion

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11 Jean-Jacques Rousseau, *The Social Contract*, 104-06.

12 Abraham Lincoln, *Speeches and Writings 1859-1865: Speeches, Letters, and Miscellaneous Writings, Presidential Messages and Proclamations*, 202.

for contract's re-figuring of the limits to speculation. If Aristotle's understanding of logical axioms posed an impasse for thinking about contingency, Scholastic theologians nevertheless returned to him in the particular tumult of the Middle Ages – most notably, in the wars against heresy and the witch-hunts – as a means of reasserting the necessity of divine law. Thomas Aquinas, for instance, made his argument for the existence of God from the assumption of contingency.<sup>13</sup> Which is to say, as difficult as it was for Aristotle's realist theory of language to admit the future contingent, the Scholastics nonetheless resorted to him, in their time and in their defence of orthodoxy, so as to reconstruct his somewhat apprehensive insights about contingent statements – that they belong “more properly to Rhetoric or Poetry”<sup>14</sup> – into belief in divine creation.<sup>15</sup> By the seventeenth century, and in the wake of the Protestant Reformation, contract was reassembled from the terms of covenant as a rethinking of contingency in its probabilistic and interiorised senses. It took the more explicit form of prudential and calculative reasoning in uncertain circumstances, but retained the impulse of reinstating determinism. Marked in its classical formulations by the use of terms such as passions, interests, and affects, contractualism became the taken for granted form of answers to the myriad questions posed by the uncertain predicament of an intimately self-managed subject. In emphasising the performativity of contracts, then, I draw attention to the ramifications of the aleatory and actuarial, that is: an analysis of the valorisation of contingency and the ways in which contract re-/distributes risk and organises debt, right and recognition. Of the amplification of managerialist indices of performance, Stefano Harney has argued that while performance “is a technique of intensification of comparison where comparison is necessary as the basis for practices that assume universality and naturalism,” the “intensification of performance [also] risks drawing attention to the historical dynamic that makes such comparison possible.”<sup>16</sup> Abstract equivalence does not, of course, dispose of inequality and hierarchy; put in the terms of the

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13 Thomas Aquinas, *Summa Theologica*.

14 Aristotle, *The Organon*, 51.

15 Nietzsche's reading of the socio-political contract retains a sense of this in his emphasis on contract's heroic self-creation, or autopoiesis.

16 Stefano Harney, *StateWork: Public Administration and Mass Intellectuality*, 135.

argument here: contract does not relegate status to the past, but rather is engaged in a constant rationalisation – or, better: ratiocination, in the sense one may speak of *ratio* as calculation and of rationing as the apportionment – of its uncertain conditions.

The valorisation of contingency involves a complex dynamic of the rise and refoundation of the contractual, the entanglement of contract with contagions both metaphoric and empirical, emblematic and historical. There is no binary between contract and contagion in what follows, even if there is at times juxtaposition. From Butler to Harney, the question of the risky iteration of performativity astutely points to a broader question of the models of generation, and my use of contagion in the analysis of the contractual is intended to highlight definitions of re-/production as a specifically capitalist form of foundationalism, while exploring the intricacies – invoking Frank Knight’s distinction – of uncertainty and risk.<sup>17</sup> That is to say: revisions of contract point to a reorganisation of uncertainty, as its displacement, or its valorisation, but for the most part as the re-imposition of necessity. This takes place in a dynamic of the crossing and restoration of limits, and in this a re-reading of Gilles Deleuze and Felix Guattari’s discussion of the axiomatic is relevant. In *A Thousand Plateaus*, after discussing the deterritorialising aspects of capitalism, the “worldwide axiomatic” that rests on “convertible abstract rights,” Deleuze and Guattari note that an axiomatic system “seems capable of encompassing polymorphic models.”<sup>18</sup> Like Jason Read, I place an emphasis on the axiomatic as “differential relations between abstract and quantitative flows” that are concerned less with belief than with “what should be done.”<sup>19</sup> Yet I would insist that the relation between the axiomatic and the codes is one of an oscillation between flow and foundation, a complex interplay between lines of flight and points of exchange, in which the injunction regarding what should be done is one of performative inclination.

In any event, Pascal’s early musings on projective geometry – which I alluded to in opening this chapter – shifted

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17 Frank H. Knight, *Risk, Uncertainty and Profit*.

18 Gilles Deleuze and Felix Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia*, 453-55.

19 Jason Read, *The Micro-Politics of Capital: Marx and the Prehistory of the Present*, 70-71.

into the more explicit formulations of probability, of the problem of decision made under conditions of uncertainty, and formed a significant point in the development of the probabilistic calculus that continues to inform the workings of risk management, insurance, statistics and, perhaps less obviously, the performative rendering of the act of submission into piety or, differently put, the transformation of the body's movements (with its excessive contingencies) into a credible faith or valorised risk. It is not so surprising, as it happens, that the classical lexicon of passions, interests and affects has returned in contemporary re-readings of Spinoza – and, less so, Hobbes and Machiavelli – at a time when the demarcations of Fordism give way to the complex realignments of post-Fordism. A traversal of Fordist partitions – of geography, gender, sex and race; of the divisions of labour that accompanied these distinctions and their easy accounting in the Fordist bookkeeping of the family wage – by socio-political movements of the previous centuries has entailed the resort to complex, just-in-time and covenant-like mechanisms of the contractual displacement and allocation of risk.

What follows is not, then, an exhaustive history of contract but more precisely an argument about the significance of the contractual in the *longue durée* of capitalist dynamics, a history that forms the backdrop to an analysis of the present conjuncture marked by the rise of neocontractualism. Neocontractualism emerges in the late twentieth century in the reorganisation of wage contracts and the expansion of precarious work. In this, there is a curious reconfiguration of the play between contingency and necessity. Neocontractualism modifies the classical relation between the unbreachable covenant and the breakable contract in the imposition of an infinite contractualism whose most emphatic manifestation is the collapse of a punctual distinction between the time of work and that of life. Moreover, this neocontractualism has involved changes to welfare provision, such as the turn to faith-based initiatives and the subcontracting of welfare to private companies, a recourse to the precepts of mutual obligation and workfare, as well as the increasing use of housing as collateral for education, health and welfare. It is, furthermore, evidenced in the recent history of conflicts over marriage laws and, not least, those of the implied socio-political contract as it turns around the demarcations of citizen and non-citizen.

These changes, and the long history that precedes them, require an analytic that moves beyond the epistemological reliance on either identity (those of, say, citizenship, gender, race and class) or the flattening of differences that I think is generated by much of the conceptual schema of biopolitics, theories of governmentality, human capital and in the proposition of a common. The central analytic here, then, is that these are all better thought as an instance of oikonomics, which is to say, as the nexus of race, gender, class, sexuality and nation constituted through the premise of the properly productive household. The significant epistemological shift in this rise of an oikonomics is, briefly put, the emergence of – to use Xenophon’s phrase – “self-command.”<sup>20</sup> I return in more detail to Xenophon below, but note here that the most assertive instance of this oikonomic confluence, in its recent incarnations, is the collection of laws passed in the United States in 1996 that, among other things, militarised the US-Mexican border and withdrew welfare supports for (legal) migrants, mandated that marriage contracts could only be entered into between a man and a woman, and introduced laws which tied welfare provision to marriage and punished extra-marital sex.<sup>21</sup> More explicitly perhaps, neocontractualism can be traced to conservative calls for a “New Social Contract” in the United Kingdom, first put forward in the mid-1940s and revived with the election of the Thatcher government in 1979, whose principal suggestion was the introduction of a basic income.<sup>22</sup> This, as with

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20 Xenophon, “The Estate-Manager [*Oikonomikos*].”

21 The relevant laws referred to here are the *Defense of Marriage Act, 1996*; the *Personal Responsibility and Work Opportunity Reconciliation Act, 1996*, and the *Illegal Immigration Reform and Immigrant Responsibility Act, 1996*.

22 On the phrase “new social contract,” see Lady Rhys Williams, *Something to Look Forward to*, which also included a call for a basic income. The latter was revived in the late 1970s by her son, the Conservative MP Brandon Rhys Williams (*Proposals for a Basic Income Guarantee, Evidence Submitted to the Treasury and Civil Service Committee*). Between the election of Margaret Thatcher’s Conservative government and previous conservative proposals for a “new social contract,” in 1975, the-then Labour Government and the trade unions entered into what was called a “social contract” during what came to be known as the Winter of Discontent. This “social contract” was an austerity package designed to curb ostensibly inflationary wage increases.

the Fordist family wage and the social wage more generally, was predicated upon a reconfiguration of putatively productive and reproductive spheres which re-imposed the injunction to labour simultaneously as an instance of self-command *and* as the implied command of the privatised/unwaged labour of others construed as an extension of domestic (and specifically, affective) labour. In its specific policy implications, the privatisation of health, welfare and education that has been the hallmark of neoliberalism has amounted not only to a shifting of particular forms of (still largely feminised) kinds of work from public and/or waged spheres to that of private and/or unwaged, but also the re-modulation of the distinction in welfare provision between the punitive and the contractual that emphasises self-command. Yet, far from being a simple matter of the imposition of neocontractualism from, as it were, above and outside, neocontractualism is not only a signal of the much-touted rise of neoliberalism or the shift to post-Fordism, but also of the prevailing recourse in oppositional social movements in the same period to a politics of rights and recognition (that has amounted, overtly or not, to the expansion of contractualism in its most uncertain of instances). Pivotal to this discussion of the role of the contractual in the dynamics of capitalism, therefore, is an argument about the performative character of contracts but also the political-economy of the performative as it recapitulates itself in frontier spaces both figurative and empirical.

In all of this, the relation of contingency and necessity is key; and the argument I make, simply put, is that whatever else they accomplish, *contracts are preoccupied with the transformation of contingency into necessity as a specifically capitalist problem*. The classical instance of this theatrical alchemy is Hobbes' *Leviathan*, which begins with the definition of the political contract as an art, and the event of the broken promise.<sup>23</sup> As in the writings of Hobbes, Locke, Rousseau, and contract theory since, it is the unravelling of ties which invents contract. Put another way, contract is constituted and revised in the midst of a specifically capitalist precariousness, variously played out as protection or insurance, as the re-allocation of risk or its valorisation, or as the displacement and redistribution of uncertainty. Taking a cue from George L. Priest's insistence that the

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23 Thomas Hobbes, *Leviathan*.

“predominant function of modern [contract] law is to allocate risk,”<sup>24</sup> and emphasising a critical account of capitalism which refutes notions of equilibrium as norm and crisis as punctual anomaly, I follow Victoria Kahn and Irene Tucker to an extent in underlining contract’s simultaneously probabilistic and performative aspects.<sup>25</sup> But contract’s probabilistic and performative dimensions cannot be understood without addressing their historical specificity, that they become the answer to a problem that can only be posed from within capitalism and from its perspective, and they do so through the mobilisation of a theory of contagion, the danger of wild variation (or “free love” and “passionate attraction”) that makes the projection of capitalist futurity uncertain.

Karl Marx’s argument, in the first volume of *Capital*, that Aristotle could not comprehend the possibility of beds being exchangeable for houses – because he did not exist in a world where “the dominant relation between man and man, is that of owners of commodities”<sup>26</sup> – encapsulates the rise of the contractual as axiomatic in the sense I want to emphasise here. But it also underlines the way in which I pose this as a question not only of comparison (and abstract equality) but more so as one of *oikonomia*, of the law of the household: one in which beds, houses, and the relation between men “as owners of commodities” operates as the foundationalism, and the *differentia specifica*, of the contractual. Here, the equality between men (between, that is, labour which is contracted for sale) is both ordained by God and made possible by the foundational gift of a naturalized servitude, which is to say, the surplus labour that is always unpaid, outside the remunerative, measured and reciprocal logic of the wage contract as such, but which is nevertheless crucial to its reproduction. In other words, the countervailing tendency to the so-called tendency of the rate of profit to fall is the foundational gift of this servitude, the periodically renewed emphasis *not on the wage contract, as such, but on its reproduction*.<sup>27</sup> This is the foundational asymmetry that makes exchange

24 George L. Priest, “Allocating Risk: The New Legal Structure of Risk Control,” 209.

25 Irene Tucker, *A Probable State: The Novel, the Contract, and the Jews*. Victoria Kahn, *Wayward Contracts: The Crisis of Political Obligation in England, 1640-1674*.

26 Karl Marx, *Capital. Volume 1*, 143.

27 The references are to Marx’s discussion of the “gradual fall in the general rate of profit,” in *Capital. Volume 3*, 318. I take this up more fully in the conclusion.



possible, putatively outside the logic of the market (as Karl Polanyi<sup>28</sup> and others suppose) but, as it happens and against a conservative understanding of capitalism, historically contemporaneous.

To be sure, as an axiom, contract has been many things, simultaneously scalable and delimiting, deployed by turns as an argument for the status quo and reform, for better but also worse. It has a long and complicated history, which will remain relevant throughout. In the global unfolding of English jurisprudence and its sometimes diasporic, often colonial elaboration as common law, contract has shaped understandings of justice, informed legal doctrine, and been the subject of arguments over case law. Legally and philosophically, it has been at the centre of conflicts over the pattern and meaning of relations both sexual and economic, which is to say: it has designated the frequently hazy though mostly gendered demarcation and convoluted association of public and intimate spheres; has characterised the historical and political demarcation of slavery from wage labour and lent force to the latter's critique; and, as it happened, has both legitimated coverture and furnished the vocabulary of its refutation.<sup>29</sup> As it focused the attention of political philosophy, most prominently in early French and English disputes over sovereignty and government, the language of contract circumscribed the horizon and sense of freedom, furnishing the lexicon through which freedom's inauguration was proclaimed, its hindrance denounced, and its eclipse lamented. Contract has served as the ground of the social, been situated at the origin of enduring social ties and the setting out of legitimate lines of obligation and right. Contract's historians have discovered a not-always discontinuous precedent in the promissory oath, in covenant, gift, bargain and faith; and – in more or less complicated ways – its scholars have had occasion to invoke consent, intentionality, performance, reciprocity, consideration, trust, rights, exchange, obligation, liability, warranty, and more besides. Conventionally defined as an agreement enforceable by law, contract has assumed – depending on the moment's inflection

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28 See the chapter "Proliferating Limits" for a lengthier discussion of Marx and Polanyi. Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time*.

29 On this, see the excellent study by Amy Dru Stanley, *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation*.

– an authorial, voluntarist, egalitarian, liberal, wilful and autonomous subject. In short, contract is crucial to the legitimated forms of subjectivity *and relation* that have accompanied the rise and expansion of capitalism across the world. Its history is inseparable from notions of self-possession as C. B. Macpherson argued<sup>30</sup> – which makes it also, I add, crucial to the inscriptions of property in an anthropological register, and its transfer in oikonomic and genealogical senses. Contract is the hyphen situated between politics and economics, which is to say, the emergence of political-economy from moral economy,<sup>31</sup> and the points of articulation between state and market (the critical points of intersection that is common law, currency and transaction). In the history of liberalism, it has simultaneously constituted the supposedly emancipatory limit on state action while proliferating that limit – and everything that it presupposes and gives effect to – across the globe and in intimate spaces.

Famously, for the English jurist Henry Maine, history as such could be read as the development of obligation from a status ascribed by birth to that of contract entered into voluntarily. While Maine's rendition of the history of contract is routinely dismissed as an expression of the dubious evolutionary theories prevalent at the time (most notably those of Herbert Spencer),<sup>32</sup> few discussions of contract have escaped the terms in which he presented it. Max Weber's history of capitalism, organised around the themes of *Zweckkontrakt* and *Statuskontrakt*, took its cue from Maine.<sup>33</sup> Michael Walzer, in turning

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30 C. B. MacPherson, *The Political Theory of Possessive Individualism: Hobbes to Locke*.

31 For the ancients, the household, distinguished from politics, was the realm of moral orders, whereas politics was the sphere of virtue. Early political-economy, as with many of the early human sciences, referred to themselves as moral economy and moral sciences respectively. This, in the history of the development of particular disciplines and the transformation of epistemological precepts, is another way in which modern political-economy referred back to and blurred the demarcation between *oikos* and *polis*. What happens here then, is the emergence of an object of science that is simultaneously one of politics but also of economics in its emphatically oikonomic sense, as a question of household management.

32 Herbert Spencer, *First Principles of a New System of Philosophy*.

33 In particular, see Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, Volume 2.

the question of obligation around the assumed polarities of wilful association and inherited membership, echoed both Weber and Maine.<sup>34</sup> And while contract theory has been accommodating of those whose politics might be said to vastly differ on every other question, even its most implacable critics have theorised the history and significance of the contractual so as to pose the question of freedom anew. From Hume to Nietzsche to Émile Durkheim, all of whom ridiculed the idea of an originary contract to which no one actually consented, to Carole Pateman's more recent (and Freudian) account of contract as the emergence of fraternal patriarchy, the socio-political contract has often been regarded as the denial of a founding violence and persistent asymmetry.<sup>35</sup>

These critiques of contract, while I think undeniable, never manage to dispose of contractualism as a form for envisaging attachment, relation and right. Part of this stubbornness resides in the amplification of contractualism as an ontological precept, which is to say, as an axiomatic that is deemed to be universally applicable, and ahistorically pertinent. But the materiality of contractualism is that of a performativity installed by its presumption of the inexorable necessity of contingency; a presumption established by what I refer to here as the Pascalian premise that one must 'play the game' *necessarily*, that this is the only game available. This invalidates all idealist explanations of contract, including those which echo contractualism's voluntarism in their understanding of (revolutionary) subjectivity.<sup>36</sup> Performativity is the temporality of contract, and the temporal continuity of capitalism is uncertain. In the *Leviathan*, Hobbes put the question of performativity in this way:

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34 Michael Walzer's *Obligations: Essays on Disobedience, War, and Citizenship* is a lengthy meditation on the right to disobey, but also on the limits to insubordination.

35 David Hume, "Of the Original Contract." Émile Durkheim, *On Morality and Society: Selected Writings*, 101-03. Carol Pateman, *The Sexual Contract*. Sigmund Freud, *Civilization and Its Discontents*.

36 Insofar as the theories of political decision – such as those of Negri, Arendt and Lenin – share the premise of a voluntarist political subject, they remain unable to think the capitalist specificity of the contract as a performative injunction.

... one of the Contractors, may deliver the Thing contracted for on his part, and leave the other to perform his part at some determinate time after, and in the mean time be trusted; and then the Contract on his part, is called Pact, or Covenant. Or both parts may contract now, to perform hereafter; in which cases, he that is to performe in time to come, being trusted, his performance is called *Keeping of Promise*, or Faith; and the fayling of performance (if it be voluntary) *Violation of Faith*.<sup>37</sup>

As Morton J. Horowitz has argued, the nineteenth century was the scene of a series of conflicts over the understanding of the voluntary assumption of risk (*volenti non fit injuria*) that limited the liability of employers for workplace accidents and harms by asserting that, under a rule of reasonable (or disciplined) foresight, the worker had taken responsibility for the possible dangers of their work.<sup>38</sup> The doctrine of *volenti non fit injuria*, was displaced – in some but by no means all labour contracts – in the latter part of the nineteenth century by forms of compensation and social insurance predicated on the rise of the statistical.<sup>39</sup> It would return, however, in the contracting of labour that was often not recognised as such and as insurance’s presupposition. Moreover, the significant legal shift in contract law – ushered in by Justice Oliver Wendell Holmes<sup>40</sup> but implied in contract theory from the outset – from the determination of intent to verification through performance made the question less one of belief than of movement, kinaesthetic and proprioceptive. In the current period, however, with the rise of tort and the decline of social welfare, the performative criterion of contract realigns with notions of disciplined foresight in the perennial quest to limit liability, often under the heading of ethics.

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37 Hobbes, *Leviathan*, 193.

38 Morton J. Horowitz, *The Transformation of American Law, 1870-1960: The Crisis of Legal Orthodoxy*.

39 Pat O’Malley, *Risk, Uncertainty and Government*, 38.

40 Oliver Wendell Holmes Jr, *The Common Law*; Tucker, “What Maisie Promised: Realism, Liberalism and the Ends of Contract.”

Approached from this perspective, political-economy contains an implied social contract in its version of sociality as the association of buyers and sellers. The neoclassical postulate of utility-maximisation – and its recent revisions in dynamic theories of optimisation – is a subjective assumption of the socio-economic contract. Joking that contractualism presented the labour market as an “Eden of the innate rights of man,” Marx went on to say of political-economy’s implied social contract: “The only force that brings them [i.e., people] together and puts them in relation with each other, is the selfishness, the gain and the private interests of each.”<sup>41</sup> In thinking the contractual in these terms, I argue here that the joint-stock company and insurance – that is, the mutualisation of dis/advantage and the pre-history of limited liability – are both significant corollaries of the political contract. They evince a modification of the logic of sovereignty and the fraternal contract, and this has its theologico-philosophical counterpart in Spinozian ethics. In any case, the recourse to anthropological fictions in contract theory – as in classical narratives of a State of Nature or neoclassical theories of utility-maximisation – takes place in a context where desire and its mobilisation are the principal questions. Contract involves both projection and introspection. But beyond Macpherson’s history of the rise of a possessive individualism that marks classical contract theory, it is I would insist a social cosmology that is deeply performative – that is to say: it is oriented to installing the future it imagines.

Maine’s teleology is well-known, and often derided, but in the detail his account of contract deserves to be re-read. Maine was actually far from believing in the certainty of a linear development. In 1917, Nathan Isaacs was one of the few who read Maine as suggesting not any actual linear progression but, instead, a cyclical swing between status and contract. Without adopting Isaac’s reading in full, or understating Maine’s attachment to a somewhat Hegelian distinction between status and contract, his insight nevertheless points to a dynamic of conflict that explains more than a simple dismissal of Maine would. As Isaacs pointed out, Maine’s distinction was more precisely that between “the powers and privileges anciently residing in the family” and voluntarist exchange. Moreover, according to Isaacs,

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41 Karl Marx, *Capital*. Volume 1, 172.

the familial orders of status saw a renewed emphasis in the latter half of the nineteenth century.<sup>42</sup> Maine's *Ancient Law* – first published in 1861, struggling with the distinction between wage contracts and slavery, and referencing Edward Coke's rendering of common law as ancient custom<sup>43</sup> – emphasised the role of the emerging field of political-economy, which he considered "the only department of moral inquiry which has made any considerable progress in our day." According to Maine:

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42 Responding to Roscoe Pound's dismissal of Maine, Isaacs wrote: "Is there indeed 'no basis in Anglo-American legal history' for the status-to-contract theory as generally understood? Its original application was to personal relations derived from or colored by the powers and privileges anciently residing in the family. Is it not true that the relation of master and servant was originally – and still is nominally – a domestic relation? And whether the nineteenth century was out of line with the common law or not, is it not a fact that it has made of this relation a contractual one? ... Perhaps even the marriage relation has been made somewhat subject to contract law, at least on the property side; though, of course, here we should expect more conservatism, and marriage must still be considered a status. ... In what Maine calls status, that is, the ancient family relations, or caste, the rights, privileges, powers and immunities (and the correlative duties, limitations, liabilities, and disabilities) were thoroughly standardized. ... Here, we include not only the early Roman forms of sale and the old English conveyances of land, but marriage, the taking up of the feudal relation at other stages in the law, and the purchase of a standard insurance policy to-day. The point of likeness is that a relation results in which the details of legal rights and duties are determined not by reference to the particular intentions of the parties, but by reference to some standard set of rules made for them. In origin, these relations are, of course, contractual; in their workings, they recall the regime of status. ... in this sense there has clearly been a long-enduring tendency in English law from status to contract, and – in the last two generations – an equally distinct veering back to status." Nathan Isaacs, "The Standardizing of Contracts," 35.

43 On this last point, see J. G. A. Pocock, *The Ancient Constitution and the Feudal Law: A Study of the English Historical Thought in the Seventeenth Century*, 233. Coke's origin-story takes its cue from the Magna Carta's reference to "ancient liberties," and while Maine grumbled as a student about the lawyerly preoccupation with Coke and William Blackstone, their histories of law and contract remained prominent in his thinking.

The bias indeed of most persons trained in political economy is to consider the general truth on which their science reposes as entitled to become universal, and, when they apply it as an art, their efforts are ordinarily directed to enlarging the province of Contract and to curtailing that of Imperative Law, except so far as law is necessary to enforce the *performance* of contracts.<sup>44</sup>

In other words, for Maine, contract was simultaneously a morality of conduct seeking to be generalised, a “science” which radically transforms its object in the guise of explicating a “general truth,” an “art” (which is also to say, a technique) of society’s modification, and the specification of a limit (on “Imperative Law,” or in other words: on external coercion) which nevertheless proliferates in its universalising ambition. More significantly, however, the jurisprudential question Maine underlined was that of performance. And, the jurisprudence of contract law, was very simply for Maine, not only a matter of the knowledge of the law but more importantly one of *prudentia*, which is to say: law’s foresight regarding advantage and disadvantage, in other words, risk.

As noted earlier, Tucker’s argument that contracts are probabilistic and Kahn’s insistence on contract as art are crucial to the argument made here, but to a point. While Tucker’s reading of the history of contract law as a probabilistic device, and Kahn’s reading of contract theory as an appeal to the affects is important in the analysis here, I would add that the occasions of contracts’ redefinitions illustrate a dynamic of the distribution of uncertainty and the refoundation of genealogical right, indicating an encounter with contingency in its most affectively pronounced, most biopolitical, and least abstractly equivalent expressions. In the transformations of contract, in its increasing preoccupation with the allocation of risk and the distribution of uncertainty – the literal and symbolic encounters between contract and contagion – contract re-acquaints itself with covenant in the form of the infinite and unbreachable bonds

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44 Henry Sumner Maine, *Ancient Law: Its Connection with the Early History of Society, and Its Relation to Modern Ideas*, 296, emphasis added.

of contractualism. Pascal's Wager starkly elaborates the ways in which the probabilistic and the performative converge as a question of self-management, but it also provides an insight into the material practices by which the external and internal are re-connected. Contract is the hinge between socialisation and individuation, which is to say: both the individuation of a social being and the socialisation of the individual; the conjuncture between internalised submission and the social projection of individuation as the very definition of freedom. Moreover, the salient questions are not only how and whether contract plays out the connections between necessity and contingency, but a sense of what is at stake in the modifications of contracts and the expansion/retractions of contractualism at given moments. Amy Dru Stanley's historical study of wage and marriage contracts in postbellum America is one of the few attempts to answer this question in its complexity, and her insights are informative throughout.<sup>45</sup>

Central to my analysis here, however, is the concept of oikonomics: the ways in which a politics of the household – domesticity and genealogy – are crucial to the organisation of intimate forms of self-management, but also the conflations of nation, race and sexuality with re-/production that continue to define the reach and limits of contractualism. Whereas Kahn insists, correctly I think, that classical contract theories did not evince a division of labour between literature and politics that subsequent readings of contract have assumed, and that, therefore, an analysis of contract involves both an attentiveness to the literary qualities of contract theory and to political history, I would add that this insight also raises the question of what Patricia Clough has termed the more recent “affective turn” in the humanities and social sciences. The connections and shifts between Fordism and post-Fordism are here of paramount importance, as is a critical understanding of the management and re-stratification of affective labours. What, then, does it mean to uphold, as Kahn does, a version of autopoiesis at a time of often acute debates over immaterial labour, cognitive labour, and authorship conducted elsewhere and precipitated by the global expansion of precarious working conditions. My contribution to these debates – aside from pointing to the modified recurrence of Cartesian binaries – is to emphasise the ways in which

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45 Stanley, *From Bondage to Contract*.



the wage contract stipulates a genealogy of the origin of right in much the same way as does the social contract; that it is a form of recognition which assigns right, and in so doing re-/distributes uncertainty. In the classical social contract, the State of Nature was the zone of the apparently pre- or non-contractual, sometimes relegated to some fictive past but perhaps also at other times (as it was for Hobbes writing during the English Civil War) a space of war without end. In contract theory, the demarcation between contractual spaces and those of the State of Nature are for the most part figured as analogous to the distinction between competition and war. Classical contract theory is always preoccupied with preventing competition becoming war, or perhaps with competition being construed as open warfare. Yet this is premised on a series of neat demarcations between the supposedly temporal limitation of the wage contract and the borders of nation-states that have informed and shaped the protectionism oriented toward, as it is sometimes put, the domestic workforce. The question that disrupts such neat boundaries, conceptually and historically, is that of below-the-line labour, which is also a question of the meaning and history of domestic labour in its varied senses, and the very processes through which labour is recognised and valued as such. This is a question, certainly, about the asymmetries of the wage contract; or, better: what Marx called surplus value. But it is a question which I think can only proceed as an analysis of the oikonomics of the wage in its Fordist and post-Fordist variations – which is also to say: as those variations echo and shift the early domestic condition of wage labour.<sup>46</sup> Moreover, whereas Tucker's insistence on the probabilistic aspects of contract suggests the emergence, definitively situated in the seventeenth century, of an uncertain world, the question of what is at stake in the distribution of uncertainty remains to be elaborated. Tucker points to nineteenth century shifts in contract law as the increasing acknowledgement of the unforeseen. Yet the shift to objective theories of contract law – exemplified by Holmes' approach to common law, and the by-now standard approach to contracts, and therefore the foregrounding of questions of performance over

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46 For Locke and Blackstone, the servant as the exemplary wage labourer was subject to household discipline and part of the "oeconomical relations" of "private life." Stanley, *From Bondage to Contract*, 10.

intention – raises subsequent queries not only about the internalisation of contractualism, but also about performativity in its simultaneously legal, linguistic, technological, artful and economic senses. Unlike Jon McKenzie, I would locate the rise of the injunction to perform – which he, and Maurizio Lazzarato elsewhere,<sup>47</sup> nevertheless perceptively analyse in the not-always shared idioms of business management, technology and the performing arts – not during the Second World War, but as the very stuff of contractualism. Moreover, while it has become commonplace to situate Marx's understanding of the shift from formal to real subsumption in a similar time-frame,<sup>48</sup> I would similarly suggest that the history of the performative in its connections to the organisation of the labour process has to be accounted for as part of the much longer history of the probabilistic terms of contract and the reorganisation of *oikonomia*.

The performativity of contract, and the ways in which it transforms contingency into necessity, as a delimited speculative technique but also in the shaping of everyday practices, is I think best illustrated through a re-reading of Pascal's Wager. For Pascal writing in the middle of the seventeenth century, but nevertheless against received understandings of faith, internalised belief followed on from the habitual performance of faith and acts of submission. This

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47 Jon McKenzie, *Perform or Else: From Discipline to Performance*. Maurizio Lazzarato has made a similar argument in "Immaterial Labour," in these terms: "The communicational relationship (both vertically and horizontally) is thus completely predetermined in both form and content; it is subordinated to the 'circulation of information' and is not expected to be anything other. The subject becomes a simple relayer of codification and decodification, whose transmitted messages must be 'clear and free of ambiguity,' within a communications context that has been completely normalized by management. The necessity of imposing command and the violence that goes along with it here take on a normative communicative form. The management mandate to 'become subjects of communication' threatens to be even more totalitarian than the earlier rigid division between mental and manual labor (ideas and execution), because capitalism seeks to involve even the worker's personality and subjectivity within the production of value."

48 Read, *The Micro-Politics of Capital*; Negri, *Marx Beyond Marx*; Paolo Virno, *A Grammar of the Multitude: For an Analysis of Contemporary Forms of Life*.

is the materialist significance of his aphorism: “Kneel down, move your lips in prayer, and you will believe.” But, just as importantly, his gamble that God exists was premised on his insistence that the game must be played *of necessity*. It is prudent to believe, or to act as if one does, *because it is necessary to play the game*. One “must wager” whether or not God exists, and so the kinaesthetic inclination which according to Pascal transforms suffering into the possibility of its next-worldly redemption (i.e., salvation) is the means by which – through the routinisation of active (if not initially internalised) obligation and the use of a nascent (albeit binary) statistical reasoning – infinite uncertainty is transformed into measurable risk. “Let us weigh up the gain and the loss involved in calling heads that God exists,” suggested Pascal. While readings of Pascal tend to think through the logic of the wager, they minimise the import of gambling construed as necessary. That is, Pascal’s game, which he argued one is obliged to play, *is contingency as such*.<sup>49</sup> Pascalian performativity transforms uncertainty by way of establishing a connection between calculative probability and behavioural inclination. The correspondences between Pascal and Pierre Fermat are widely regarded as the advent of the calculus of probability, and what they sought to determine was the distribution of equity in an *interrupted* game of points. Notably, Pascal is also credited with the invention of the mechanical calculator, and the roulette wheel in his failed attempts to make a perpetual motion machine. Others have noted that Pascal’s wager is a form of hedging, or – what Paul

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49 Blaise Pascal, *Pensées*, 150–51. Pascal was ill for much of his short life, preoccupied not only with mathematics and geometry, but in his later years with a rather masochistic version of Catholic mysticism. Pascal’s famous phrase is reiterated in more narrowly materialist terms by Louis Althusser. Pascal’s Theorem, on the other hand, is an instance of projective geometry. Ian Hacking has emphasised Pascal’s Wager as a nascent version of decision theory (in “The Logic of Pascal’s Wager”), and he underlines the sense in which Pascal’s Wager is oriented toward situations of incomplete or impossible knowledge – what Pascal refers to as the limits of reason. Similarly, Slavoj Žižek (“The Atheist Wager”), in a debate with the theologian John Milbank, argues that Pascal’s Wager is not about deciding to believe but on the contrary acting as if one believes. Yet neither Hacking nor Žižek make much of Pascal’s particular combination of necessity and contingency, the obligation to “play the game” of contingency as such.

Sheeran and Amber Spain refer to in their discussion of speculative bubbles – the calculation of speculative advantage,<sup>50</sup> and its themes will be echoed in economics, in slightly divergent ways, by Knight's distinction between measurable risk and epistemic uncertainty, and in John Maynard Keynes' discussion of probability (both of which were published in 1921).<sup>51</sup> For Knight, the distinction between risk and uncertainty was akin to that between insurable and uninsurable risk – which is to say, between the uncertainties that might be calculated and those which are incalculable.<sup>52</sup> While Keynes' argument was similar in its epistemological definition of uncertainty (as that which cannot be known in advance), his was foremost a theory of subjectivity. Keynes was certainly not the first, but he is most associated with an economics which set forth the central importance of managing subjectivity, that is to say: subjective probability, liquidity preference, demand management and so on. As Pat O'Malley has suggested, in contract law and in the long-standing attempts to distinguish gambling from legitimate commercial speculation, the distinction between measurable risk and incalculable uncertainty has been modified, but even in its more interventionist approaches tends to situate risk “as a superior technology that harnesses uncertainty,” or construes uncertainty (in Keynesian terms) as a “technology of creation that needs to be governed by risk.”<sup>53</sup> In both Knight and Keynes, there is no steady foundation, and the question of foundation becomes one of subjectivity and calculus – or, more specifically put: a subject formed by credible faith, confidence, anticipation and practical compulsion. As Keynes put it:

there is no scientific basis on  
which to form any calculable probability whatever.  
We simply do not know. Nevertheless, the necessity  
for action and for decision compels us as practical

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50 Paul Sheeran and Amber Spain, *The International Political Economy of Investment Bubbles*.

51 John Maynard Keynes, *A Treatise on Probability*.

52 Knight, *Risk, Uncertainty and Profit*.

53 Pat O'Malley, “Moral Uncertainties: Contract Law and Distinctions between Speculation, Gambling and Insurance,” 250.

men to do our best to overlook this awkward fact and to behave exactly as we should if we had behind us a good Benthamite calculation of a series of prospective advantages and disadvantages, each multiplied by its appropriate probability waiting to be summed.

For Keynes, then, we are compelled to behave “as if we had behind us a good Benthamite calculation” because we are compelled to act as “practical men.”<sup>54</sup> Keynes’ understanding of business as “a mixed game of skill and chance”<sup>55</sup> echoes the history of probabilistic science – that would become the basis of insurance, statistics and risk management – in its attempts to distinguish itself from illegitimate gambling. As Lorraine Daston notes, while the correspondences between Pascal and Fermat are generally situated as the first appearance of a calculus of probabilities in mathematical form, it is A. N. Kolmogorov’s insistence on the principles of an axiomatic system that for mathematicians properly inaugurate the science of probability. Reading Kolmogorov, Daston writes that, for him:

any axiomatic system admitted ‘an unlimited number of concrete interpretations besides those from which it was derived,’ and that once the axioms for probability theory had been established, ‘all further exposition must be based exclusively on these axioms, independent of the usual concrete meaning of these elements and their relations. Although philosophers, probabilists and statisticians have since vigorously debated the relative merits of [different applications of probability theory] ... all accept the formal integrity of the axiomatic system as their departure point.

Daston’s study of the rise of probability during the Enlightenment period, however, proceeds by making explicit what

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54 Keynes, *The General Theory of Employment, Interest and Money*, 214, 146.

55 Ibid, 146.

the axiomatic tends to obscure, namely its complicated history that, in its classical formulations, was marked by an indistinction between the calculus and its applications. For Daston, the seventeenth century is marked by the transformation of qualitative probability into a quantitative one or, more precisely: the simultaneous invention of a new mathematics which “mimicked motion.” But Daston’s most striking point, from the perspective of the argument elaborated here, is not only that the “earliest problems concerning games of chance and annuities were framed in legal terms drawn from contract law,” and in particular that class of contracts known as aleatory contracts, but that Daniel Bernoulli’s Theorem, which “linked inaccessible causes to observed effects,” was designed to be equally applicable to aleatory contracts and contagions. She writes that by “likening situations as disparate as the diseases that afflict the human body and the decisions reached by a tribunal to drawing black and white balls at random from an urn, probabilists hoped to free their theory from its preoccupations with gambling puzzles.”

While Bernoulli’s Theorem was criticised by Gottfried Leibniz for setting aside theories of causation, it nevertheless, as Daston shows, satisfied “a determinism compatible with the rationalist program both Bernoulli and Leibniz espoused, at least from the perspective of an omniscient deity.”<sup>56</sup> The question of transforming qualitative notions of uncertainty into quantitative estimates of risk did not only imply epistemic limits to human foresight – to speculations on death, disease and in the jurisprudential approach to aleatory contracts – but, more profoundly, it reconstituted the premise of divine necessity in the midst of contingent circumstances. The proposition of limited human knowledge, in this respect, was the corollary of a faith in divine omniscience. It is this postulate that engenders both Spinozian ethics and the Leibnizian calculus. God’s infinite knowledge could be discerned, therefore, through the development of the axiomatic. For Spinoza, ethical validity could be ascertained through a geometric model, according to which axioms and propositions follow with logical necessity. For Leibniz, God was infinitely calculating, and one approximated God’s wisdom through the application of the differential calculus.<sup>57</sup> If this moment in the history of probabilistic

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56 Lorraine Daston, *Classical Probability Theory in the Enlightenment*, 3, 5, 6, 238.

57 Gottfried Wilhelm Leibniz, “Justification of the Infinitesimal Calculus by

science was preoccupied with developing an axiomatic system for the reckoning of risk (in its amplified and increasingly quantitative senses of determining degrees of validity or, more accurately, the advantages and disadvantages of contracting), the question of how to transform contingency into necessity, and the valorisation of risk, appears much earlier.

In other words, before the problem of reimposing a divine order onto a contingent world was posed as one of mathematics, well before it acquired its apparently infinitely applicable axioms, it had arisen in the confluences of contract and contagion centuries before. Where, in classical terms, the social contract originated in a divergence from a fictive State of Nature, most histories of the rise of capitalism situate the emergence of its pertinent aspects in the late Medieval plagues that devastated much of Europe. True or not, in the chronicle of Gabriel de Musis, a notary from Piacenza, the plague was brought to Europe from Asia Minor. According to Gabriel, in 1346 a conflict between Genoese merchants and Tartar soldiers led to the siege of a trading post in the Crimean city of Caffa, located on the Black Sea. "While the Tartars were besieging the city, their army was struck down by what Gabriel call a 'disease both sudden and unexplainable'." The siege was abandoned, but not before the soldiers had "catapulted the bodies of dead plague victims over the walls of the city, with the hope of spreading the disease." As the Genoese merchants fled, or perhaps proceeded along their commercial trade routes, they carried the plague with them. In the next two years, it would appear in Sicily, Marseilles, Germany, Vienna, Scandinavia, England and the Low Countries of what is now Belgium, the Netherlands, Luxembourg, and parts of France.<sup>58</sup> By the middle of 1348, the apocryphal story of merchants spreading a disease literally hoisted upon them by foreign invaders had been abbreviated into one of Jews polluting the water, and the resurgence of attacks on Jews precipitated a large-scale migration into Russia and Poland.

What is significant about this story is the way in which it plays upon and calls forth a shifting of the boundaries and

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That of Ordinary Algebra." Spinoza, *The Ethics*.

58 Faye Marie Getz, "Black Death and the Silver Lining: Meaning, Continuity and Revolutionary Change in Histories of Medieval Plague," 267-68.

flows of people, water, trade, and (not least given the inflationary impact of the plagues) money. In these narratives of contagion, the liquid signals danger, but the plague serves to reconstitute the channels of circulation and their foundations. In the most prominent accounts, the Black Death broke the Ricardian-Malthusian link between land and population,<sup>59</sup> precipitating technological innovations (such as the printing press) to replace labour; it transformed demographics (or more specifically, the introduction of controls on inheritance, age of marriage laws, and birth control); and it saw the advent of maritime insurance companies out of a previous but less formal system of bottomry loans.<sup>60</sup> Histories of later developments such as double-entry bookkeeping, the joint-stock company, the rise of medicine, the standardisation of measurement, and the wage contract have all posited the plagues of Europe in the Middle Ages as a significant watershed.<sup>61</sup> Silvia Federici, arguing that capitalism emerged as a “response of the feudal lords, the patrician merchants, the bishops and popes, to a centuries-long social conflict that ... shook their power,” locates the plagues as a “turning point in the course of the medieval struggles.” According to her and others, the Black Death resulted in a labour shortage that “shifted the power relation to the advantage of the lower classes.”<sup>62</sup> While there continues to be a debate about the extent to which this labour shortage occurred in these terms, what is clear is not only that, in the wake of the plagues, laws were introduced that sought to control the movements of people and compel them to work (most notably, by way of the Statute of Labourers), but that this highlights the dynamic of the distribution of uncertainty I have been emphasising here. That is, the Statute of Labourers not only responded to the uncertainties of the plague by resorting to measures that controlled circulation, defining the terms under which circulation might proceed, but also introduced laws that attempted to put a

59 I am far from affirming the Malthusian-Ricardian assumption regarding food and population. My use of it here is merely in order to underline the narrative of foundation.

60 David Herlihy, *The Black Death and the Transformation of the West*.

61 See Robert C. Palmer, *English Law in the Age of the Black Death, 1348-1381: A Transformation of Governance and Law*;

62 Silvia Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation*, 21, 44.



stop to the precariousness employers were experiencing. Effectively criminalising the increasing practice of workers absconding after a day's labour, the Statute of Labourers of 1351 formalised the duration, maximum and scope of the wage contract. The question, if I might telegraph it somewhat, is not whether workers might be afforded protection through regular, long-term wage contracts, but the ways in which contracts seek to allocate uncertainty. Parallel with the coercive measures of the Statute of Labourers, perhaps the most significant transformation was of subjectivity itself. The Protestant Reformation has generally been regarded as one of the plagues' most significant effects, traced back through to the introduction by the Catholic Church of indulgences. Robert S. Gottfried suggests that the growing role of indulgences into the fourteenth and fifteenth centuries precipitated the Protestant Reformation in the sixteenth century.

Attuned to the anxieties of their flock, churchmen redoubled the emphasis on good works. From the 1350s, apparently on papal orders, new stress was put on indulgences, or grants of time off from purgatory bestowed by the church, which drew on what it termed a 'treasury of merits,' or good deeds .... Indulgences were not always given freely, but usually in anticipation of a gift of money; always mindful of turning a profit, church leaders began to sell them in increasing numbers to a richer public.<sup>63</sup>

While indulgences were later cited as proof of the Church's corruption by Martin Luther and others, they nevertheless set the scene for the elevation of personal prayer and the doctrine of good works as the condition of salvation that characterised early Protestantism. In other words, the introduction of indulgences connected the external with the internal (or the divine order of covenant and the internalised, relational state of contract), displacing the role enacted by the direct and personal mediation of priests with

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63 Robert S. Gottfried, *The Black Death: Natural and Human Disaster in Medieval Europe*, 88. See also Rosemary Horrox, *The Black Death*, 113-14.

that of a nascent variant of the work ethic. Moreover, the Black Death heightened the importance of common law – and the role of common lawyers – in the genealogical transcriptions of property inheritance.<sup>64</sup> The intimate performativity of contract and the genealogical lines of *oikonomia* were, then, elaborated in the encounter with the plagues. The transformation of contingency into necessity occurs at the threshold between wayward and proper forms of generation.

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64 Norman F. Cantor, *In the Wake of the Plague: The Black Death and the World It Made*.

II.

## OIKONOMIA

**The *oikos*, in its classical Greek understanding, was not a synonym for the family, but the word for household.**

For Aristotle and others of his time, *oikonomia* designated the study of household management. As has often been noted, Aristotle began his discussion on politics by distinguishing the qualifications required for the management of a household from that of the state. In other words, in the classical sense, *oikos* was juxtaposed to the *polis*, *oikonomia* to *politikon*. Though Aristotle set out the household as the foundation of politics, it was for him a markedly different sphere because it was composed not by the hierarchical logics deemed proper to the *oikos* but conditioned by the premise of equality between free, adult men.<sup>1</sup> I will come back to this shortly, but at this point it is important to note that the closest approximation to the word and meaning of ‘family’ in Greek antiquity was *genea*, which connoted lineage but also the temporal sense of generation, and from which the English word genealogy is derived. The current Greek term for family – *oikogeneia* – points to the historical reconstruction required to specify the strictly modern understanding of the family as a correlation of genealogy and household.<sup>2</sup> Economics and ecology are both relatively recent linguistic inventions situated in relation to the classical definition of the *oikos*, as in the classical liberal presumption of the demarcation of economics from politics, or as their hyphenation in political-economy (which nevertheless requires that they be assumed to be separate spheres), or as with the early definition of the environment as a household of

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1 Aristotle, *The Complete Works of Aristotle: The Revised Oxford Translation*, 1986.

2 David Herlihy, *Medieval Households*, 2.

nature. These linguistic displacements suggest not only an empirically discontinuous history, but also illustrate, at significant junctures, a continuist impulse of re-foundation played out as the restoration of archaic truths lost or obscured. It is this attribution of a foundationalist (or restorative) capacity to a genealogically defined *oikos* that I wish to underline here. In insisting, then, on a critique of *oikonomia* as pivotal, I indicate some of the shifting definitions of and delineations between economics and politics, noting the ways in which the restoration of genealogical lines is central to the re-foundation and persistence of capitalist orders.

This analytic of the household acknowledges the historical discontinuity between ancient and modern understandings of the *oikos* not only so as to historicise what appears in the present moment as a naturalised configuration of intimacy and genealogy, but to also underline the implicit questions posed by this disjointed history. Put simply, for the ancients the household was not the same as the familial home because it included slaves. While it would be anachronistic to apply terms such as class and race to the condition of slaves in antiquity, it is nevertheless of significance that the modern understanding of the household turns on a series of architectural, affective, geopolitical and, not least, contractual shifts in what have been simultaneously intimate and global reorganisations of divisions of labour. In recent times, specific households – considered to be the locus of distinctions regarded as the province of biological reproduction, such as those of age, sex and sexuality – are posited as analogous to processes of socio-economic reproduction existing at the level of the nation-state. Put another way, geopolitical demarcations come to assume the character of a domestic space (as in the familial concept of the nation, or as with the term ‘domestic economy’), while the positing of distinctions such as race and class to a space outside discrete households both amplifies the perception of the household as the foundation of an ostensibly natural economy founded on a similarly naturalised sexual difference that, in turn, becomes the premise which links sex to the reproduction of race, nation and (conceived as an identity) class. To think the complex historical discrepancies and shifts that are involved here is to think – if one were inclined – the history through which spaces of production and reproduction have been distinguished and associated, ascertained by turns or emphasis as

spaces of social, affective, economic and/or biological re/production; the processes according to which labour has been recognised as such, remunerated or not, contracted or bonded, and distributed by the lines of, say, gender or class; the appearance and transformation of modern racial categories, from the fifteenth century on, in their connection with the marketing of slaves and colonisation; and, implicated in all of this, of the complex ways in which a modern genealogical understanding of the *oikos* has become the naturalised foundation of and template for the identification and transmission of property and right. Given the presence of slaves, residency in the antiquarian household could not be viewed as consonant with genealogical lines of descent and thereby serve as the basis for the transfer of property through inheritance. The ancient *oikos* consisted of a series of boundaries internal to the household: between those who might rightfully own property (that is, the husband and master), those who partake of property but do not have the authority to own it (such as wives and children), and those (as Aristotle put it) who are “a living possession.”<sup>3</sup> Douglas MacDowell hints more specifically at the pertinence of the distinction between *genea* and *oikos* in his insistence that it “is not correct” that in classical Athens “an *oikos* belonged not to one man but to a family.” Regarded as property, the *oikos* referred to the property owned by an individual; and by his reading of ancient Athenian law, it is unlikely that the word implied persons resident in a household prior to the fifth century.<sup>4</sup> There is, then, a vast distance between the arts of possession suggested by *oikonomia* in antiquity and the economics of households in current usage. Some of this distance can be schematically depicted as follows. Where the ancients distinguished between economics and politics and located the former in the household and where, across the eighteenth to nineteenth centuries, the household and factory were affectively and architecturally demarcated, Fordism and the Keynesian welfare state put them back together as a form of social accounting in the register of the family wage. If slaves were removed from or fled the household centuries ago, to be replaced by domestic servants in wealthier estates or by domestic migrant workers more recently, the question of unpaid labour nevertheless sharply recurs in the proliferation of feminist

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3 Aristotle, *The Complete Works*, 1989.

4 Douglas MacDowell, “The *Oikos* in Athenian Law,” 11, 20.

critiques of unpaid domestic labour from the mid-twentieth century. While the British Empire expanded its rule during the eighteenth and nineteenth centuries, at the same time, the household was increasingly posited as a refuge from economic calculation, transaction and contract, a sphere of private sentiment, leisure and familial affection. The presentation of an indispensable correlation between the overt violence of the battlefield and the ostensibly non-conflictual embrace of the household is given paradigmatic form in Machiavelli's *The Art of War*.<sup>5</sup> In this and in *The Prince*, Machiavelli's art does not quite consist in princely refoundation, *causa sui* and through force of arms, though that remains its mythic countenance. It is a technique for modulating definitions of violence in relation to *fortuna* that establishes the boundary between foreign and domestic according to which those definitions might be distributed. Further, it is not possible to think the history of colonial flows and, since the mid-twentieth century, the incomparable rate of migration from previous colonies, without considering the history through which certain forms of labour were relegated to the colonies and into the privatised space of the household, while migration policy and citizenship became increasingly predicated on genealogical filiation.<sup>6</sup>

These shifts, and more besides, is what a critique of *oikonomia* is intended to highlight, to insist on a complex account of the history of capitalism, and the nexus of class, race, gender and sexuality premised on a genealogical understanding of the *oikos*, without recourse to either naturalised presumptions or, for that matter, to nostalgia. At the close of this chapter, I discuss in more detail some recent attempts to theorise the complex entanglements of race, sexuality, class and citizenship, most notably those of intersectionality studies and through the analytical category of domopolitics. Before doing so, however, and so as to elaborate on the pertinence of a critical understanding of *oikonomia* to these projects and the one here, I turn to some salient re-readings of classical texts on the *oikos* – namely, those of Xenophon and Aristotle – situated as they are at crucial moments in both the critique and reconfiguration of a specifically capitalist *oikonomia*. These readings are significant not only for illustrating

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5 Machiavelli, *The Art of War*.

6 On the increasingly genealogical criteria of migration policy, citizenship and more, see Jacqueline Stevens, *Reproducing the State*.

shifting histories and assertions of continuity, but also for the particular question they pose, in often divergent ways, of the household as the site of the rise of intimate self-management.

## READING XENOPHON IN (POST-) FORDIST TIMES

From Machiavelli to Foucault, Xenophon's "Oikonomikos"<sup>7</sup> has served as a major touchstone for thinking, respectively, the intimate aesthetics of an oikopolitics in the seventeenth century, and the sexual ethics of the *oikos* in the late twentieth. While Foucault began his discussion of biopolitics in the first volume of *The History of Sexuality* by referencing the Aristotelian figure of the *zoon politikon*,<sup>8</sup> at the beginning of the twentieth century, Ernst Haeckel – who coined the word ecology, and proposed a nascent version of biopolitics in his suggestion that politics was a form of applied biology – resorted to the classical notion of the *oikos* in his conception of "nature's household."<sup>9</sup> For German *émigré* intellectuals such as Arendt and Strauss writing at the high-point of Fordism in the United States – which is to say, in the wake of World War II and during the Cold War – the writings of Machiavelli, Xenophon and Aristotle on the *oikos* were important to often-subtle debates around the relation between politics and economics. From Smith to Marx, the Aristotelian demarcation of *oikos/polis*, and Xenophon's discussion of the household economy and the division of labour, were central to both the formulations of a rising political-economy and its critique.<sup>10</sup> Moses I. Finley was partially correct

7 Xenophon, "The Estate-Manager [*Oikonomikos*]." While the text is usually translated as "*Oeconomicus*" following Cicero's Latin translation from the Greek, I use "*Oikonomikos*" here so as to the foreground its etymological connections to economy, but also to underline its divergences from its Renaissance reading.

8 Michel Foucault, *The History of Sexuality*, 143. For Foucault writing here, modern man appears as "an animal whose politics places his existence in question."

9 On Ernst Haeckel's mid-nineteenth century invention of the term ecology, see Carolyn Merchant, *The Columbia Guide to American Environmental History*, 159-162.

10 Smith's understanding of the benefits of the division of labour to increased

to note a break between the moral economy propounded by figures such as Frances Hutcheson and the political-economy of Hutcheson's student Adam Smith.<sup>11</sup> Yet, I would suggest that readings of Xenophon have nevertheless served as re-foundational exercises that can only be thought in their capitalist specificity: that is, as instances in which the speculative, abstract schema propounded by Smith is, at the same time, limited and restored through recourse to the purportedly natural, moral or ethical foundationalism furnished by a particularly modern (that is, genealogical) account of the *oikos*. Indeed, Smith's theory of sentiments (the ground of subsequent theories of emotional contagion) was premised on a theory of spontaneous genealogical attachment.<sup>12</sup> That modern readers of Xenophon introduce a genealogical element into his text that does not exist has been remarked on (though not in these terms) by Wolfgang Detel in his reading of Foucault's take on antiquity. As Detel puts it, while Foucault's conclusions regarding the "Oikonomikos" suggests an interest with distinguishing between the reasons for a husband's and a wife's sexual fidelity, Xenophon simply does not discuss extra-marital sex in these terms.<sup>13</sup> A familial understanding of the household – of relatively recent importance to the legible inscription and transmission of property rights and thereby a gendered differentiation regarding extra-marital sex – may well have

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accumulation can be derived from Xenophon, mediated by Francis Hutcheson's reading of Xenophon as the elaboration of moral economy.

11 M. I. Finley, *The Ancient Economy*, 20.

12 Adam Smith, *The Theory of Moral Sentiments*.

13 Wolfgang Detel, *Foucault and Classical Antiquity: Power, Ethics and Knowledge*, 137. Foucault's remarks on this, cited in Detel, are as follows: "In the ethics of married life the 'fidelity' that is recommended to the husband is therefore something quite different from the sexual exclusivity that marriage imposes on the wife. It has to do with maintaining the wife's status and privileges, and her pre-eminence over other women .... The husband's self-restraint pertains to an act of governing – governing in general, governing oneself, and governing a wife who must be kept under control and respected at all times, since in relation to her husband she is the obedient mistress of the household." What Detel does not discuss, but I take up in Chapter Thirteen, is the connection between genealogy, fidelity and property rights that, in the modern understanding of the *oikos*, has come to distinguish between the extra-marital sex of husband and wife in the way Foucault writes of it.



preoccupied readers of Xenophon such as Machiavelli from the time of the Renaissance, but it is not apparent in the “*Oikonomikos*.”

In the “*Oikonomikos*,” Xenophon staged a Socratic dialogue that, as with other classical texts on the *oikos*, elaborated on the arts of household management. For Xenophon, the *oikos* included the physical structures of the house, but consisted more broadly of possessions – which he described as “whatever is useful to an individual.”<sup>14</sup> Specifically concerned with the management of a wealthy agrarian estate, the text ranges across topics such as the distribution of punishment and reward, the importance of self-discipline, which slaves might be permitted to have offspring (the hard-working ones, as it happens), the dangers of too much make-up and false appearance between husband and wife, the sexual availability of slaves to the master of the household, and so on – all oriented around the question of how to increase the wealth and assets of the estate. Cicero, preoccupied with elaborating on the Roman obsession with duty and virtue, translated Xenophon into Latin; but it is during the Renaissance – conceived as a revival of the classics after the hiatus of the Middle Ages – that Xenophon’s text (by way of Cicero’s translation, titled *Oeconomicus*) begins to assume a particular importance. Machiavelli referred to Xenophon more than he did either Aristotle or Plato, and the filtered echo in his writings is easily discernible. In the “*Oikonomikos*,” the delineation of the arts of household management is conducted through the denunciation of simultaneously unproductive and unmanly pleasures, among which Xenophon listed “laziness,” “mental flabbiness” (a phrase often translated as ‘effeminacy’) and “afflictions disguised as pleasures” such as “gambling and pointless parties.”<sup>15</sup> The effective head of the wealthy household, by contrast, was for Xenophon a man of “kingly qualities.” More significantly for the argument about intimate self-management here, these “kingly qualities” were those whose “appearance stimulates the workers and inspires each of them with purpose and with eagerness to outdo one another and with desire to be the best.” While Xenophon is unsure whether this “gift of wielding authority over willing subjects” can be taught or is divinely bestowed, he is nevertheless certain that this faculty

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14 Xenophon, “The Estate-Manager [*Oikonomikos*],” 290.

15 Ibid, 292.

of command over the productivity of willing followers is only granted to those “who are true initiates in self-discipline.”<sup>16</sup> Machiavelli does not, however, conform to Xenophon in warning of the dangers of false appearances. The divergence would be trivial were it not that it relates directly to Machiavelli’s genealogical *and contractual* understanding of the *oikos*. As Finucci shows, Machiavelli was concerned with the legal (rather than strictly biological) inscription of paternity rights through contract, most apparent in his play *La mandragola* and in *La vita di Castruccio Castracani*.<sup>17</sup> The contractual, as I argued earlier, is precisely a matter of performativity – something Finucci highlights in writing of Renaissance Italy as a time of the “manly masquerade.” For Machiavelli and the Renaissance, genealogical lines were overtly posed as a question of contracts and their legible transcription. If, in the vernacular, Machiavellianism is taken to mean political duplicity, my implication here is that this is less an instance of falsity in the realm of politics (in any sense that Aristotle comprehended either truth or politics) than it is of contractual performativity. Briefly put: in Xenophon’s text, the comprehensibility of property rights is not in question in ways that it became so – given the pertinence of genealogy – for Machiavelli. What Machiavelli does read in Xenophon, however, is an attentiveness to personal comportment in a simultaneously political and oikonomic register, what I have referred to here as an oikopolitics.

While there continues to be a debate among economic historians about whether Xenophon’s writings do indeed approximate something akin to current understandings of economics, the suggestion here is that this debate, and the various readings of those texts across centuries, nevertheless remains an instructive place-holder for the more or less oblique question about the shifting relationships between (and the very definitions of) economics, politics, sexuality, ecology, class and race. Writing in the early 1970s, Finley insisted that in Xenophon’s text “there is not one sentence that expresses an economic principle or offers any economic analysis, nothing on efficiency of production, ‘rational’ choice, [or] the marketing of crops,” while Sarah B. Pomeroy, writing in the early twenty-first century, argues that readers of Xenophon’s text (such as Finley, Marx and George Sorel)

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16 Ibid, 359.

17 Finucci, *The Manly Masquerade*.

“all fail to realize that in the *Oeconomicus*, Xenophon discusses the sexual division of labour which,” according to her, “is fundamental to human society.”<sup>18</sup> Foucault turned to the “Oikonomikos” in the third volume of the *History of Sexuality* to suggest that it is the most “fully developed treatise on married life that Classical Greece has left us,” whereas S. Todd Lowry has argued that Xenophon’s writings contain an early discussion of efficiency, human capital and marginal utility.<sup>19</sup> Pomeroy also uses the term “human capital” in discussing the “*Oikonomikos*.”<sup>20</sup>

All these readings clarify more about the time in which they were offered, and the preoccupations of the writers/readers, than they do about ancient Greece. In some respects, these readings are close and yet not quite accurate. With their own emphases, misinterpretations and omissions, Pomeroy, Foucault and Lowry read Xenophon’s particular account of intimate self-command in a post-Fordist light – along with various and more or less explicit claims about the foundational character of the ancient *oikos*. In the early 1970s, when Finley was maintaining a definition of economics that did not involve a consideration of either lifestyles or sex, the demarcation between the field of economics and studies regarding households and sexuality had become a matter of convention. However, in the wake of the civil rights and feminist movements, the division was already being traversed, posed in the neoclassical register of human capital theory, in the writings of Chicago School economist Gary Becker. Becker’s New Household Economics began with his study of the “marriage market” after the reform of divorce laws in the United States and, during debates over the introduction of affirmative action, racialised hiring practices in the labour market.<sup>21</sup> Foucault, in his reading of neoliberalism in his lectures at the *Collège de France* between 1978-79, discusses Becker

18 Finley, *The Ancient Economy*, 19. Sarah B. Pomeroy, “Slavery in the Greek Domestic Economy in the Light of Xenophon’s *Oeconomicus*,” 32.

19 Michel Foucault, *The Use of Pleasure. The History of Sexuality*, vol. 2, 152. S. Todd Lowry, “The Economic and Jurisprudential Ideas of the Ancient Greeks: Our Heritage from Hellenic Thought.”

20 Pomeroy, “Slavery in the Greek Domestic Economy,” 38.

21 Gary S. Becker, “A Theory of Marriage: Part I.” More recently, see: Becker, *A Treatise on the Family*, and Becker and Guity Nashat, *The Economics of Life: From Baseball to Affirmative Action to Immigration, How Real-World Issues Affect Our Everyday Life*.

more than the-then more prominent members of the Chicago School such as Milton Friedman or the Austrian neoliberal Friedrich Hayek,<sup>22</sup> undoubtedly because of Becker's remarkable preoccupations with the shaky foundations of the *oikos*. I come back to Foucault, Becker and neoliberalism later, but at this point in the argument, what is significant about these post-Fordist readings of Xenophon is the way in which they point to an indistinction between politics and economics.

In other words, Xenophon's writings accrue importance at particular moments precisely because they blur (if not quite erase) the Aristotelian distinction between the egalitarian logic of politics and the hierarchical one of the *oikos*. This meshing is crucial to the reorganisation of the connections between politics and economics that amounts to a re-foundational move apparent in every recourse to Xenophon. The answers given might not be those offered by Xenophon, indeed they cannot be; yet the question of the re-composition of subjectivity, of how (as Pascal put it) to join the internal to the external, is what concerns Xenophon and his readers alike. This question has its specifically political ramifications, the extra-legal foundations of the law, for instance. In any case, where Aristotle went to great lengths to distinguish between political and economic forms of rule, in Xenophon's *Hiero*<sup>23</sup> (essential to Machiavelli's understanding of *virtù*) the swing between tyranny and democracy was regarded as necessary. Put another way, if Aristotle wrote of formal distinctions between the city-state and the *oikos*, Xenophon was concerned with a highly stylised managerialism, one premised on self-discipline, and capable of moving between city (and battlefield) and household with ease.<sup>24</sup> Eric Voegelin, life-long friend of Hayek, argued

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22 Foucault, *The Birth of Biopolitics. Lectures at the Collège de France, 1978-79*. See also, Melinda Cooper, "1979: Foucault, Neoliberalism and the Iranian Revolution."

23 Xenophon, *Hiero: A New Translation*.

24 Indeed, in the "Oikonomikos," the couplets of usefulness/liability and friend/enemy are more or less interchangeable, emphasising the intimate dimensions of Carl Schmitt's later theologico-political vocabulary of enemy and friend, but also its Aristotelian insistence on a demarcation between politics and economics Xenophon does not make. See Carl Schmitt, *The Concept of the Political*. Strauss, however, follows Xenophon more closely, though by his account, Schmitt's *The Concept of the Political* was intellectually

that the similarities between Machiavelli and Xenophon were “due to the parallel between their historical situations. The distinction between king and tyrant,” he suggested, “is obliterated in *The Prince*, because Machiavelli, like Xenophon, was faced with the problem of stabilizing and regenerating rulership after the breakdown of constitutional forms in the city-state.”<sup>25</sup> In these renditions, the purported defence or reconstruction of political equality proceeds by way of the restoration (and amplification) of the hierarchical logics of the *oikos*, since in these accounts despotism is assumed to be the mundane and natural prerogative of the master of the *oikos* and not the regular order of politics. Similarly J. G. A. Pocock has referred to what he called the “Machiavellian moment” in Anglo-American thought as one in which “the republic was seen as confronting its own temporal finitude, as attempting to remain morally and politically stable in a stream of irrational events conceived as essentially destructive of all systems of secular stability.”<sup>26</sup> Yet where Pocock acknowledges the sense in which the *oikos* served for Aristotle as the material foundation of, as he puts it, “independence, leisure and virtue,” and astutely points to the connection between this and the temporal qualities of an interregnum, he overstates Machiavelli’s Aristotelianism and ignores his recourse to Xenophon. In doing so, he understates the ways in which the question of genealogy recurs in these moments (expressly stated in the texts he cites) as a problem regarding the transmission of property overtly posed in its connection to the expansion of English common law in the creation of “an immortal commonwealth.”<sup>27</sup>

### ARENDT, FOUCAULT – OIKOPOLITICS, BIOPOLITICS, OR OIKONOMIA?

Read along the axes of an Aristotelian division between economics and politics, the divergence between Foucault and

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decisive. On Strauss’ readings of Machiavelli and Schmitt, see Nicholas Xenos, *Cloaked in Virtue: Unveiling Leo Strauss and the Rhetoric of American Foreign Policy*.

25 Strauss, *On Tyranny*. Strauss, *The New Science of Politics*, 120.

26 Pocock, *The Machiavellian Moment: Florentine Political Thought and the Atlantic Republican Tradition*, viii, 450.

27 Pocock, *The Machiavellian Moment*, 389.

Arendt – who nevertheless tracked a remarkably similar set of issues – becomes wider while both their limits become, I would suggest, more than apparent. If Arendt, Strauss and Voegelin all sought out the classics and Machiavelli in turning around and debating the questions posed by World War II, the Cold War and the rise of the Keynesian welfare state, it was Arendt who, in *The Human Condition*, considered *oikonomia* in the specific – and yet, as she argued, historically magnified – sense of household management. According to Arendt, the rise of an indistinction between economics and politics (what she referred to as a politics of the *oikos*) was evident in the modern organisation of politics “in the image of a family whose everyday affairs have to be taken care of by a gigantic nationwide administration of housekeeping.”<sup>28</sup> For her, this politics of the *oikos* was commensurate with the rise of the social, which is to say: the transformation of politics by the *oikonomic* logics of necessity and hierarchy. For Foucault, by contrast, it was the politicisation of life that marked the emergence of a politics of the *bios*, or biopolitics. In a 2004 lecture on Colette Guillaumin’s theory of “differential racism,” and remarking on the history and analysis of mass extermination, Balibar noted that even as Foucault comments on “the ‘same’ historical sequences” as Arendt, he “carefully avoids any reference” to her.<sup>29</sup> Foucault’s erasure of Arendt is not trivial; rather it illustrates the limits of his critique of a patrilineal genealogy that will become, particularly in his later work, an emphatic romanticisation of the noble household, as Vincent P. Pecora has insisted.<sup>30</sup> But if Foucault’s critique of politics inclines him to an almost-mystical regard for the ancient *oikos*, Arendt has a similarly mythical appreciation for the politics of antiquity. In other words, if both Foucault and Arendt recoil from the indistinction between politics and economics that became evident in the latter half of the twentieth century, they did so by ultimately seeking refuge in an idealised version of each. The Aristotelian distinction, then, is resurrected precisely at a time when it is most obsolete, and so as to re-found what they saw as the condition of politics (Arendt) or those of the *oikonomia* (Foucault).

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28 Arendt, *The Human Condition*, 28.

29 Balibar, “Difference, Otherness, Exclusion.” Colette Guillaumin, *Racism, Sexism, Power, and Ideology*; and *L’idéologie raciste. genèse et langage actuel*.

30 Vincent P. Pecora, *Households of the Soul*.

These analytical – and, one might add, deeply affective – limits to their critiques of oiko-politics/biopolitics (which is also, as I have been suggesting, a genealogical definition of the *oikos*) reaches a standstill in recapitulating contractual re-foundation. Arendt's otherwise critical account of the utilitarian calculus (in other words, the implied social contract of economics) is revived in its political register. As Pitkin has argued, when it comes to elaborating on the political bond, "her answer is a traditional and quite offhand invocation of the theory of social contract. Each sees his private advantage in being joined to the others, and therefore binds himself to them 'by the force of mutual promise or contract'." As Pitkin goes on to suggest, this "is an astonishing teaching for a theorist whose entire doctrine seems in other respects a sustained critique of the utilitarian calculation of self-interest."<sup>31</sup> What I would add is that for Pitkin, the analytical distinction between economics and politics that allows for Arendt to dismiss a thorough critique of contractualism in its political forms is implausible, not least because the theory of the social contract is also a theory of the economic contract. Pitkin is more than right to insist on thinking the relationship between internal and external, a distinction that serves as the basis of liberalism in its classical forms, and of neo-contractualism in its current manifestations. Neo-contractualism is an infinite contractualism, not least because the punctual definition of the wage contract that, in classical terms, distinguished it from slavery, has been overtaken by the indistinction between the time of work and that of life. Foucault's critique of politics (specifically, of rights discourses) results in and is limited by his romanticisation of the domestic tyranny of the noble household presented as an ethics of intimacy. Arendt's critique of economics (of the rise of a politics of the *oikos*) ends up idealising the terms of contract theory that are, given the indistinction she nevertheless underlines, a variant of the tacit contract of economics. This is not to imply that a critique of rights and a politics of the *oikos* is not important, nor that a critical account of such leads inexorably to the re-foundational moves apparent in the work of Foucault and Arendt. What Foucault and Arendt allow is a closer scrutiny of the limits beyond which their critical analyses could not proceed, that ultimately gave way to a more or less explicit

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31 Pitkin, "Justice: On Relating Public and Private," 271.

support for theocracy and liberalism respectively. Foucault's embrace of a revolution<sup>32</sup> whose most explicit consequence was its distinction between the familial world of women and a male one of politics was not simply the absence of foresight but already implied in his approach toward ethics and genealogy; just as Arendt, in seeking to expand the contractualism of politics, could not be expected to contend with the ways in which the politico-legal form of value partakes of the economic logic she otherwise so astutely criticised.

### INTERSECTION, DOMOS

Moreover, to begin from the Aristotelian distinction between politics and economics, not so as to historicise what has followed, but in order to recompose the distinction anew, is – in its theoretical and political implications – similar to beginning with the question of discrete identities (such as those of race, class or sexuality) in order to think their intersection. That is to say, the categorical demarcations result in an impasse – namely, they return, even if in modified form. While there has been a lengthy debate on the methodological and political consequences of extrapolating from, or excluding, or including identities as analytical categories, as Leslie McCall has illustrated,<sup>33</sup> couched in these terms the debate will continue insofar as identities are assumed as a point of departure. This is in no way to suggest that analysis cannot proceed without reference to the formations of identities, nor that intersectionality studies has not amounted to one of the most interesting shifts in the theorisation of race, sexuality and gender (among other things) of late. What I would like to argue, however, is that while early versions of intersectionality research had occasion to reference a sociological approach to the question of status in, most notably, the work of Patricia Hill Collins,<sup>34</sup> the pertinence of this lies less in complicating Marx's binary schema of

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32 On Foucault's support for the Iranian Revolution, see Janet Afary and Kevin Anderson, *Foucault and the Iranian Revolution: Gender and the Seductions of Islamism*.

33 Leslie McCall, "The Complexity of Intersectionality."

34 Patricia Hill Collins, *Black Feminist Thought: Knowledge, Consciousness, and the Politics of Empowerment*.



class divisions with those of status that Weber might have recognised (such as race, sex, age, gender, sexuality, ethnicity, and nation) than in recalling that Weber's account of status is preoccupied with the question of status and contract, as I noted in the first chapter. A critical account of contracts has indeed emerged in intersectionality studies or in its wake, most notably: Stanley's study of wage, slavery and marriage contracts; Kathy Miriam's analysis of the "Contract for America" and the welfare reforms of 1996, Paul Brodwin's research on surrogacy contracts; the more recent book by Pateman and Charles W. Mills, *Contract and Domination*; not to mention the myriad but often implicit discussions of labour contracts in the context of analyses of migration and citizenship.<sup>35</sup> Even so, I would argue that the question posed by intersectionality approaches, while it remains important, nevertheless restates the terms of a contractualism, such that it tends to proceed by way of expanding the list of identities rather than asking why identification (as a premise of contractualism) as such is so significant to the organisation, recognition and transmission of value, even that construed as literary or (oppositional) political value. The political impasse of such an approach is evident in the constraints of coalition or alliance politics; that is, in the often-explicit turn to the question of which identity might be more oppressed than another, or as with the shift from the phrase 'gay and lesbian' to that of LGBTI.<sup>36</sup> This, I would argue, is a version of infinite contractualism, premised on a politics of rights and recognition and, thereby, playing out as either the re-assertion of boundaries or their interminable proliferation.

But if intersectionality studies have been hampered by the absence of an analytical category that is not that of identity, more recent arguments that a domopolitics aligns the familial with the national seems more auspicious. Analysing the UK government's

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35 Kathy Miriam, "Illusions of Postfeminism: 'Victim Feminists,' 'Welfare Mothers,' and the Race for Heterosexuality;" Stanley, *From Bondage to Contract*; Paul Brodwin, *Biotechnology and Culture: Bodies, Anxieties, Ethics*; Carole Pateman and Charles W. Mills, *Contract and Domination*.

36 LGBTI is an acronym for lesbian, gay, bisexual, transgender and intersex. There are, of course, different versions (such as LGBTQI); but it might be noted that the acronym began almost a decade ago as LGB, as a response to the late twentieth century term 'gay movement,' and has been expanding since.

2002 White Paper, *Secure Borders, Safe Haven*, William Walters discerned not only an argument that positioned “immigration as a threat to domestic order” but one in which the migration of highly-skilled labour was seen as enhancing the domestic economy. For Walters, the emerging security doctrines surrounding migration can be explained as an instance of domopolitics, which is to say, a politics of the home (*domo*). In his account, domopolitics “implies a reconfiguring of the relations between citizenship, state, and territory. At its heart is a fateful conjunction of home, land and security. It rationalizes a series of security measures in the name of a particular conception of home,” while also presenting citizenship as a form of domestic protection and embrace.<sup>37</sup> Walters’ study is one of the few to give an account of the rhetorics of domesticity that have increasingly been evident in the conduct of migration policies, both in the UK and elsewhere. But what is of perhaps more interest here is that toward the end of the discussion on migration, Walters turns to remarking on what he calls the production of trust and faith, in which “emphasis is placed on explicitly ethical objects and variables [other than those of class or racial demarcations] – a space of values, identities, and communities.” In outlining this as an instance of the mobilisation of human capital, Walters begins to wonder whether “a more apt figure for immigration control is antivirus software.” He goes on to say:

The image is of the state/home as a computer terminal located in a proliferating network which is both a space of resources and risks. The asylum system is a core element of this scanning infrastructure regulating the passage of flows which traverse the state/home. Properly organized it is to work in the background, effectively and silently. It blocks malicious incoming traffic, while the non-malicious can smoothly cross its threshold.<sup>38</sup>

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37 William Walters, “Secure Borders, Safe Haven, Domopolitics,” 239, 241. Walters cites Foucault’s remarks on the *oikos*, but does not discuss Foucault’s insistence that the familial ordering of politics has been supplanted by that of human capital. I take this up in a later chapter.

38 Ibid, 254-55.

Moreover, whereas, and somewhat curiously, Walters does not take up questions of gender or sexuality, even in the context of a discussion of domopolitics, Alan Ingram's study of HIV/AIDS and migration controls in the United Kingdom succinctly illustrates the ways in which a politics in which the nation construed as a home has become an emphatic aspect of both the reporting of and policies around migration, in such a way that it refers explicitly to the propounding of a simultaneously heteronormative and postcolonial view of the *domos*. For Ingram, the "discursive mobilization of domopolitics has also been intensely material, projected through the lived experience of postcoloniality in the UK, most directly through the health service and in the migration control system."<sup>39</sup> That both Walters and Ingram have occasion to raise the question of the viral – as an analogy with computer viruses, and in the ways in which the virus of HIV/AIDS is reconfigured at the border – is not at all tangential. I return to the border in subsequent chapters, but suffice to underline at this juncture that what both Ingram's and Walters' studies point to is not quite a politics of the *domos* – though it is also that – but more specifically an oikonomics in which the border creates a distinction between productive and unproductive circulation, in other words: of re/production in its specifically capitalist forms. In this, production is recognised as being only one form of generation, of which contagion is another. This is by no means a neat distinction; indeed, the valorisation of contagion has emerged as a particularly sharp question, with, among other things, the expansion of biotechnology, pharmacology and insurance. Yet what remains understated in the elaboration of a critical analysis of domopolitics is precisely the oikonomic foundationalism of capitalism that furnishes the swings between – and spatial ordering of – the ostensibly abstract schema of human capital and the restoration of genealogical lines, in their simultaneously racial, sexual and gendered senses. An economy of faith, trust and credibility requires the legible inscription and the performative iteration of origins and unmistakable – which is to say, genealogical – lines of transmission. Furthermore, the extraction of surplus labour is made possible by the affective registers and architecture that legitimate the implied

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39 Alan Ingram, "Domopolitics and Disease: HIV/AIDS, Immigration, and Asylum in the UK," 889.

contractualism of the *oikos*, in the presentation of surplus labour as obligation, indebtedness and gift through definitions of contract as a species of unbreakable covenant, in the presumption of contract as the performance of voluntary submission, reciprocity and exchange, and in the divisions of labour as the attributions of gender, race, citizenship and sexuality, that are arranged and characterised as the naturalised order of the *oikos*. Recurrently trinitarian in structure, political-economy's delineations of value, exchange, and surplus value are echoed in anthropological myth and political philosophy as the three dimensions of divine power, fraternal equality, and *oikos* – which is to say, that which is bestowed from above and for all time, which grants the equivalence of self-possession, that is, in turn, grounded in the gift of naturalised obligation (construed as eternal, albeit subterranean).

### AGAMBen, FOUCAULT, AND DUMÉZIL

As with most economic historians, in his more recent work Agamben traced the idea of economy to Aristotle's and Xenophon's *oikonomia*. Arguing that this constituted the semantic field upon which theologians arranged the Holy Trinity and its techniques, Agamben's mythological rendering of *oikonomia* understates the specifically capitalist history of the contractual and the *oikos*. In *Sacramento*, he writes that "religion and law do not pre-exist the performative experience of language," which he insists is at stake in the oath. On the contrary, Agamben proceeds, religion and law appear as a series of techniques for guaranteeing the "truth and the trustworthiness of *logos*." The sacrament, he insists, "occupies a central place" in the development of these technologies of trust. Recall that indulgences were substituted for the sacrament during the Black Death. In his discussion of *oikonomia*, Agamben turns at some point to a discussion of the "oath," one that might be thought as part of the history of indulgences discussed in the previous chapter. Yet his Posited as the foundation of the political pact, Agamben's characterisation of the oath both illustrates and obscures the centrality of genealogical inscription to the contractual ordering of *oikonomia*.<sup>40</sup>

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40 Agamben, *Il Regno e la Gloria: per una genealogia teologica dell'economia e del governo*, and *Il sacramento del linguaggio: Archeologia del giuramento*.

To be sure, contract is performative; but the relative disregard for the history of contract misses the connections between the sanctity of contract and the re-/productive inclination of *oikonomia*. In any case, that Agamben's negative theology of *oikonomia* has occasion to turn – by way of a reading of Georges Dumézil – to the ways in which plagues entail the dissolution of the contractual<sup>41</sup> is not perhaps surprising. Dumézil had insisted on the structurally foundational and ancient generality of three powers to Indo-European history: ensuring the sanctity of contracts against their breach, the defence of national borders against foreign invasion, and protection against plague and famine, each of which are, respectively, cast as the problems or catastrophes which befall and recompose sovereignty, force, and re-/production.<sup>42</sup> The encounter with contagion, as I argued in the first chapter, translates generation into re-/production. What is surprising is the extent to which Agamben follows Dumézil in effacing the sexual, labouring, and racial aspects of this acutely historical formulation of paternal sovereignty, fraternal citizenship and the re-/productive nexus of fertility, wealth, food supply and so on. It might also be noted that Foucault's claim of distinctive epochal shifts from sovereignty to disciplinarity to population transforms Dumézil's structuralist trinity into more or less distinct – and equally structuralist – historical scenes. But in reading Dumézil on the myth of Apollo, unlike in his previous reading of Nietzsche,<sup>43</sup> Foucault explicitly links genealogy (“in the double sense of historical continuity and territorial belonging”) to the son being “able to return home with authority, and to exercise there the fundamental right of speech.” In his account, genealogy establishes the son's right. Noting that the “whole structure [of the Apollonian myth] revolves around ... this problem of birth and fertility,” Foucault's reading of Dumézil employs the standard definition of genealogy as the inscription of origin and lines of descent.<sup>44</sup> While there have been a number of studies of Foucault's

41 Agamben, *Sacramento*, 10.

42 Georges Dumézil, *Mitra-Varuna: An Essay on Two Indo-European Representations of Sovereignty*; Dumézil and Didier Eribon. *Entretiens Avec Didier Eribon*.

43 Foucault, “Nietzsche, Genealogy and History.”

44 Foucault, *The Government of Self and Others. Lectures at the Collège De France, 1982-83*, 114-7. For more on Foucault's delineation of epochs, see Chapter Six.

discussion of *parrhesia* (truthful or courageous speech) in his lectures on the ‘government of self and others,’ very few have occasion to mention the ways in which his take on intimate self-management overtly rests on the foundation of the oikonomic nexus of family, re-/production and home. Significantly, however, the emphasis Foucault gives to intimate self-management has been seen as offering a model for Critical Management Studies. As Edward Barratt put it, Foucault’s “alternative of self-rule and self-care” provides an ideal for workplace organisation that, according to him, has its roots in politics of the New Left of the 1960s and -70s.<sup>45</sup>

In any event, according to Dumézil’s, the three “functions” of Indo-European mythology are defined as the *votum* (involving sovereignty, the heavens, and contract), territory and “human effort” (which is related to the first), and the *devotio* (the realm of the underworld, devotion, faith).<sup>46</sup> Put another way: if Dumézil’s first two elements of the schema indicate the public registers of sovereignty, war and the recognised labour of the wage contract, the latter’s depiction of a subaltern sphere of devotion suggests a mythical invocation of the *oikos*. It is *oikonomia* which transforms generation into the specifically historical terms of re/production (of wealth, fertility, population and so on), establishing in turn the naturalised boundaries of sovereignty and legitimating the force that defends them through recourse to genealogical fictions which are as predicated on the contractual as the contractual is restored in the encounter with plague. This is far from mythical, though it oftentimes involves the symbolic amplification of the *oikos* as template, foundation and desire. If Dumézil sought to furnish European nationalism with an ancient lineage,<sup>47</sup> he did so as a means to reintroduce necessity by bracketing contingency (what he discerned as the catastrophic) between the bonded orders of fidelity and the speculative reach of faith, which is to say: to insist on the hinge of the surplus labour of the *devotio*

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45 Edward Barratt, “The Later Foucault in Organization and Management Studies,” 525.

46 C. Scott Littleton, *The New Comparative Mythology: An Anthropological Assessment of the Theories of George Dumézil*, 104.

47 On Dumézil’s alignments with French fascism, see Bruce Lincoln, *Death, War, and Sacrifice: Studies in Ideology and Practice*.

that re-articulates contract as a variety of covenant, unbreachable, transcendent and future-oriented. The contractual is, in this regard, both scalable and delimiting – simultaneously expansive and exclusive, intimate and global – in its modification of the contingency of *contact* into the necessary reproduction of *oikonomia*. Whether presented in the conservative variant of the normative orders of the *oikos*, or in the putatively radical recourse to rights that are founded on genealogy, oikonomics enacts a limit that, in its contractual renditions, projects itself infinitely into the future and across space.

### LOCKE'S HOLY TRINITY

Lockean liberalism presupposes the imbrication of right and risk situated under a transcendental order of divine providence and through the articulation of naturally-bequeathed property (and properties). In this and its Scholastic precedents, a providential God constituted the very demarcation between inalienable natural right and commercial exchange, *and* bestowed a rights-bearing subject with a capacity for the ethical deliberation of risk. Across the eighteenth and nineteenth centuries, the Lockean understanding of labour as a form of property – and of contract freedom as the non-absolute transference of the rights to this property – was central to liberal abolitionism's understanding of free labour. According to David Brion Davis, self-ownership operated as a “transitional ideology,” containing the campaigns against slavery by giving “temporary moral insulation to less visible” and emerging “modes of human bondage.” As he put it: “one could justify exploitation . . . by making it impersonal.”<sup>48</sup> Where Davis' history of the trans-Atlantic slave trade highlights the centrality of contract freedom to the shift from direct and personal forms of coercion to those mediated by law and money, the analysis here emphasizes the temporal ordering of contingency and necessity that is constantly recomposed through the contractual.<sup>49</sup> Rather than understand slavery and free labour as it is grasped from within the idealized terms of contract theory – that is, as an epochal and

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48 Davis, *The Problem of Slavery in the Age of Revolution, 1770-1823*, 350-82.

49 For an earlier formulation of the ways in which contract braces against contingency, see Mitropoulos, “Under the Beach, The Barbed Wire,” 34-33

irreversible passage between distinct forms – that even Henry Maine doubted,<sup>50</sup> the contention here is that contract theory, as it emerged from covenant and shaped legal doctrine, re-arranged the sense of time such that it reinstated a naturalized, necessary servitude situated as the object of a prudential logic that was located, in turn, under the ethical constraint of submission to the invisible, but nevertheless increasingly intimate, hand of divine providence. If it is easy to discern the precursors to Adam Smith’s “invisible hand”<sup>51</sup> and John Maynard Keynes’ “practical men”<sup>52</sup> in this schema, the domain of the “natural economy” (*oikos*) is usually presented as a consequence of the inessential exclusion of women from paid work rather explained as than the requisite dimension of below-the-line labour in capitalism. Yet as Nancy Folbre suggested, according to Locke women “had no natural rights, only natural obligations;” “individual rights and private property were male prerogatives ... because only men made choices and responded to incentives.” She also points to Locke’s insistence that care labour is a “natural proclivity [of women] rather than a form of work.”<sup>53</sup> Approached as a worldview that rationalized slavery, colonization, and the subordination of women, Locke’s temporal delineation of free labour was placed between, on the one hand, the immeasurable bonds of an ostensibly natural economy and, on the other hand, an infinite, unbreakable covenant with God. This was a new, specifically capitalist, formulation of subjectivity, obligation and genealogy, and therefore of time, an eternalized capitalist dynamics which plays out as the complex interaction between three, interlinked temporal orders: of heritable attributes and naturalized obligation (gendered, sexualized and racialized); of intimate self-management and decision made under conditions of uncertainty; and of a supernatural (but inscrutable) determinism. In this arrangement, an absolutist God bequeathed man with the capacity for rational thought so that he may decide on ethical conduct. This prudential subject was grounded in the premise

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50 Maine’s outline of a progression from status to contract his approach is far more ambivalent than is usually admitted. Maine, *Ancient Law: Its Connection with the Early History of Society, and Its Relation to Modern Ideas*.

51 Smith, *The Theory of Moral Sentiments*.

52 Keynes, *The General Theory of Employment, Interest and Money*, 214, 146.

53 Folbre, *Greed, Lust & Gender: A History of Economic Ideas*, 19-25.



of inherent properties and right. Locke situated the recognition of particular forms of labour as one's own property (insofar as they were defined as productive) alongside and above the naturalized foundations of a servitude apprehended as a property of blackness, and domestic/care labour construed (not as labour but) as a quality (a gift) of the properly feminine. Contract, then, is the switching mechanism that installed and re-arranges the pertinent dynamics of capitalist futurity.

Where neo-Aristotelian approaches are marked by an idealised nostalgia for the slave-holding estate and the political nobility of the ancients, Locke looked forward in time and presented contract as constitutive of the domains of politics, economics, and religion. While there are correlations between Locke's and Aristotle's understandings of the demarcation between the *oikos* and politics, to this distinction (following the Scholastics) Locke will add the dimension of divine providence. For Locke, providence insured property and contract across the contingencies of the temporal world, overseeing, recognizing and legitimating the labour and the enclosures that he saw as the proper workings of prudence. It might be noted that where Locke defined productive labour as agrarian cultivation and in the form of Adamic authority (in so doing, legitimating colonisation and relegating care labour to the sphere of natural obligation and disposition), during much of the nineteenth and twentieth centuries understandings of productive labour became increasingly characterised as industrial production. Locke's divine providence is the premise of the classical liberal understanding of the limit and function of political intervention: that is, non-intervention, except to guarantee the performance of contracts. Whereas Locke echoed the Aristotelian sense of the role of politics as the recomposition of the foundations of *eudiamonia* (the good life), at a time when property rights were an overt matter of legal fiction and politically contested he resorted to the Scholastic invention of a providential God to transform the indeterminism of the times into the eternalized necessity of capitalism.

Lockean contractualism reached across and defined a distinction between temporal and divine power so as to ensure a settling of accounts. Locke was far from suggesting a demarcation between life and contract, or life and property. To invoke Locke on these occasions is not to imply a delineation between life and capitalism (or life and work) but, instead, to posit an infinite contractualism whose premise is

nothing less than an eternalized capitalism. For Locke, the question of property and contract was alternately thought in the unbreakable terms of covenant or, by way of extension, according to a natural theory of rights, which is to say, bequeathed by God. The limitations and exceptions Locke placed on the alienation of property – including that of property in one’s self – presupposed and installed a correlative realm of divine power (or covenant); in the case of slave-owners or the wage contract of the “free man,” authority and right were figured as a secular version of divine power, and labour as a variety of divine creation. If Locke placed a temporal limitation on the work contract, this was construed as the corollary of the limit on temporal power, existing within and underneath the absolute, transcendental power of God.<sup>54</sup> When Locke insisted in the *Second Treatise* that the distinction between the wage contract and slavery resides in the temporal limitation of the former – “a freeman makes himself a servant to another, by selling him[self], for a certain time” – he seems to echo the issue of temporal restrictions on the working day, but it is, as highlighted in the *Essay Concerning Human Understanding*, a question posed in relation to a life-long “Pilgrimage with Industry and Care,” at the cessation of which accounts and labour will come to an end.<sup>55</sup> This is perhaps why, as Marx suggested:

At first the rights of property  
seemed to us based on a man’s own labour. At least,

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54 Voluntarist contractualism was positioned between divine covenant and personalised obligation, at a time when the relationships between worker and employer was largely face-to-face, domestic and that of master and servant. Selling one’s labour granted the master “a temporary power over” the servant, who was placed “into the family of his master, and under ordinary discipline thereof.” As Amy Dru Stanley argues, Locke’s “depiction of that power as a form of family discipline” took place in a context where, “in the early formulations of liberalism,” “the wage contract appeared as a hybrid: a composite of commercial and household conventions.” Stanley goes on to note that, at the time, the marriage and wage contract were both regarded as variants of “paternal domination” by “the master of the household; as Locke stated, the husband’s authority mirrored that of ‘a master over his servant’.” Stanley, *From Bondage to Contract: Wage Labour, Marriage, and the Market in the Age of Slave Emancipation*, 9-10.

55 Locke, *An Essay Concerning Human Understanding*. Volume 2, 272.

some such assumption was necessary since only commodity-owners with equal rights confronted each other, and the sole means by which a man could become possessed of the commodities of others, was by alienating his own commodities; and these could be replaced by labour alone. Now, however, property turns out to be the right, on the part of the capitalist, to appropriate the unpaid labour of others or its product, and to be the impossibility, on the part of the labourer, of appropriating his own product. The separation of property from labour has become the necessary consequence of that law that apparently originated in their identity.<sup>56</sup>

It would take some time for Marx to abandon the theory of alienation – derived from Locke’s definition of labour as a form of property in one’s self, *a priori* and eternally commodified – before he would understand the seemingly paradoxical assertion of the non-absolute transference of right alongside an infinitely expanding contractualism. Liberalism (no more and no less than neoliberalism) understood the limit on temporal power as a positive injunction to intervene in order to ensure the performance of contract. Contrary to claims that insurance contravenes the Lockean distinction between property in one’s self and persons as property, Locke always understood labour (and property and right) in the transcendental terms of a contractual relationship with God. He had argued nothing less than that probability is a version of penance. Writing in a tone of extreme humility, Locke wrote that God had afforded man with the the twilight of probability, so so to “check our Over-confidence and Presumption,” and by “every day’s experience be made sensible of our Short-sightedness and Liableness to Error.” According to Locke, this life and faculty of probabilistic reasoning was God’s

constant Admonition to us, to  
spend the Days of this our Pilgrimage with Industry  
and Care, in the Search and following of that way,

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<sup>56</sup> Marx, *Capital*. Volume 1, 547.

which might lead us to a state of greater Perfection: it being highly rational to think, even were Revelation silent in the Case, that as men employ those Talents God has given them here, they shall accordingly receive their Rewards at the Close of the Day, when their Sun shall set, and Night shall put an End to their labours.<sup>57</sup>

Locke, it might be noted, is generally regarded as one of the translators of the *Logique de Port-Royal*, a mid-seventeenth century textbook on logic likely written, in part, by Blaise Pascal. Indeed, Locke's *Essay* reiterates the Pascalian Wager as a decision between "the short pleasures of a vicious life" and the "exquisite and endless happiness" that is the consequence of "a good life here."<sup>58</sup> Locke construed death as the settling of accounts, the release from a life-long obligation to labour and penance, original sin recast as debt. Lockean penance is, in short, a Protestant, probabilistic version of purgatory; which is to say: insurance.

Well before the Reformation, the Catholic Church began to emphasise purgatory in the thirteenth century as that place, between heaven and hell (distinct from limbo) in which the dead can repay their debt of sins before being welcomed into heaven. Jacques Le Goff has persuasively argued that purgatory was invented at this time as a caveat for an emerging mercantile class against the sin of usury. Furthermore, one could pay off one's sins as well as those of family members by performing acts of ascetic submission while still alive, or by making restitution in one's will.<sup>59</sup> This regime of reflexive self-mastery, situated in the calculation of an originary and heritable debt, became for Locke the temporality of life-long penance that reiterated Pascal's Wager and mediated between the earlier Thomist distinction between a temporal sphere characterized by randomness and a divine one of everlasting harmony (or interminable hell, depending on the accounting). Just as Aquinas had admitted the contingent in order to posit the existence of absolute determinism, the insurance contract is

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57 Locke, *Essay*, 272.

58 Locke, *An Essay Concerning Human Understanding*, Volume 1, 182.

59 Jacques Le Goff, *The Birth of Purgatory*.

a variety of inoculation. Debated by the Scholastics and canonists as existing somewhere between the *mutuum* (loan) and *mutare* (mutation), it is the ostensible guarantee against contingency that materialises value in the possible event of the insured object's disappearance.



## ANNOTATION:

# INSURANCE, INOCULATION

The crises of trade and agriculture, the torrent of losses and bankruptcies, all the fluctuations and vicissitudes of the bourgeois mode of life, which have been epidemic since the introduction of modern industry, all the poetry of bourgeois society will disappear. Universal security and insurance will become a reality.

— Karl Marx and Friedrich Engels, “Le socialisme et l’impôt, par Emile de Girardin.”

**Insurance is the dream of inoculation, the spreading of risk that constantly reconfigures the boundaries between capitalist speculation and the incertitude of value, between free labour and slavery, between those who are inoculated and those who test out the vaccine, between the contractual projection of calculable value and the uninsurable risk and, not least, between life and death.** Although Locke has been routinely invoked in critical analyses of insurance as if he posited a distinction between commerce and life, I would argue that this sharp demarcation is not precisely Lockean but neo-Aristotelian. Lockean understandings would transform insurance into the very definition of a worthy life whose reckoning would occur at the moment of death or injury, in either case understood as the interruption or cessation of a productive life. Imbued with a prudential logic that took its cues from the practice of penance and purgatorial time, insurance would eventually align with the ideology and practice of the family wage (as in the form of ‘breadwinner’ insurance) to become the morally

sanctioned alternative to unconditional welfare. The nineteenth century struggles around and reforms over the reduction of the working day and workplace accident insurance were accompanied by attempts and policies that limited the access of women and children to paid work – which is to say, they can only be understood as a part of the history of fraternal insurance and the family wage that reached a high-point in the Fordist period, and channelled anti-capitalism into its contractarian expressions.

In the United States, four years after the introduction of a contributory insurance scheme in 1935, it became an extension of the family wage, a system through “which *workers and their families* were viewed as people who had earned the right to access benefits in the face of many of life’s ‘hazards,’”<sup>1</sup> firmly aligning insurance with the transmission of property along intergenerational and familial lines. Moreover, as Eveline M. Burns suggested, the “analogy [of social insurance] with private insurance made the change acceptable to a society which was dominated by business ethics and which stressed individual economic responsibility.”<sup>2</sup> This combination of the prudential and genealogical limited the speculative by restoring a naturalized orderliness to the temporal succession and distribution of property. Unlike gambling – which was seen as involving “the denial of all systems in the apportionment of property, [plunging] the mind in a world of anarchy, when things come upon one and pass from one miraculously”<sup>3</sup> – insurance dictated the transfer of property according to seemingly natural lines and into an uncertain future.

By the time Marx and Friedrich Engels delivered their riposte – cited in the epigram above – to Girardin’s proposals for a “good socialism,” in an article that appeared in the *Neue Rheinische Zeitung Politisch-ökonomische Revue* in 1850, the distinction between the prudentialism of insurance and the speculative inclination of gambling had been more or less established. Insurance had come to be seen as a responsible way of socialising risk, a virtuous means of

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1 Leah Rogne, *Social Insurance and Social Justice: Social Security, Medicare, and the Campaign against Entitlements*, 4. Emphasis added.

2 Burns, “Social Insurance in Evolution,” 199.

3 John Hobson (1907), cited in Pat O’Malley, “Imagining Insurance Risk, Thrift and Industrial Life Insurance in Britain,” fn29.



conducting welfare policy and, as Marx and Engels joked, a judicious form of inoculation against capitalist contingency. By the middle of the nineteenth century, the demarcation between gambling and insurance, as Geoffrey Clark and Viviana Zelizer have illustrated, had already been a long time in the making.<sup>4</sup> At the very centre of the conflicts over the creation of this boundary was the implication that life and death had become the objects of a commercial contract, but the need to distinguish insurance from gambling was predicated on the requirement that the distribution and transmission of property be seen as natural and/or rightful, just as the questions of life and death should be construed as a matter of divine providence and natural proclivity rather than something brought about by transaction. According to Zelizer, the legitimization of insurance in the United States required the eventual formation a moral and institutional demarcation between speculation and gambling. Placed under suspicion by the Puritan injunction that money must be “tied to work and gradually accumulated by the sweat of one’s brow,”<sup>5</sup> speculation was recast in the socially utilitarian terms of entrepreneurial risk-bearing before insurance could, in turn, fully assume its prudential demeanour. Even so, in Clark’s account of the expansion of the insurance industry in early eighteenth century Britain, “an increasing confusion between property in things and property in people,” pointed to a “recrudescence of quasi-feudal social relations represented by the creation of property in human life,” threatening “to shatter the emerging free-market ethos that individuals should have the liberty to engage in a commerce of things, but not of eachother.”<sup>6</sup> Prior to the passage of the Gambling Act by the British parliament in 1774, insurance policies were often used to wager on the lives – and, in one famous instance, the sex<sup>7</sup> – of people with whom beneficiaries had no connection construed as an insurable interest. Through the Act, insurable interest was defined as a pecuniary interest – brought about by the implied contract of shared familial property or the ownership of property (which, at the time, included slaves) – in the continued

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4 Clark, *Betting on Lives: The Culture of Life Insurance in England, 1695-1775*.  
Zelizer, *Morals and Markets: The Development of Life Insurance in the United States*.

5 Zelizer, *Morals and Markets*, 82.

6 Clark, *Betting on Lives*, 62-3.

7 On the Chevalier d’Eon, see Clark, *Betting on Lives*.

existence of that, or that person's life, covered by the insurance policy. This compensatory redefinition of insurance, however, did not securely separate insurance from the charge of gambling on someone's life since it continued to elicit the expectation of financial gain from someone's death. The Act merely specified what a legitimate insurable interest might be. And there continued to be a slave trade.

Less than a decade after the first Gambling Act, that expectation provided the grim calculus for the massacre aboard a British slave ship, the *Zong*. Overcrowded, malnourished and most likely suffering from a smallpox epidemic, the Captain wagered that the insurance value of the *Zong*'s human cargo would exceed that of its sale and ordered that some 133 people be thrown overboard. Of this, Ian Baucom has pointed out that value of the insured object "results purely from the ability of two contracting parties to imagine what it would have been worth at that imaginary future moment at which it will have ceased to exist."<sup>8</sup> Clark argues that at issue in much of this history is the ostensibly parallel distinction of slavery from freedom of contract, or (in Lockean terms) the line which is said to separate persons as property from property in one's self. In the century before insurance would become hotly contested question, Locke had argued that "every man has a property in his own person. This no body had any right to but himself. The labour of his body, and the work of his hands, we may say, are properly his."<sup>9</sup> Yet what many readings of Locke tend to gloss over is the place of this "every man," and Lockean definitions of his labour and properties, in a wider schema that situated heterosexual procreation as the original social contract and divine covenant as absolute. In this, the discernment of risk is construed as a property of the self-possessed subject, located between natural propensity and providence.

While he does not discuss slavery or the wage contract, Bill Maurer, in his study of financial clearance and securities,

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8 The merchants filed their insurance claim, the insurers refused to pay, the merchants appealed, and the court ruled against the appeal on the grounds that the cargo was poorly managed; and no murder charges were ever brought. See Baucom, *Specters of the Atlantic: Finance Capital, Slavery, and the Philosophy of History*, 95.

9 Locke, *The Second Treatise of Government; and, A Letter Concerning Toleration*.

argues that the logic of insurance is of a different order to Lockean contractualism. If, for Clark, insurance posed a problem for Lockean understandings of the contractual self in the eighteenth century, for Maurer it defines a subsequent and more recent period in history. Following Michel Foucault's discussion of governmentality and risk theorists such as Ulrich Beck, Maurer insists that shifts in the way securities are handled recasts "the subject of property not as the bearer of rights but as a risk profile subject to the disciplinary practice of insurance." He goes on to write that at "stake is not merely a new definition of property but a new definition of personhood and a new form of governmentality. Rights and property give way to risk and insurance." Posed as a question of forgetting the Lockean understanding of property, Maurer draws the argument beyond that of finance: "one might draw an analogy between the shift identified in this essay," he remarks in a footnote, "and the shift from nineteenth-century sciences of sex to late-twentieth-century Centers for Disease Control risk profiles."<sup>10</sup> However, where historians of insurance trace the complex shifts in insurance and risk to conflicts that parallel the centuries-long rise and spread of capitalism, risk theory situates a definitive transition from – as Beck argues – "the logic of wealth distribution in a society of scarcity to the logic of risk distribution in late modernity."<sup>11</sup> Yet Locke's arrangement of scarcity and abundance – through the logic of property and properties – was at the same time a proposition about risk *and* right. A critical history of contract, by contrast to risk theory, need not transform a specifically capitalist forms of contingency into a variant of necessity or, differently put, need not substitute notions of technological riskiness for an analysis of the precariousness of capitalism. Risk theory locates technological modernisation as the source of risk rather than analysing contract as a technique of its allocation, and abbreviates Locke in so doing.

In the fourteenth century, the insurance contract – and the corollary notion of risk – emerged as the calculation of maritime peril and extended across land as the apprehension of plague. Barrau, described in 1816 in his *Treatise on Plagues and Acts of*

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10 Maurer, "Forget Locke? From Proprietor to Risk-Bearer in New Logics of Finance," 366.

11 Beck, *Risk Society: Towards a New Modernity*, 19.

God as the “founder and director of the reciprocal insurance companies of Toulouse,” commended “to property-owners of all classes” the institution of a vast system of insurance. It is impossible to separate the development of insurance and risk from that of the history of the plagues. According to François Ewald, by the late nineteenth century, the “idea of (land) insurance adopted and rationalized the quasi-natural practices of solidarity and fraternity that had been customarily used to defend against the threat of plagues.”<sup>12</sup> But whereas Ewald insists that the introduction of workplace accident laws in 1898 marks the shift to a logic of social insurance (that universalises risk and understands insurance as obligation) beyond the theological understanding of Acts of God which characterized maritime insurance, the suggestion here is that insurance expanded upon a theological conception of time and labour that can be traced back to the Scholastics and was elaborated by Locke in a colonial register.<sup>13</sup> If insurance – as with usury – was condemned by the Scholastics as the “theft of time” that belonged to God,<sup>14</sup> the pertinent question for both nascent capitalists and theologians alike was, as Andrew Cowell has suggested, the ways in which a “generalized credit” enabled the “postponing [of] debts of time, life, penance, retribution and money indefinitely.”<sup>15</sup>

In a discussion on Eurocentric globalisation, Jacques Derrida refers to the “double movement” of “auto-immunisation.”<sup>16</sup> What Derrida describes as the interplay of protection and destruction in auto-immunization is, perhaps, something akin to the dual senses of (economic) risk as gain and loss. But vaccination more specifically, in the administration of small doses of a disease to provoke the body’s generation of antibodies, runs counter to the

12 Ewald, “Two Infinities of Risk,” 226.

13 The dynamic of limit and enclosure is a necessary condition of capitalist expansion. In the case of the frontier (figurative or otherwise), the danger of infinite variation is obviated by the expansion of the same pattern of re-/production irrespective of scale – just as, it might be noted, the more recent formulations of chaos theory seek to derive order from disorder, or as Benoît B. Mandelbrot’s fractals are self-affine and scalable. Benoit B. Mandelbrot, *Fractals: Form, Chance, and Dimension*.

14 D. Vance Smith, *Arts of Possession: The Middle English Household Imaginary*, 128.

15 Cowell, *At Play in the Tavern: Signs, Coins, and Bodies in the Middle Ages*, 142-43.

16 Derrida and Elisabeth Roudinesco, *For What Tomorrow: A Dialogue*, 178.

boundary-protection of epidemiology (as Derrida contends) but also relies upon a history in which the border between insurable and uninsurable risk, prudentialism and gambling, self-possession and people as property is constantly blurred and reconstituted as its very conditions of possibility. While probabilistic science developed in debates around the risks and benefits of smallpox vaccination in the middle of the eighteenth century, as it strove to distinguish itself as the mathematisation of prudence contrary to its previous association with gambling,<sup>17</sup> the distinction between prudence and gambling as, respectively, the protection against loss and the creation of risk, is never firmly established but mutually constitutive.

It is always a question of the allocation of risk and the distribution of uncertainty. Lockean preparedness recurs as the doctrine of pre-emption that brings forth (uninsurable) risk, just as purgatorial time – even as it promises a conditional salvation – presupposes a corollary space and possibility of eternal damnation. Indeed, the reliance of insurance on the creation of contingency<sup>18</sup> has shaped the convergence of military doctrine and biology in the warfare that reconstitutes boundaries by traversing them. As Lockean preparedness acquired a militarised form in the wake of September 11<sup>th</sup> 2001, then-President George Bush announced the the Smallpox Vaccination Program “to contribute toward a general system of bioterrorism preparedness,” even as the threat of smallpox

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17 Daston, *Classical Probability in the Enlightenment*, 83.

18 For a discussion of the ways in which insurance valorises and creates uncertainty, see Neil Smith, “Disastrous Accumulation.” Smith opens his essay with a consideration of the rise of “intelligent design” doctrines, arguing that while the campaigns to install such a position within the curriculum faded, its logic was nevertheless echoed in responses to Hurricane Katrina. For Smith, this appeal to supernatural causes is a way to deflect attention from man-made catastrophes. I agree, but would add that the interlocking logics of the actuarial, the providential and the oikonomic extend well beyond the Christian Right’s adherence to “intelligent design” and require a reconsideration of the very understanding of ecology as Ernst Haeckel derived it from a neo-Aristotelian understanding of *oikonomia*. For an earlier text on the prudential, the ecological and the oikonomic in the wake of Hurricane Katrina and the subprime housing crisis, see my “Oikopolitics, and Storms.”

weaponisation or outbreak had been regarded as unlikely, amounting to “a shift towards vague or uncertain future threats.”<sup>19</sup> As Dale A. Rose goes on to point out, the SVP floundered on questions of compensation for vaccine-induced injury, liability and adverse events – which included the reporting of one death and a number of incidences of myo/pericarditis – by relegating them to a “highly variable set of Worker’s Compensation programs.”<sup>20</sup>

The ships of the trans-Atlantic slave trade were not only the scene of fatal calculations about the value of dead slaves (as Baucom has argued) and the way in which smallpox spread from Africa to Europe and beyond. They were also the means by which vaccines were tested and conveyed. In the wake of the South Sea Bubble and an outbreak of smallpox, the passage of the Bubble Act in 1720 and the Quarantine Act in 1721 by the British Parliament did not put an end to the South Sea Company, the slave trade or the spread of smallpox. As Larry Stewart’s history of smallpox vaccination shows – and given the dangers of inoculation at the time<sup>21</sup> – the knowledge of vaccination practised in Africa and the mass vaccinations aboard slave ships, became a matter of some debate among European and colonial medical practitioners:

Despite the apparent benefits of inoculation, opposition intensified throughout the 1720s as much on moral grounds as on medical uncertainty. The anonymous author of a pamphlet demanding parliamentary regulation of the practice

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19 Rose, *How Did the Smallpox Vaccination Program Come About? Tracing the Emergence of Recent Smallpox Vaccination Thinking*. See also Melinda Cooper, “Pre-Emptying Emergence.”

20 Ibid, 5-7. By the end of 2003, the SVP reached a standstill as medical practitioners and states – under pressure by unions and doctors – had begun wagering that the risk of a smallpox attack was smaller than the problem of liability for vaccine-induced injury and death.

21 According to Daston, “the choice facing the average Parisian circa 1750 was between a one in seven chance of dying from smallpox spread over the long term, and a one in two hundred chance of dying of the inoculation over the short term (one or two months).” *Classical Probability in the Enlightenment*, 83.

was not alone in regarding inoculation ‘as a Thing utterly unlawful in it self’ and as ‘a thing forbidden in Scripture.’ Nonetheless, the English author did notice the catastrophic effect of smallpox on North American natives ‘among whom, it is mortal like the Plague.’ A similar tone was struck the previous year by an unknown colonial antagonist whose recognition that inoculation was practised by the ‘scattered Members of the good people of Guinea’ was one of condemnation rather than of recommendation. The extent of inoculation amongst the slaves became a key element in the debate over the practice. ... Dr William Douglass of Boston, recognized the African source of the technique but also its direct relation to the traffic in slaves, ‘So that the first Intention of Inoculation was not the Saving of Life, but as a more ready way of procuring the Small-Pox, than by accidental Infection; that they might know what Beauties were proof and would answer the charge of being carried to Market.’<sup>22</sup>

These early instances of the clinical trial took place in the trans-Atlantic slave trade, just as present-day clinical trials are premised on the active creation of pools of uninsured and informalized labour.<sup>23</sup> Precarious work is, among other things, characterized by the absence of health insurance in a system that, in the United States and elsewhere, made it contractual and tethered it to the family wage. With the collapse of universal health care in places like China and parts of India, clinical trials have – as for an increasing number of people in the US – become not only a way of accessing income but also medical care.<sup>24</sup> I would suggest that the ostensible prudentialism of insurance, then, as with vaccination, creates dangers for some. In

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22 Larry Stewart, “The Edge of Utility: Slaves and Smallpox in the Early Eighteenth Century,” 67-8.

23 See Cooper, “Experimental Labour: Offshoring Clinical Trials to China.”

24 *Ibid.* See also Cooper and Catherine Waldby, *Clinical Labour: Human Research Subjects and Tissue Donors in The Global Bioeconomy*.

current terms, it assumes the creation of classes of persons who are increasingly compelled to contractually assume (by way of the return of the doctrine of *volenti non fit injuria* of informed consent) the burden of the uninsurable risk. The actuarial requires uninsurable risk as its precondition.



III.

## LEGAL, TENDER

... this cult of continuity, the confident assumption of knowing to whom and to what we owe our existence – whence the importance of the idea of ‘origins’ ...

– Pierre Nora, “Between Memory and History: *Les Lieux de Mémoire*.”

... a money value is only guaranteed so long as money itself is guaranteed.

– Karl Marx, *Capital*. Volume 3.

**In late September 2009, the Serbian government stated that it would not guarantee the safety of those attending Belgrade Pride.** The gathering had been scheduled to assemble near the Faculty of Philosophy, under the banner of “It’s Time for Equality.” Pressured to cancel – to shift location and, finally, on the eve of the event, informed of their impending abandonment, once again, to extralegal violence – organisers announced that Belgrade Pride 2009 had effectively been prohibited by the state.<sup>1</sup> The violence

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1 The first Pride gathering in Belgrade in 2001 was viciously attacked (most prominently by clerical-fascists), and there have been no Pride events since (though there was an unpublicised QueerBeograd festival in 2008). See the statement issued by Belgrade Pride and surrounding documentation, updated September 19, 2009, [eng.belgradepride.rs](http://eng.belgradepride.rs) (accessed October 10, 2009); as well as QueerBeograd’s site, [www.eng.queerbeograd.org](http://www.eng.queerbeograd.org) (accessed October 10, 2009). The Belgrade Pride website has more recently been hacked, and is unavailable. There is a Belgrade Pride Facebook page at [www.facebook.com/belgrade.pride](http://www.facebook.com/belgrade.pride) (accessed 2 May, 2010).

that had devastated the Pride march in 2001 remains palpable – images abound of the quick slip between democracy and terror: of someone pleading with police, who decline appeals for help while nationalist thugs hunt all around; of another person being led through the streets by a police officer, her face covered with blood, in a manner I cannot imagine anyone being treated, unless they are considered guilty of something; of police standing around watching while a man is pushed to the ground and repeatedly kicked.<sup>2</sup> Yet much as I feel the pull of a disappointed expectation of police protection, or the anticipation of the most basic of civil rights alarmingly discovered to be non-existent, I hesitate before the seeming inexorability of progressive legal embrace. I doubt, in short, that these violent moments are a consequence of a lack of legal recognition. It seems more accurate, as Agamben has argued, that the deprivation of rights has accompanied the doctrine of human rights from its very beginnings.<sup>3</sup> But this spatio-temporal vacillation between the conferral and withdrawal of protection presupposes a more specific history and pattern than Agamben suggests. Getting beyond the theoretical and political impasse of regarding identity – whether that of race, class, gender or sexuality – as constitutive of complex historical processes is not the same as the inclination to flatten those processes by way of an implicit re-inscription of a generalised subjectivity whose premise is that of, simply put, the experience and history of heterosexual, white men. Moreover, these uneven dispersals and violent redistributions of rights are obscured – or at the very least, explained away as anomalous – by linear, progressive and/or dialectical accounts of history. Even the more canonical histories of Pride in the USA demonstrate something other than the undisputed, irreversible and non-violent bestowal of rights and protections – whether that history emphasises the 1969 riots at Stonewall against routine police attacks, or the quiet memorialisation by the Mattachine Society of those events, or the celebration of the riots by subsequent Christopher Street Liberation Days. That is to say, the representational

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2 These images are from the video “Pride march in Belgrade,” [www.youtube.com/watch?v=ppXVAocEHsk](http://www.youtube.com/watch?v=ppXVAocEHsk) (accessed October 9, 2009). The video is no longer available due to a copyright claim by Stefan Orlandic Stojanovski.

3 Agamben, *Homo Sacer: Sovereign Power and Bare Life*. See also, Mitropoulos, “The Barbed End of Human Rights.”

line that is drawn from Stonewall to Pride is as contested a lineage as is that which sketches a parallel development of capitalism and sexual freedom. Indeed, the persistence (among other things) of ‘no-go’ areas for many transsexuals, lesbians, queers in cities around the world invalidates – without, of course, resorting to excuses of one sort or another – all attempts to explain what occurred in Belgrade as anachronistic or peripheral.

This is far from suggesting that there have not been significant critiques of legal progressivism. Janet E. Halley, in a subtle reading of anti-discrimination cases in the United States, shows that in some instances the condition of accepting the legal protection of those laws is to defer to the closet, to appear straight – as she put it: for someone to “have internalized the substantive determination that homosexuality is degrading to them.”<sup>4</sup> John D’Emilio, writing on the campaign for the legal recognition of same-sex marriage in the USA, similarly noted that the “battle to win marriage equality through the courts has done something that no other campaign or issue in our movement has done: it has created a vast body of new antigay law.”<sup>5</sup> Along similar lines, Nan Hunter and Lisa Duggan pointed to the alliances constituted through opposition to gay marriage which, drawing together fiscal conservatives and right-wing Christians, aimed “to enshrine the conjugal family as the sole legally recognised household structure.”<sup>6</sup> This recent condition of legislative changes in the United States cannot be construed simply as a backlash, nor can it be reduced to the organisation of political constituencies through moral panics – though it involves these and more.<sup>7</sup> The argument here,

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4 Janet Halley, “The Politics of the Closet: Toward Equal Protection for Gays, Lesbian and Bisexual Identity,” 176.

5 John D’Emilio, “The Marriage Fight Is Setting Us Back.”

6 Lisa Duggan and Nan Hunter, *Sex Wars: Sexual Dissent and Political Culture*, 231.

7 In the United States, the Defense of Marriage Act of 1996 was accompanied by vast changes to the administration and policing of the US-Mexican border and, not least, the passage of the Personal Responsibility and Work Opportunity Reconciliation Act, which meshed the injunction to be productive with punitive stipulations and funding measures that sought the enforcement of reproductive norms. More recently, with the collapse of the subprime housing market and the financial meltdown that followed, and

in short, is that the proposition of a return to foundations in a new way – at once invoking fiscal prudence, familial/sexual norms and originalism (whether biblical, memorial or constitutional) – is the re-foundation of genealogical order in their simultaneously economic, sexual and legal senses. In one respect, the question here is of the incitement to return to foundations in its specifically capitalist forms, whether construed in ‘Western’ variants or their (ostensibly less neoliberal) antitheses.

In the 1980s, writing in the midst of a resurgent conservatism in the United States, and after what he describes as significant achievements by gay and women’s liberation movements in the 1970s, D’Emilio took aim at a dehistoricized identity politics that he saw as unable to defend or expand upon those prior gains. D’Emilio (along with others) has long attempted to combine queer/feminist and marxian approaches, to figure the connections between sexuality, gender and class. Nevertheless, while his critique of identity eschewed a progressive narrative, his broader historical schema did not. Echoing Friedrich Engels’ epochal account of the separation of production (the factory) from reproduction (the household),<sup>8</sup> D’Emilio went on to link the expansion of non-familial sexuality to the emergence of the wage, defined the predominance of the nuclear, heterosexual family as reducible to the task of reproducing the next generation of workers and, beyond that, situated the family as an ideological – by which he implied, a formally inessential – aspect of capitalist social relations.<sup>9</sup> However, where he argued that the shift away from the familial household is an intrinsic part of capitalist development,<sup>10</sup> in what follows I want to suggest instead that questions of capitalist history and sexuality examined through a critique of genealogy might yield a better understanding than his schema allows. The shifting

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with the rise of the Tea Party and the often brutal debates over the familial ordering of health care (among other things), there is a need to consider of the interlocking architectures of race, sexuality, citizenship, class and gender without the comforts of either nostalgia or the recursive foundationalism of identity.

8 Most notable among these is the collection of essays edited by Zillah R. Eisenstein, *Capitalist Patriarchy and the Case for Socialist Feminism*.

9 D’Emilio, *Making Trouble: Essays in Gay History, Politics and the University*.

10 *Ibid*, 13.

alignments of factory to home are always a matter for close analysis, but it might be noted that the more recent rise of forms of intimate self-management suggests a far less linear narrative than D’Emilio’s seems to allow. Below, I return briefly to Engels’ account, and Marx’s reading of Henry Morgan’s anthropology on which Engels based his *Origin of the Family*<sup>11</sup> – not to offer a more authentic version of Marx’s often ambivalent writings, but to engage some of the most interesting re-readings of Marx while registering their genealogical attachments and limits.

## GENEALOGY

D’Emilio’s insistence on a complicated genealogy of homosexual identity (one that discerns its arrangement alongside the emergence of heterosexuality), as well as his argument that gay and lesbian politics (and survival) depends on being able to defend and enlarge “a social terrain beyond the boundaries of the heterosexual nuclear family,”<sup>12</sup> are well put. Even so, genealogy is as much a question of historiographical method and political practice as it is a means discerning the legitimate ordering and transmission of property, money, right and debt. In other words, there is no ideal-typical capitalism which dissolves genealogical bonds – and, by my implication, there is no critique of capitalism that is not, also, queer. The historical emergence of wage labour may well have opened up some spaces of non-genealogical intimacy, as D’Emilio contends; nevertheless it was also (as Silvia Federici illustrates in detail) a patriarchal wage premised on the creation of new forms of dependency and the distribution/redistribution of right in the face of significant challenges to feudal (and patriarchal) authority.<sup>13</sup> Fordism, for its part,

11 Friedrich Engels, *The Origin of the Family, Private Property, and the State, in the Light of the Researches of Lewis H. Morgan*.

12 D’Emilio, *Making Trouble*, 13.

13 Silvia Federici, *Caliban and the Witch: Women the Body and Primitive Accumulation*. While Federici does not write of the distribution and redistribution of right, her history shows that one of the consequences of the shift to wage labour, granted to men, was also a shift in the distribution of rights, not least as it reorganised structures of economic inter-dependency, circulation and the demarcation of productive from reproductive labours.

cannot be understood outside its interlocking and fiscal architectures of factory, household and nation. More recently, the household has been as central to the privatisation of risk and financialisation in the United States (and elsewhere) as it has been to Deng Xiaoping's economic reforms in China, the latter being for the most part underwritten by the 'household responsibility system' and household registration (or *hokou*).

That is, the speculative moments of capital accumulation are no less preoccupied with the household than do its crises invariably induce demands for a return to real or fundamental values. Put simply: expansive trajectories of capitalism often follow in the steps of lines of flight from conventional forms of exploitation (much like gentrification); but crises of confidence incite a falling back to genealogical lines. In other words, the great insight of the *Operaisti* readings of Marx which focused on the question of class composition – that the struggles against exploitation are prior to and shape new forms of accumulation, the composition of new markets, regulation and means of extracting wealth – has to be accompanied by closer attention to the specifically genealogical character of the persistence and/or re-imposition of capitalism, that is to say, of particular forms of sociality that are also the modes for the legitimate distribution of property and right (just as, I suggest below, Marx attempted to do). Unlike D'Emilio, then, I want to insist that capitalism is no more essentially deterritorializing than that it can survive across time and extend across space without the periodic restoration of limits. Genealogy marks those limits. And, it does so more emphatically, and often violently, in its most precarious moments and spaces – in those instances (to transpose a phrase from Stephen M. Best) of “value's incertitude.”<sup>14</sup> Genealogy inscribes and re-inscribes the lines of legitimate production and reproduction in the midst of their deepest contestation and uncertainty; that is to say: in those moments of the advent and spread of wage labour (which is also the formal de-legitimation of slavery); in frontier spaces that might be construed as intimate, figurative or geographic; in the crises that segue into restoration; and as a politics of recognition, with all that the latter presumes and claims about origin, debt, borders and identity. Genealogy is an integral part of recognition.

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14 Stephen M. Best, *Fugitive's Properties: Law and the Poetics of Possession*, 109.

It grounds – as Patchen Markell suggests of the politics of recognition – the excessive contingencies of action and interaction in the more or less fixed identities of characters who act.<sup>15</sup> And, it transforms, I would add, multiple and irreducible relations into contractual identities.<sup>16</sup> Put another way, genealogy recognizes to whom and what we owe our existence.

That said, to invoke genealogy is, of course, to evoke the writings of Foucault – and, it might be added, to run against the grain of genealogy’s canonical re-definition as research methodology. Foucault’s reading of Nietzsche is as oblique as it is ambivalent. Construed as method, Foucauldian genealogy is said to trouble genealogical order while nevertheless situating lines of descent and emergence. Genealogy was Foucault’s response to criticisms of his archaeological method, with its proposition of radical discontinuity, as much as it amounted to a critique of continuous, linear historiography. But that it goes by the name of a widespread practice that records origin and familial lines remains to be explained; as does his recourse to Nietzsche, for whom genealogy was a means of distinguishing between presumably base and noble lineages, thereby signalling less a critique of genealogy than its redemption.<sup>17</sup> To be sure, in his reading of Nietzsche’s genealogy of morals, Foucault discerned “a field of entangled and confused parchments.”<sup>18</sup> Yet, just as whole disputes within Marxism turn on the question of whether Marx was doing political economy or undertaking a critique of political economy, the question here might be similarly posed. As noted in the previous chapter, Foucault’s reading of Duménil / Apollo for his 1982-83 lectures adopts the conventional definition of genealogy. In her explanation of Foucault’s support for the 1979 Iranian Revolution alongside a critical reading of his concurrent lectures on neoliberalism, Cooper argues in fine detail that this conjuncture leads him “to retrieve a deeply nostalgic ethics of the noble, patriarchal household, one which maintains a

15 For a more detailed reading of this in relation to specific legal cases, see Teemu Ruskola, “Gay Rights versus Queer Theory: What Is Left of Sodomy After *Lawrence v Texas*?”

16 Patchen Markell, *Bound By Recognition*.

17 Nietzsche, *The Genealogy of Morals*. For more on this, see Pecora, *Households of the Soul*.

18 Foucault, “Nietzsche, Genealogy, History,” 139.

strict order of hierarchical relations between husband and wife, free citizens and slaves.”<sup>19</sup> In previous chapters I have discussed the limits of Foucault’s account of genealogy. In this regard and in this chapter, I suggest that it may well be necessary to make a little more and a little less of Foucault’s method: to link it far more specifically to issues of identity, debt, re-/production and origin; and far less obliquely to an analysis of borders, property and rights.

## THE LIMITS OF RIGHT

It is not difficult to discern the limitation of rights in their most ardent of advocates. The distinction between foreigner and citizen permeates the question of rights and their material distribution, just as it does in its more utopian moments. Rousseau cannot think of rights without making the accident of birth and residence into an implied gesture of assent – an assent presumed, thus preparing the way for the treatment of citizens as if they are foreigners when they dispute sovereignty’s reign. Those who do not accede to sovereignty while remaining within its purview become, for Rousseau, “foreigners among citizens.”<sup>20</sup> This is the pre-emptive border of the social contract, and all problems of democracy will be solved by relocating the border (redefining, that is, who belongs, or no longer does, to the *demos*). Moreover, the very thought of rights and democracy at their most absolute will have occasion to insist on their limitation – or, their end, as Sarah Kofman remarked of Spinoza, “whose death left his *Political Treatise* unfinished precisely at the moment he was about to deprive women of all political rights.”<sup>21</sup> The final chapter of the *Treatise*, as is well-known, asserts the exclusion of foreigners, slaves, women and children from the political sphere. Yet this is not a mere question of a series of identities who, for reasons extraneous to democracy’s ideals, have been excluded from the rights of citizenship – and who might therefore look forward to democracy’s more perfect unfolding in their recognition or, as Hardt puts it, in “recognizing again what democracy

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19 Cooper, “1799.”

20 Rousseau, *The Social Contract and Other Later Political Writings*, 7.

21 Sarah Kofman, *Selected Writings*, 74; Spinoza, *A Theologico-Political Treatise and A Political Treatise*, 386-87.



is and what it could be.”<sup>22</sup> Nor is it a matter of the interruption of capitalist development by pre- or non-capitalist prejudices. On the contrary, this confluence of foreigners, slaves, women and children is, I would suggest, a question of genealogy, of the authentication of power through origin-stories and their transmission, as fact and naturalised foundation, into the future. And, as Povinelli has argued, “in being democratized, the genealogical grid has become more vital and real to the political order,” central to the arrangement of state dispensation, welfare and protection.<sup>23</sup>

In a political-economic register – and bearing in mind the question of the swing between democracy and extra-legal violence I opened this chapter with – this is the problem of the legal form of value, of its imposition and perseverance. In his commodity exchange theory of the law, Evgeny Pashukanis put the problematic in terms of the continual re-foundation, through violence, of the legal form of value. “Legal obligation,” he wrote, “can find no independent validity and wavers interminably between two extremes: subjection to external coercion, and ‘free’ moral duty.”<sup>24</sup> In its schematics, this echoes Benjamin’s argument in his “Critique of Violence,” elaborated since in various ways by Agamben, Achille Mbembe and others.<sup>25</sup> There, the dilemma is that of a periodic swing, in Benjamin’s words, between law-making and law-preserving violence.<sup>26</sup> Put differently, this is the problem of an oscillation between a juridico-commercial emptiness and a totalitarian plenitude, between, in other words, the citizen and the subject, by turns more or less empty or more or less absolute. That is, these understandings point to the eminent questions of political economy: of (contractual) exchange conceived as *the* form of relation; of productivity as its premise and promise; and of the subjective homologies of marital, wage, social and fiduciary contracts that find their strictest form in the itemising of the Fordist family wage. In commentary on the most recent financial meltdown (most notably in the calls to return to supposedly ‘real’ productive

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22 Hardt, “Jefferson and Democracy,” 41.

23 Povinelli, “Notes on Gridlock,” 218.

24 Evgeny Pashukanis, *The General Theory of Law and Marxism*, 165.

25 Achille Mbembe, *On the Postcolony*.

26 Walter Benjamin, “Critique of Violence.” Mbembe, *On the Postcolony*.

activity against speculative excess), these questions appear as the crisis of value's foundation.

Yet if a formal analysis of the dynamic that characterises the move to legal violence threatens to slide from a description of the indistinction between the rule of law and the state of exception toward political indifference (notable in Agamben's claim that "all men are potentially *homines sacri*"),<sup>27</sup> Hardt and Negri's insistence on the "productive dimension" that they consider as fundamental to their politics tends to cast – to borrow Brett Neilson's phrase – "constituent power as an undisputed origin."<sup>28</sup> It is this positing of a seemingly unchallenged origin (of value) – or, better: the attempt at its definition and re-inscription (and in the midst, I would underline, of disputation and uncertainty) – which begins to explain the *differentia specifica* of the turn toward a legitimated (if not strictly legal) violence, or explains what is at stake in this turn. Nichole E. Miller has shown that, for Agamben, "gendered acts of violence form a dimension of the state of exception that remain largely unexamined." I would suggest that in Hardt and Negri's writings, as well as in Agamben's, the specific violence legitimated around gender, citizenship, sexuality and race becomes something more than, to use Miller's phrase, "a dismissable plot device."<sup>29</sup> For instance, in Hardt and Negri's writings the violence involved in the policing of migration is, for them, resolved in the proposition of absolute democracy; while the account given of affective and precarious labour is finessed into the figuration of a multitude magically emptied of conflicts around questions of sexuality, gender or race. This inclination to shift the question of rights into a generalised figure of right is premised on a labour theory of rights that modifies the problem without confronting the persistent recapitulation of contractualism that is required in the assumption of a bond between labour and right. The foundational, ontological status accorded to production and reproduction restates the genealogical terms of political economy. Dispensing with the question of how labour comes to be recognised as such, Hardt and Negri's affirmative

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27 Agamben, *Homo Sacer*, 84.

28 Brett Neilson, "Potenza Nuda? Sovereignty, Biopolitics, Capitalism," 77. Hardt and Negri, *Multitude*.

29 Nichole E. Miller, "The Sexual Politics of Pain: Hannah Arendt Meets Shakespeare's *Shrew*," 20.

productivism is the mirror-image of Agamben's passive politics; neither steps outside a genealogical framework. Yet as I have argued here, the innovations in forms of control, which translate genealogical attachments and identifications into right – and, thereby, both the possibility of its revocation or the reckoning of its lack, as Wendy Brown argued<sup>30</sup> – pivot on the transformation of contingency into necessity. These innovations do not amount, as Agamben might suggest, to the tragic dispersal of control or loss; nor do they indicate, as Hardt and Negri suggest, the triumphal advance of the multitude's productive capacities. In one respect, this is the problem of the generation of quantitative values from qualitative ones. But the labour theory of right, and the labour theory of value that stalks it as its ironic critique, which understand this problem only through the conflation of contingency and labour, tend to resolve complex and irreducible flows into the figural claims of original creation. To pose this as a problem of the transformation of labour into labour-power presupposes that it is possible to know what labour is before and beyond the encounter with the machinery of its quantification. This may well bolster the shaken confidence of knowing – as a matter of the distribution of the wage, in the very definition of legitimate labour in its distinction from slavery, or in the explanation of quantitative difference by way of some essential qualities of man – to whom and to what we owe our existence. But it also projects the present into an idealised future. In other words, the labour theory of value, *as a production theory of value*, becomes the seemingly conclusive and indisputable origin of justice, debt and right.

## REPRODUCING RACE

And so, without faith that this mythical origin contains an inevitable and idealised destiny, rights are contingent, and will remain so. In "Queer Loving," Somerville argues that the predominance in the United States of a liberal discourse of inclusion depended on an optimistic rendition of the progressive advance of civil rights, "a reading that moves gradually from discrimination against minority groups toward the fulfilment of an idealized democracy."<sup>31</sup> To this insight I would add that

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30 Wendy Brown, "Wounded Attachments."

31 Siobhan Somerville, "Queer Loving," 335.

there would be no way to think of race, or a people, or a nation without the ordered inscriptions of genealogy, just as it is not possible to think of the persistence of any of these over time without invoking a normative economy of sex, gender and sexuality. Played out along boundaries of East and West, through the affiliations of anti-imperialism and human rights, and at the line that separates the privacy of the household from the gaze of the street, much of what occurred in Belgrade – as the city it has come to be in relation to cities elsewhere – turns around the tense knots that bind the familial to the national, and, therefore, that connect sex and desire to race and re-/production. Something of this was noted in the statement from the Open Assembly of Solidarity, as they called for protests against the prohibition of Belgrade Pride outside the Serbian Embassy in Athens. Cutting across but also through the nervous lines of familiarity, their statement reads:

The ideology of ethnicity, of racial purity and supremacy, arms the violence against anyone who does not conform to nationalist dogma. Those who do not align themselves with the vision of nationalism are attacked because their life-practices refuse to reproduce the values responsible for the structuring of an ethnic identity. For us this is of course a very familiar characteristic of Greek society, where institutions like religion and the nuclear family are the ones that support ‘national coherence’. Identities like the ‘good patriot’, the ‘faithful orthodox’, the ‘greek mother’ and the ‘virile man’ are constructed according to institutional and social mandates and it is them that safeguard social norms.<sup>32</sup>

Weinbaum calls this the race/reproduction bind. She argues that the “interconnected ideologies of racism, nationalism,

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32 “Greece-Serbia: United In Nationalism and Homophobia,” *eng. belgradepride.rs*. Queerbeograd’s statement, after a street party in 2008 was attacked, reflected upon similar themes: “this violence is a result of politics of war, clericalism, nationalism, militarism and machismo that has been mainstream politics in Serbia during last 15 years.”

and imperialism rest on the notion that race can be reproduced.”<sup>33</sup> Some time ago, Balibar also emphasised the “central importance of the criterion of genealogy,” characterising it as “a symbolic category articulated to relative juridical notions and, first and foremost, to the legitimacy of filiation.”<sup>34</sup> And so, just as it is not possible to dismiss what occurred in Belgrade with gestures of indifference – to allow filiation to relegate criticism to behind the closed doors of the familial home of anti-imperialism, and confine public statement to declarations that this kind of thing happens everywhere – neither is it possible to suppose that it might have been averted with a better recognition of rights. Indeed, the prevalence of pink versions of national flags from Pride marches in London to Mardi Gras in Sydney, along with the prominence given to the involvement of military and police at such events, makes nationalism more than a pre-condition of the demand for rights – it literally defines them. Given the eminence of this, alongside the political importance given to calls for the legalisation of gay marriage, adoption, or access to reproductive technologies, whatever rights these seem to accomplish, they also amount to overwhelming displays of re-/productive allegiance. This is a version of what Halley referred to as the internalization of the closet, a re-attachment to the dictates against wayward and unproductive desires.

## FRONTIER EXPANSION

Rituals of obedience are no more emphatic than where that loyalty is at its most suspect, where desire and the future must contend with the most vagrant and fugitive of prospects, and the legal form of value with the problem of its re-inscription or imposition. In other words, origin and lineage are nowhere more disputed and uneasy than in the frontier – which is to say, nowhere a more unmistakable terrain of conflict than in the very moment of the establishment of the contractual conventions that put a distance between capitalism and feudalism (such as those which distinguish a labour – ostensibly – freely contracted from that appropriated by coercion) and therefore nowhere more emphatic a proposition than

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33 Alys Eve Weinbaum, *Wayward Reproductions*, 4.

34 Balibar, “Racism and Nationalism,” 56.

in the qualitative distinctions of race that marked the purportedly heritable properties of either condition. What Warren Montag has called “that admittedly bizarre impasse at which [... Spinoza’s] *Tractatus Politicus* halts so abruptly”<sup>35</sup> turns out to be the problem of assuring genealogical order. Spinoza’s dilemma, as I read him, is that women are “weak,” and that men “generally love women merely from lust,” and thus are very “ill-disposed” “to suffer the women they love to show any sort of favour to others, and other facts of this kind.”<sup>36</sup> This, in short, is the danger of wayward desire, the *con-* and *tangere* (the *with* and the *touch*) that is reducible neither to origin (dialectical or otherwise) nor to to a determinate end. Along with the injunction against unproductive desire, these are the assumptions that separate and join spheres of intimacy, politics, labour, sex, communication; that gender the attributions of activity and passivity in the drafting of contractual subjectivity. It is the move that disavows desire in politics, and in so doing politicises desire by insisting upon the mastering of one’s body and the productivity of its potential issue. This tension between the private and the common (in other words, between the jealous privatisation of women as the object of desire and women as the common property of men) to which Spinoza alludes, forms the template of contract theories, whether those of the marital, wage or social contract, and brings to the fore all the gendered senses in which the categories of active and passive (citizenship and sexuality) are constructed and remade. In this respect, there is a nexus rather than antagonism between the private and the common.

In any case, it is little wonder that both Balibar and Montag, in reading Spinoza to this point, begin to think about the trans-Atlantic slave trade. There is, very simply, no way to think of sexual economies without speaking, also, of the organisation of race, though the connection is less metonymic or homologous than that they are both crucial to the inscriptions of genealogy, the legitimate transmission of property through name. More curious is Hardt’s argument that the Left should not “abandon the claim to identifying its legacy” in the Jeffersonian tradition. Not quite a dismissal of the criticisms of Jefferson, Hardt nevertheless sets aside their specificity

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35 Warren Montag, *Bodies, Masses, Power: Spinoza and His Contemporaries*, 387.

36 Spinoza, *A Theologico-Political Treatise and A Political Treatise*, 387.

—“his ownership of slaves, his unacknowledged sexual relationship with one of those slaves, his drive for westward expansion that extended plantation slavery and usurped Native American lands”<sup>37</sup> — as if they are not all about the authentication of inheritance, legacy, legitimate filiation. The ostensible performativity of gender and sexuality — redefined by Hardt and Negri as proof of the productive power of the multitude — finds its limit-point and fundament in genealogical conditions of political legibility, it would seem. Undoubtedly, Jefferson can seem progressive. He defended “inter-racial” sex. But it is not simply that, for Jefferson as for others, the distinction between the master’s legal and bastard children (and its authorisation of property) remained intact. More significantly, for Jefferson racial “mixing” amounted to modernisation — that is: the cultivation of properly *American* gender roles among natives and slaves.<sup>38</sup> Put another way: the household (reproductive) architecture of a Jeffersonian domestic economy required common law’s experimental inclination and its scalable contracts. In the frontier, sovereignty and canonical law gave way to fraternal democracy and common law.

This empire was constituted, above all, by its movement across the unpredictable environment of the frontier, and it was the confluence of the household and frontier finance which served as its most effective machinery of intensive and extensive elaboration. Moreover, contrary to understandings of empire which imagine it almost entirely through a continental European model of domination or homogenisation, the empire that pushed through frontier spaces was forged by oceanic expansion and common law, by a very specific mix of military strategy and legal form. Rule Britannia borrowed from piracy (and made legitimate pirates of some) in order to secure its rule of the waves. Common law, with its reliance on case law, unfolds through a subtle play between precedent and approximation — or, put another way, common law navigates power through repetition and variation. The frontier furnished the household as the elaboration of an architectural and intimate dynamic through which limits were escaped and restored. Situated across the hyphen between politics and economics (which is to say: as the means by which law makes markets),

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37 Hardt, “Jefferson and Democracy,” 43.

38 Brian Steele, “Thomas Jefferson’s Gender Frontier.”

in the frontier, the household attained a plasticity and portability that confound European understandings of empire and flight. But it is the heteronormative household that determined, through precedent and approximation in common law's unfolding, the extent to which property, contract and credit were recognized, considered as heritable and therefore guaranteed across time. It is this conjuncture – perhaps since William Blackstone articulated empire's horizon as that of an increasingly “incorporeal hereditament” – through which “grand ends” are sought by “steadily pursuing that wise and orderly maxim, of assigning to every thing capable of ownership a legal and determinate owner”<sup>39</sup> at the moment of its greatest ontological uncertainty.

Here, Somerville's reading of U.S. legal history is pertinent. Her striking point, discussed in the connections between heteronormalisation and the legitimization of ‘inter-racial’ marriage, is that progressive narratives charge identity with authenticity and install comparison. And so, while there have been attempts to move beyond the discrete arrangement of identities (as in intersectionality studies), “our knowledge still tends to be organised through analogies naturalized in the context of identity politics, including the notion that sexual identity is in most ways, or at least in the most salient ways, like race.” Following the arguments made by Halley on the incomparability of non-normative sexualities and race, Somerville illustrates how the legitimization of “interracial marriage ... has been accomplished in relation to its thorough heterosexualization.” What connects race to sex, however, is also what can pull them apart. Somerville writes that where “monogamous marriage was assumed to produce an unadulterated line of descent, adultery was imagined as the potential pollution of bloodlines ... thus scrambling the inheritance of property relationships and status.”<sup>40</sup> Stanley's history of wage and marriage contracts in the wake of the abolition of slavery is a remarkable illustration of the nexus between the right to sell one's labour and coverture. As she shows in her research, common law upheld the freedom of the wage contract simultaneous with its insistence on the sexual subordination of women in the marriage contract, while the rhetoric and practice of slave emancipation was often presented

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39 William Blackstone, *Commentaries on the Laws of England*. Vol. 2, 15.

40 Somerville, “Queer Loving,” 335-54.



as the right of freed male slaves to partake of domestic authority.<sup>41</sup> In a philosophical register, contractual right appears here as derived from masculinist virtue and the fantasy of *potenza* – and far from common law being the basis for an anti-capitalist politics (as Negri has advised),<sup>42</sup> it has been central to the flexible expansion of empire. More specifically, the common is, by definition and in practice, shadowed and underwritten – to borrow a phrase from Fred Moten and Stefano Harney – by the undercommons.<sup>43</sup>

In any case, the household was never peripheral to American imperialism. It was, on the contrary, the space through which the legal form of value was defined and imposed. After all, it is at the frontier that the boundaries of property law and its tenure unfold, that legitimate labour (the very distinction between wage labour and slavery) and authorised reproduction (as with the master's legally recognized and bastard children) are decided. The egalitarianism of a diasporic sovereignty situated the household as the intimate sphere of a sentimental and self-managed equivalence. It is this household that would become the efflorescent machinery of that sentiment's limits and their multiplication. With its attendant claims of inheritance, labour and right, the Jeffersonian domestic economy envisioned perfect symmetries of contractual reciprocity. And so, in the violent positing of the frontier as a space of exploration, cultivation

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41 Stanley, *From Bondage to Contract*.

42 See Negri's remarks on "Anglo-Saxon law" and the common in *Goodbye Mr Socialism*, with Raf Valvola Scelsi, 46-47. Moreover, for Hardt and Negri, the distinction between border and frontier – and the ascription of the latter with a positive political value: the "boundless frontier of freedom" and "frontier of liberty" – is pivotal to the presentation of "absolute democracy" as a desirable political strategy, and their uncritical take-up of the English common. On this, see *Multitude*, 406 and 169. More specifically perhaps, there is a longer discussion Stanley's research raises about the loss-compensation thematic (as in the relation between the relatively higher Family Wage and assembly-line production), or the broader sense in which capitalist injustice has often been described as the alienation of masculinity – or, as Negri puts it more recently, castration ("The Eclipse of Eschatology: Conversing with Taubes's Messianism and the Common Body," 41).

43 Fred Moten and Stefano Harney, "The University and the Undercommons – Seven Theses."

and the extraction of wealth – in the scarcities that are obliged as precondition and condition of a market in labour, in the criminalisation and recapture of fugitive and wayward re-/production and, not least, in the ambivalent play of the value form's genera as simultaneously universality, hypostatization and arbitrage – there would be a periodic recourse to the naturalising magic of genealogy to settle matters of orderly progression and authenticity. It might be noted, here, that Somerville's analyses around the heterosexual condition of "inter-racial" sex turns around the pivotal legal case of *Loving v. Virginia* (1967). There, the Lockean social contract, with all the elasticity afforded by common law as it moves out across the frontier, is given form in the re-ordering of the marital contract. As Chief Justice Warren wrote in that ruling: "The freedom to marry has long been recognized as one of the vital personal rights essential to *the orderly pursuit of happiness by free men.*"

### QUEER VALUE?

The connections between the putatively abstract schema of money and the apparently particularistic organisation of an oikonomics are neither incidental nor sporadic. What passes for legal tender is a convention for the reckoning of debts – and a legitimated violence steps in where convention falters. Without "the guarantee of power," as Mark Osteen puts it, "counterfeit and genuine currency are identical." Following Georg Simmel and Jean-Joseph Goux, Osteen goes on to note that "the money economy depends upon a form of faith or credit in the authenticity and power of the existing political order, a supranational standard that resembles both the 'aura' surrounding original art and religious faith."<sup>44</sup> Osteen is concerned with the formal concurrence of literary and economic values, as is Will Fisher in his treatment of the etymological proximity of "queer sex" to "queer money," their shared connotations of counterfeit and forgery. Fisher, for his part, notes that "unnatural sexualities and unnatural economies were coded through each other,"<sup>45</sup> though mostly alludes to

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44 Mark Osteen, "The Money Question at the Back of Everything: Clichés, Counterfeits and Forgeries in Joyce's 'Eumaeus'," 828.

45 Will Fisher, "Queer Money," 15.

the productivism that, in political economy, has long served to define what is natural and, therefore, to specify the line between fake and real. Gayatri Spivak some time ago argued of Goux's approach that it implied a false analogy between cultural and economic value or, as she put it, between consciousness and labour-power. It is not clear what the stakes were in insisting that such things as inheritance "in the male line by way of patronymic legitimacy" might be viewed as "attributive and supportive" but "not analogical." As she goes on to remark of the connections between subjectivity and the money-form, genealogy lends "the subject the attributes of class- and gender-identity."<sup>46</sup> If Spivak does not use the word 'genealogy' in this instance, I would nevertheless underline her use of the term "lend." Legal tender is a species of debt, and debt is organised on a contractual basis. Debts are guaranteed by violence, whether implied or deployed. Most notably, the US dollar has circulated as the *de facto* global currency because it has been accompanied, since the Second World War, by an as-yet unmatched global military reach. This is not a question of deciding between materialist and idealist predications of the subject but of considering subjectivity as the internalisation of force as habit or its dissemination as convention. That the materiality of action exceeds identity means that there is an ever-present possibility of resorting to violence to secure against a similarly persistent waywardness of desire and fugitive debt. The swing, to refer back to Pashukanis' formulation, between subjection to external coercion and freely assumed moral duty pertains to legal obligation, including that of money. In other words, considered as a question of actually-existing capitalism, there is a complex meshing between the processes of production and reproduction, those of production and circulation and, not least, those circumstances which turn around the question of how to expand or intensify surplus labour as a question of class re-composition. Even as Spivak does not elaborate on these "scattered speculations," the concept of affectively necessary labour she uses is suggestive of what Patricia Clough and Jean Halley refer to in more recent times as the "affective turn" in the humanities and social sciences.<sup>47</sup> What is pertinent to this

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46 Gayatri Chakravorty Spivak, "Scattered Speculations on the Question of Value," 75, 80.

47 Patricia Ticineto Clough and Jean O'Malley Halley, *The Affective Turn*:

chapter – and elaborated in the subsequent one – is the argument regarding the indistinction between intimacy and economy that plays out, among other things, as the expectation that women who work (whether in private or public, paid or not) deliver a labour that has affective purchase, circulating as an extension of (rather than refusal of or indifference toward) care-giving domestic labour that has to appear as if it is not work at all, but freely and naturally given.<sup>48</sup> The question of surplus labour and its channelling – its distribution along and through oikonomic lines – is pivotal. The expansion of surplus labour that is implied in the expectation of a labour freely given – that which is seen as a naturally constituted debt, as with slavery construed as an attribute of blackness, or unpaid domestic labour regarded as a property of femininity; or that form of indebtedness apparent in the emergence of the infinite wage contract I refer to elsewhere – has always been the central logic of capitalist re/production. In this, the wage has historically indicated the shifting lines of compensatory exclusion, hierarchy and recognition.

In his elaboration of a “queer marxism,” and in discussing the shift from Fordism to post-Fordism, Kevin Floyd argues that whereas in the former “accumulation was highly dependant on the corporate and governmental construction of a certain kind of social stability,” in post-Fordism, “accumulation [is] increasingly dependant on *social instability*.”<sup>49</sup> The problem with such an account is that it mistakes an ever-present dynamic for an epochal shift. This is not to suggest that nothing has changed. On the contrary, it is to insist that what has changed is that the boundaries which once organised and displaced uncertainty have been under challenge by socio-political movements over the last fifty years, such that the seemingly increasing presence of uncertainty as norm (which is to say, in core metropolitan countries) generalises the valorisation of risk, or worse. I come back to this shortly, but note here that of greater significance in Floyd’s analysis

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*Theorizing the Social.*

48 Leopoldina Fortunati has argued that reproductive labour is ‘the creation of value’ that ‘appears otherwise’ (*The Arcane of Reproduction: Housework, Prostitution, Labor and Capital*, 8). David Staples takes this up in relation to affective labour in “Women’s Work and the Ambivalent Gift of Entropy.”

49 Kevin Floyd, *The Reification of Desire: Toward a Queer Marxism*, 195.

is that he suggests Butler's discussion of performativity (not least in her presentation of citation as exemplary) presupposes the conditions of "skilled" labour and, at another point in his text, notes that there is an important correlation between the history of masculinity and that of "skill" that amounted to the performance of "patriarchal autonomy." Following David Roediger, Floyd notes that as industrialisation proceeded, transforming the experience of the putative freedoms of the wage contract to something resembling "wage slavery," it "became important for white male labourers to maintain a strong distinction between themselves and slaves." On Butler's theory of performativity, Floyd suggests that while it has been criticised for the absence of any analysis of the labouring subject, he nevertheless finds in it the possibility of theorising the specific conditions of post-Fordist labour. While he does not quite refer to recent debates over immaterial and cognitive labour, which nevertheless rapidly unravelled due to the Cartesian presumptions contained in these concepts, Butler's terms – such as that of citation – refer quite directly to the practices of intellectual labour. In the next chapter, I take up the issue of affective labour and post-Fordist transformations in work, but conclude here with some remarks about the ways in which sexuality is understood in relation to labour, and the performance of genealogy in relation to welfare.

## REPRODUCING LABOUR-POWER

In a discussion between Cesare Casarino and Antonio Negri on the latter's reading of Foucauldian biopolitics, Negri responded to the suggestion that he had omitted sexuality from the term by remarking that

I believe the concept of sexuality as such cannot be reduced to the game of sex, to the specific and determined historical arrangement of the game of sex – and, of course, Foucault never reduced it to that. Sexuality ... is the fundamental element of human reproduction. I intend reproduction here in its strict Marxian sense: labour power ... reproduces

itself above all through sexuality.<sup>50</sup>

But if this seems to echo D’Emilio’s argument (noted earlier) that capitalism requires the reproduction of the next generation of workers, the categories of and connections between reproduction, labour-power and sexuality are here presented ahistorically, as existing beyond their specific organization by (and appearance in) capitalism. Amplifying the re-/productivism of capitalism into a vitalist ontology of the multitude, Negri understates capitalism’s specificity, missing not only the non-genealogical aspects of Marx’s critique but also the ways in which much contemporary feminism grappled with (but did not universalise) the connections between a heteronormative sexuality and particular regimes of capital accumulation. In any event, labour-power is not an ontological category but a historical one, it is not reproduced by sexuality as such, but by particular forms of sexuality (reproduction) and understandings of production that are mutually reinforcing. For Marx, as he tracks down political economy’s genealogical fictions (and therefore, the legal ordering of right), the labour theory of value repeatedly appears in his writings as the ironic undoing of capitalist legitimization. But, in the “Critique of the Gotha Programme,” he recoils from the idea of “useful labour” as the condition of right, just as he insists that the ownership of (a feminised) “nature” by men is one of the principal conditions that gives meaning to words such as use value, labour, and so on.<sup>51</sup> In that criticism of the the draft programme of the United Workers’ Party of Germany, Marx wrote:

Labour is not the source of all wealth. Nature is just as much the source of use values (and it is surely of such that material wealth consists!) as labour, which itself is only the manifestation of a force of nature, human labour power. The above phrase is to be found in all children’s primers and is correct insofar as it is implied that labour is performed

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50 Cesare Casarino and Antonio Negri, *In Praise of the Common: A Conversation on Philosophy and Politics*, 147.

51 Marx, “Critique of the Gotha Programme.”

with the appurtenant subjects and instruments. But a socialist program cannot allow such bourgeois phrases to pass over in silence the conditions that alone give them meaning. And insofar as man from the beginning behaves toward nature, the primary source of all instruments and subjects of labour, as an owner, treats her as belonging to him, his labour becomes the source of use values, therefore also of wealth.

But if here the references to race and sex are implicit and naturalised, elsewhere he dismisses “fancied genealogy” as that which is required by “the incipience of monogamy.”<sup>52</sup> Moreover, whereas Engels reads Marx’s notes on Morgan as the discovery of an epochal and linear narrative, Marx (as Kevin B. Anderson shows) did not idealise the pre-capitalist condition of women, while also seeing in the “modern family” the “germ not only [of] slavery, but also serfdom.”<sup>53</sup> Far from restating the labour theory of right as moral critique, then, Marx suggests (in the “Critique of the Gotha Program”) that the “bourgeois have very good grounds for falsely ascribing supernatural creative power to labour.” The productivist vitalism that particular readings of Marx give credence to makes of labour something akin to a secularised version of godlike creation, but they also guarantee that recognition (as well as understandings of right, value and debt) will continue to play out along genealogical registers as a condition of their very intelligibility. Labour-power (the capacity and promise to re-/produce that capitalism is defined by) is, in short, a debt to labour – original sin cast as ontological foundation and end, as indifferent (in its abstraction) to what is re-/produced as it distinguishes what is rightful along genealogical lines. The conceptual schema of biopolitics (or biopower), however much it has elucidated, fails to grasp the specificities of this politics of the household. If life becomes the object of politics, it does not necessarily follow that the forms by which life is generated are to be assumed as given.

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52 Quoted in Engels, *The Origin of the Family*, 103.

53 Kevin B. Anderson, *Marx at the Margins: On Nationalism, Ethnicity, and Non-Western Societies*. Marx, quoted in Engels, *The Origin of the Family*, 121.

## REPRODUCING VALUE

Sue-Ellen Case astutely remarked that “[q]ueer sexual practice ... impels one out of the generational production of what has been called ‘life’ and history.”<sup>54</sup> But this does not necessarily mean that there are not significant instances where the reach for identity assumes genealogical forms. As I argue in the subsequent chapter, neoliberalism has entailed a greater emphasis on marriage and familial attachments. Yet while this points, as I suggest, to the shaky foundations of the oikonomic, it is nevertheless also the case that the genealogical re-appears in its modified forms. Along with the predominance of a re-/productive politics in mainstream gay and lesbian movements, the reassertion of the familial re-occurs in the most performative and risky arrangements of economic subsistence, play and attachment. While Butler has suggested that, in the case of the forms of relation depicted in the film *Paris is Burning*, the “rearticulation of kinship” might be grasped as the “repetitions of hegemonic forms of power that fail to repeat loyally and, in that failure, open possibilities for resignifying the terms of violation against their violating aims,” it can also overwhelm “the more fragile effort to build an alternative cultural configuration from or against the more powerful regime.”<sup>55</sup> Yet while it is in some senses the case that *Paris Is Burning* depicts “neither an efficacious insurrection nor a painful resubordination, but an unstable coexistence of both,” demonstrating “the painful pleasures of eroticizing and miming the very norms that wield power,”<sup>56</sup> I would add that the ways in which drag performances are organised through houses implies something more than the symbolic presentation of genealogical kinship, class mobility and conventional aspiration. In the ball house culture of drag families, predominantly composed of Latino/a and African American queers gathered around a ‘house mother,’ or ‘house father,’ the houses operate not only as the performative enactments of conventional gender and familial roles in a queer register. They are also the rather tenuous – though still deeply performative – enactments of contract and *oikos*.

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54 Sue-Ellen Case, “Tracking the Vampire,” 200.

55 Butler, “Gender Is Burning: Questions of Appropriation and Subversion,” 318.

56 Ibid, 392.



In his research on barebacking subculture, Tim Dean has suggested that the practice of ritualised viral transmission arose at the same time “mainstream lesbian and gay politics has been focusing as never before on the issues of marriage and family.” For Dean:

barebacking subculture ... signals profound changes in the social organization of kinship and relationality. ... sharing viruses has come to be understood as a mechanism of alliance, a way of forming consanguinity with strangers or friends. Through HIV, gay men have discovered that they can ‘breed’ without women. ... For some of its participants, bareback sex concerns different forms of life, reproduction, and kinship.

In barebacking subculture, the generation of the virus takes the place of reproduction. Viral consanguinity, Dean argues, came to assume the character of kinship precisely insofar as it was mobilised through forms of care, through communal households, during the early years of the epidemic. And yet, as Dean remarks, bareback culture “would be ethically troubling less for its radical departure from mainstream values than for its perpetuation of them.”<sup>57</sup> That is to say, it repeats the familial in the most risky of ways. This culture of breeding the virus composed itself not only as a question of generation and fraternal kinship but also invokes the contractual allocation of risk and the performativity of contract discussed previously. Writing on the figure of the “gay outlaw,” Leo Bersani has had occasion to refer more than once to Pascal. In one instance, he suggested that one might be drawn to attachments

not necessarily by desire but perhaps primordially by formal affinities that diagram our extensions, the particular families of forms to which we belong and without which we would

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57 Tim Dean, *Unlimited Intimacy: Reflections on the Subculture of Barebacking*, 84-87, 6, 58.

be merely the stranded consciousness hauntingly evoked by Pascal in the *Pensées*. Pascalian alienation is the separation of consciousness from the positioning of its own body within a universe of familiar forms.<sup>58</sup>

Elsewhere, he cited Pascal's aphorism: *Le moi est haïssable* (The self is detestable). In a more recent piece, Bersani has argued that barebacking partakes of an "ascetic discipline," whereas Dean had pointed to the "erotics of militarism" and a sacrificial logic as pervasive in bareback culture.<sup>59</sup> What I would like to suggest is that this 'return' of the Pascalian – what I would highlight as the performativity of sacrifice and gift in the contractual, the projective geometry of genealogy and common law, the transformation of contingency into the necessity of risk and its oikonomic allocation, the wager that presumes an infinite contract akin to covenant – is a version of neocontractualism. Paralleling the faith-based initiatives in welfare reforms in the United States (and elsewhere) – with their emphasis on community and the performativity of faith and contract – barebacking assumes the demeanour of a return to fraternal welfare and genealogy in the midst of what has primarily taken the form of the legal enforcement of marriage chiefly directed toward poor women.<sup>60</sup> In this sense, it is perhaps not simply that, as Bersani suggests, the crucial distinction between fantasy and reality has not been sustained in the masochistic economy of barebacking, but that it has been translated into the terms of a neoliberal *oikonomia* with such ease. The Foucauldian ethic of intimate self-management, apparent in both barebacking subculture and the theocratic systems of welfare that have gained ground since the Iranian Revolution he celebrated,<sup>61</sup> is inconceivable without the oikonomic demarcations of gender, sexuality and sex Foucault is generally presumed to have been critical of.

58 Leo Bersani, *Homos*, 121.

59 Bersani, *Is the Rectum a Grave? And Other Essays*, 15; Bersani, "Breeding Culture," 58; Dean, *Unlimited Intimacy*, 58.

60 On welfare reforms in the United States, see Amy Lind, "Legislating the Family: Heterosexual Bias in Social Welfare Policy Frameworks," and Anna Marie Smith, *Welfare Reform and Sexual Regulation*.

61 See Afary and Anderson, *Foucault and the Iranian Revolution*. See also Gordon and Filc, "Annihilating the Logic of Risk."

## GENEALOGY OTHERWISE

Throughout this chapter, the frontier has appeared as that which lies on the far side of the border. Not that space on either side of a border, but that which is perceived to be beyond clear jurisdiction: the not-yet bounded territory simultaneously figured as the prospect of new markets and traversed by lines of escape, the primal scene of capitalist accumulation and contract, a space yet to be colonized, without decipherable genealogies of property and right that would distinguish who deserves from who does not. Here, colonization should not be construed as dispossession (which would assume prior possession and its reckoning as loss) but rather as the processes by which the proper orders of capitalist property are installed or reimposed, shaped through reference to precedent and approximation, unfolded across new terrains by the peripatetic but often deeply contractarian subject. The frontier, then, signals the appearance of the intimately self-managed subject, escaping but with baggage. If there is an echo here of the thesis of American exceptionalism – invoked in their different ways by both F. J. Turner and Marx<sup>62</sup> – this is because the frontier recurs as the very problematic of *this* empire's persistence and expansion, in situations as diverse as a post-socialist Belgrade situated outside Europe proper and where intimacy, sexuality and forms of sociality have expanded beyond the familial household; which is to say: in all those instances where the legibility of property rights is (or has become) acutely uncertain. The frontier is, in this sense, a topological rendition of the dynamic of capitalist expansion beyond limits and their re-imposition. And, the re-imposition of limits, or the demand for re-foundation, is always a call for genealogical order. Whether the interrogation is – as it was in the opening parts of this essay – of the eruption of extralegal violence, or the call for a return to fundamental values, what is at stake is the restoration of genealogical lines, in their simultaneously sexual, legal and economic senses. In short, the recursion of an *oikonomia*. The question, then, is not how to instil pride, how to reckon debts, origin and filiation so as to secure recognition and the boundaries by which this is made to appear normal, folded back into the flow of rights, property and re-/production, but how (as D'Emilio argued) to expand and defend a non-genealogical approach

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62 Frederick Jackson Turner, *The Frontier in American History*.

to life. This requires a rethinking of biopolitics not by way of its negative (Agamben) or positive (Hardt and Negri) aspects, but according to its proximity to genealogical order. The question to be posed of both political and analytical practices is the extent to which they expand the conditionality of the genealogical or make other ties viable. What forms of generation – beyond the genealogical nexus of race, sexuality, citizenship, class and gender, that is, beyond the adhesions of desire to the re-/production of capitalism – might be furnished with plausible infrastructures in the composition of political demands for reform or movements for radical transformation? A politics of the household turns on that most materialist of propositions: we are how we live. What forms of attachment, interdependency, and indebtedness are being implemented, funded, obliged or simply and violently enforced; and what tender possibilities are foreclosed?

## ANNOTATION: INFRASTRUCTURE, INFRA- POLITICS

**If, in its historical and etymological senses, infrastructure was that which enables military movements, infrastructure today seeks to become adequate to movement as a relational and scalable problem.** In her often-classically rendered critique of Fordism, Arendt had insisted that politics is premised not on a subject (not on the *zoon politikon*, as Aquinas reading Aristotle would have it), but on the *infra*, the unassimilable plurality of that which lies between.<sup>1</sup> If she stumbled between the eternal ground of natality and the egalitarian virtues of Athenian democracy, she nevertheless noted that the conjuncture of common law and commonwealth illustrated that “the contradiction between the private and public ... has been a temporary phenomenon.” “Seen from this viewpoint,” she went on to remark, “the modern discovery of intimacy seems a flight from the whole outer world into the inner subjectivity of the individual,” which she understood in terms of an indistinction between public and private, the simultaneous absence of invisibility and the ubiquitous superficialities of community. Without referencing Arendt, Susan Leigh Star and Geoffrey Bowker had similarly suggested that “the relational quality of infrastructure talks about that which is between.”<sup>2</sup> For Stevphen Shukaitis, the infra-political describes a politics of (what Moten and Harney have called) the undercommons, “the liminal and recombinant spaces” that are situated besides and below the

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1 Arendt, *The Human Condition*.

2 Susan Leigh Star and Geoffrey C. Bowker, “How to Infrastructure,” 231.

institutionalised politics of the academy.<sup>3</sup> Keller Easterling recently argued that infrastructure is increasingly more than the concealed subtrata or “binding medium” of transportation, energy supply, water, and communication. According to her, it is also “pools of microwaves beaming from satellites, atomised populations of electronic devices and shared technical platforms,” or in more socio-cultural terms, it is “the overt point of contact and access, where the underlying rules of the world can be clasped in the space of everyday life.” These often “mobile, monetised networks” are the medium of politics, understood in its broadest and rapidly shifting sense.<sup>4</sup> As a business model, it is the online sales platform of Amazon – which, as James Bridle has argued, is neither bookshop nor publisher, but an “algorithmically managed infrastructure company.”<sup>5</sup> In business and in law, infrastructure is inclined toward interoperability and standardisation, which is to say, reproduction rather than generation or variation. As an economic-legal model, infrastructure is the introduction of labour contract law in China in 2008 that, as Eric Beck has suggested, is premised not on repression but instead on management through recognition and the formalised universality of right, the reorganisation of nodes, and the capture of movement.<sup>6</sup>

Whether understood as the organisation of conventions that enable economic or legal action to accomplish form, or as the very mattering of politics before and beyond a conventioned definition of the political, the infrastructural is not a question of who – who is it that might be the subject of revolution, the actor of politics, who is friend and who is enemy, and so on – but of how affinities take shape, or not. Indeed, the business model, jurisprudence and classificatory systems are preoccupied with the infrastructural precisely because they capture the relational aspect of action. Contracts, inasmuch as they are future-oriented bonds, are infrastructures that seek to crystallise the allocation of relational risk because connection is always contingent. The infra-political question, then, embraces the uncertainties of attachment

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3 Stephen Shukaitis, “Infrapolitics and the Nomadic Educational Machine,” and Moten and Harney, “The University and the Undercommons.”

4 Keller Easterling, *The Action is the Form*. Victor Hugo’s TED Talk.

5 James Bridle, “From Books to Infrastructure.”

6 Eric Beck, “China, Contracts, and Capture.”

in order to distinguish between, on the one hand, the putative certainties and calculable probabilities of a reproducible capitalist futurity and, on the other hand, the irreducible contingencies of relation that make worlds. Infrastructure includes and overtakes networks, platforms, architecture, sewage, road, bridge, logistics, communications, topology, diagnostic systems, algorithms, assemblages, diagrams, buildings, and flows. Infrastructure is therefore not the base that determines in the final instance, or it is much more and something other than substructure or medium. It is, more precisely, movement and relation as these *take form*.

*Infrastructure is the answer given to the question of movement and relation.* As an answer to the question of movement and relation, infrastructure is the “promiscuous infrastructures”<sup>7</sup> that have sustained the occupations and encampments of Tahrir Square, Wall Street, and Oakland. The infra-political builds toilets in homeless encampments in Sacramento; by-passes pre-paid water meters, trickler systems and privatised water piping in Durban; formulates vocabularies of reconfiguration rather than foreclosure and standardisation; delivers health care to noborder protests and undocumented migrants; creates phone apps for evading kettling by police in London; digs tunnels under national boundaries; and more – the infra-political, in other words, revisions activism not as representation but as the provisioning of infrastructure for movement, generating nomadic inventiveness rather than a royal expertise.

If the problem of repetition and classification emerges in infra-politics as it does in conventional infrastructural projection – as argued elsewhere in relation to the noborder camps<sup>8</sup> – it highlights the question that is at stake here, namely: is it possible for infrastructure to be a field of experimentation and variation rather than repetition of the self-same, to amount not to reproduction and therefore standardisation but, instead, to an ongoing and critical engagement with the *between*, what Jean-Luc Nancy has called the “being-with”<sup>9</sup> that might also be understood – particularly

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7 The phrase is borrowed from Anna Feigenbaum and the Creative Resistance Research Network’s discussions of protest camps.

8 See Mitropoulos and Brett Neilson. “Exceptional Times, Non-Governmental Spacings, and Impolitical Movements.”

9 Nancy. *Being Singular Plural*.

in the context of the increasing privatisation or familiarisation of infrastructure that Nancy rarely touches upon – as the *being-without?* Infrastructure, after all, is about how worlds are made, how forms of life are sustained and made viable. To think politics as infrastructural is to set aside questions of subjectivity, identity, demands, promises, rights and contracts, and instead to render visible the presumptions that the knots of attachment, adherence, care or fondness and have already been tied by nature or supposedly incontestable forms of connection (by kinship, race, money, sexuality, nation, and so on). The materialities of infrastructure render it the most pertinent political question there is. Everything else is distraction. Infrastructure is the undercommons – neither the skilled virtuosity of the artisan, nor regal damask, nor the Jacquard loom that replaced, reproduced and democratised them, but the weave.



#### IV.

## UNPRODUCTIVE CIRCULATION, EXCESSIVE CONSUMPTION

Infectious microbes do not recognize international borders.

– United States Ambassador, Wendy R. Sherman, “Emerging Infectious Diseases Are a National Security Challenge to the United States.”

Paradoxically coexisting with undernutrition, an escalating global epidemic of overweight and obesity – “globesity” – is taking over many parts of the world. If immediate action is not taken, millions will suffer from an array of serious health disorders.

– World Health Organisation, “Controlling the Global Obesity Epidemic.”

The West is experiencing an epidemic directly affecting a greater proportion of the population than did either the Black Death of the 14<sup>th</sup> century or the influenza epidemic that occurred [sic] during and after the First World War.

– Chris Forbes-Ewan, “The Obesity Epidemic.”

**In 1998, US Ambassador Sherman opened the State Department’s Forum on Emerging Diseases by listing the**

**ways in which infectious diseases [both old and new] impacted on, but also redefined, US national security, indicating the need, most notably, for “enhanced preparedness” and “a global surveillance response network.”** According to the US Department of State, these diseases challenged health and economic productivity, endangered political stability and economic development, while also constituting the basis for a potential threat of bio-terrorism.<sup>1</sup> As Cooper has argued, coming some four years after the announcement of Project Bioshield by the Bush administration, the conflation of suspected biological attack by terrorists and the problem of “resurgent or drug-resistant infectious diseases” enabled a significant slippage between “warfare and public health, microbial life and bioterrorism.”<sup>2</sup> But if the doctrine of pre-emption at this juncture seemed to reference an unprecedented turn in US security doctrine, as Alison Bashford and others have shown in a number of studies the conflation of migration policy, military defence doctrine, imperial policy and infectious disease management has a longer and wider history.<sup>3</sup> It is a history in which the connections between race, sexuality, gender and class converge around the question of forms of generation and the boundaries that secure the properly re-/productive from contagions both real and imagined. For Bashford, writing on what she calls “imperial hygiene,” the colonial management of race in the eighteenth and nineteenth centuries joined with public health policies to constitute the new boundaries of a racialised *cordon sanitaire*.<sup>4</sup> The turn to pre-emption, I would argue, is not simply an instance of the increasing significance of the speculative to the combined imperatives of security, public health and productivity, but of installing the pertinent limits to speculation as such. What Christian Marazzi has referred to as the pre-emptive inclination in which “[e]veryday productivity is increasingly determined

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1 Wendy R. Sherman, “Emerging Infectious Diseases Are a National Security Challenge to the United States.”

2 Melinda Cooper, “Pre-Emptying Emergence,” 113.

3 Alison Bashford and Claire Hooker, eds. *Contagion: Historical and Cultural Studies*; Bashford, *Medicine at the Border: Disease, Globalization and Security, 1850 to the Present*; Bashford, *Imperial Hygiene: A Critical History of Colonialism, Nationalism and Public Health*.

4 Bashford, *Imperial Hygiene*.

by the capacity to respond in unforeseen and unforeseeable situations”<sup>5</sup> marks an attempt to reimpose the distinction between the productive and unproductive, the surplus and the excessive, in the instances of both circulation and consumption. These distinctions are drawn and rearranged in contractual and prudential terms. And, if border control is once again viewed as an instance of public health measures against disease, so too with obesity, declared by the Centres for Disease Control and Prevention to be “a national epidemic.”<sup>6</sup>

This chapter looks briefly at the emergence of theories of contagion alongside the recent preoccupation with the “obesity epidemic”<sup>7</sup> (that links to a later discussion on thermodynamics and insurance). In doing so, I argue that whereas border control enshrines the distinction between productive and unproductive circulation in both a geographic and (particularly in the evocations of contagious transmission) intimate register, the attention given to the “obesity epidemic” signals the reconstruction of a demarcation between excessive consumption and productive surplus. Moreover, both the recent epidemiological view of the border and the panic about obesity indicate the resurgence of the question of intimate self-management in the pre-emptively imagined form of the ‘at risk’ and the potential threat.<sup>8</sup>

In both the “obesity epidemic” that was announced by various governmental and international bodies in the late twentieth century and the panics around border crossings which occurred over the same period, ‘globalisation’ loomed large as the condition of the threat and served to legitimate the depiction of nation-states as an organic entity. In the “obesity epidemic,” the issue was explicitly cast as one of the national body’s health and productivity. In the case of

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5 Christian Marazzi, *Capital and Language: From the New Economy to the War Economy*, 25.

6 Centres for Disease Control and Prevention, “The Obesity Epidemic.”

7 The literature on this is vast, suffice to note the World Health Organisation’s project announced under the heading of “Controlling the Global Obesity Epidemic.”

8 As an example of this, see Youfa Wang and May A. Beydoun, “The Obesity Epidemic in the United States - Gender, Age, Socioeconomic, Racial/Ethnic, and Geographic Characteristics: A Systematic Review and Meta-Regression Analysis.”

migration policy, it had long been a matter of self-evidence that it is an instrument of hygiene, quarantine and immunisation; which is to say, that borders are there to protect life itself, that they trace the contours of organic entities such as the body politic,<sup>9</sup> bio-sovereignty, the English Way of Life, and so on. According to this view, migration control is a question of public health and social order, and undocumented or poorly regulated migration in particular poses a significant risk to life as we know it. Welfare and warfare conflate in bio-security, defined as preparedness for the protection of “national agricultural productivity” and “national natures” against exotic biological threats.<sup>10</sup> In migration, the most obvious figure here, of course, is the disease-bearing migrant, the foreign germ. Such a figure has a long and complicated history. This is Priscilla Wald, writing of Mary Mallon’s treatment at the beginning of the twentieth century, dubbed by the media and government agencies as Typhoid Mary:

The discovery of human vectors of disease fleshed out the contours of contact phobias, explaining the easy enlistment of typhoid in the discourse of ‘race suicide.’ Typhoid epidemics typically struck the affluent as often as the destitute. Thus they served as a convenient analogue for the extinction of the white race that was to attend the competition offered by the cheap labour of migrants ... Physically and economically, in other words, white middle-class America was under siege.<sup>11</sup>

In other words, notions of public health and the history of migration policy have been closely intertwined since their introduction. Panics about contagion invoke race, class, sex, sexuality, border politics, colonial history and the post-colonial, all at once. In Australia, the relatively recent mandatory internment of undocumented migrants emerges from the long history of quarantine

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9 The conflation of bodies and the body politic is a Hobbesian invention.

10 Ali, S. Harris, and Roger Keil, *Networked Disease: Emerging Infections in the Global City*.

11 Priscilla Wald, “Typhoid Mary’ and the Science of Social Control,” 191.

confinement, as Bashford and others contend, as much as it does from the similarly long history of wartime or exceptional powers.

Yet the more recent claims of an “obesity epidemic” are similarly oriented toward the apprehension of dangers to life as such, the contracually insecure boundaries of nation, gender and the labouring subject. Even if these hyperbolic regards for the movements and magnitude of bodies has a long history, it remains telling that Ronald Reagan, speaking in 1986 on the need for welfare reform in the wake of “a gathering crisis in our society ... a family crisis,” remarked that “babies born out of wedlock” are statistically “much more likely to have a low birth weight and, thus, serious health problems.”<sup>12</sup> While nutritionally poor food can result in either weight gain or loss, over the next decade it became clear in welfare reform that rhetoric needed to shift between suggestions of underconsumption to the charge of overconsumption in order to justify austerity. As Paul Campos et al have noted in the case of the putative “obesity epidemic,” “some medical experts have gone so far as to predict that growing body mass will halt and perhaps even reverse the millennia-long trend of rising human life expectancy.”<sup>13</sup> They go on to suggest that

Public opinion studies also show that negative attitudes towards the obese are highly correlated with negative attitudes towards minorities and the poor, such as the belief that all these groups are lazy and lack self-control and will power. This suggests that anxieties about racial integration and immigration may be an underlying cause of some of the concern over obesity. ... [Moreover, previous] work indicates that moral panics often displace broader anxieties about changing gender roles.

In their critique of the hypothesis of an “obesity epidemic” – subscribed to by the World Health Organisation, the

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12 Ronald Reagan, *Radio Address to the Nation on Welfare Reform*, February 15, 1986.

13 Paul Campos et al. “The Epidemiology of Overweight and Obesity: Public Health Crisis or Moral Panic?”

Organisation for Economic Co-operation and Development, and most metropolitan governments – they cite an article which states: “With most mothers working, too few adults and children eat balanced, nutritious, portion-controlled home-cooked meals.” In their apprehension of unsecured boundaries – simultaneously those of the nation-state, the gendered allocation of public and private labours, work and home, as well as those of race – the claims of an “obesity epidemic” highlight the epidemiological assumptions of a securitised oikonomics. While Campos et al regard these as highly “flawed epidemiological arguments,”<sup>14</sup> it is nevertheless the case that however baseless such claims might be in narrowly scientific terms, the structure of the argument remains an epidemiological one, even as it is articulated in a socio-psychological idiom. Epidemiology presupposes the existence of boundaries that, in turn, become naturalised through the use of its causal lens and are assumed to be in need of protection against microscopic infringement – whether those boundaries are posited as those of the body, of the self, of empire, populations, classes, race, or gender and sexuality. In the diffusion of epidemiology as a form of reasoning, the inclination is to heighten attention to the movements of the body, whether in the form of the dietary and exercise regimen or the movements of people across borders. The tendency here is toward the reorganisation of the performative inclinations of the body – not simply the detailed surveillance that is akin to Taylorism, but of an amplified behaviourism that, in recent welfare reform, recalls the Pascalian attentiveness to the materialisation of a speculative faith in the prudential and the actuarial in geographic and intimate registers. Moreover, the degree of surveillance in the case of migration<sup>15</sup> – from biometrics to the scanning of flight passengers for signs of cross-species influenza strains – is paralleled by that involved in the “obesity epidemic,” though the latter involves the wider application of self-managed metrics.

Further to this, if the theory of emerging diseases has occasion to focus on the issue of drug-resistant viruses and bacteria that proliferate in hospitals,<sup>16</sup> the “obesity epidemic” is similarly

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14 Ibid.

15 For a lengthier discussion of surveillance at the border, see Mitropoulos, “Signs of Life.”

16 Laurie Garrett, *The Coming Plague: Newly Emerging Diseases in a World out*

preoccupied with the potential consequences for health care systems and the allocation of budgets.<sup>17</sup> Yet, as Lauren Berlant has suggested, writing on both anti-depression and anti-obesity initiatives, such programmes often “orchestrate a translocal, collective environment for personal social change, involving families, friends, teachers, colleagues, and medical professionals.” She continues:

in both cases medicalization did not just mean privatization; and, for that matter, privatization itself is a rerouting of the relations of governmental, corporate, and personal responsibility rather than, as it often seems to be, the ejection of the state from oversight of the public good in deference to corporations. The Clinton and Bush administrations imagined this crisis and reacted to it within the norms of the social contract forged during the period of welfare-state liberalism of the 1960s.<sup>18</sup>

The campaigns against the “obesity epidemic” take place in the context of an increasingly privatised health care, that, nevertheless, remains animated by the state in its orientation, and one in which speculation is channelled along the parallel lines of the commercialisation of viruses and bacteria (as in the biotechnology and nanotechnology industries) and the ubiquitous logics of insurance and risk management. Here, the social contract is re-envisioned in increasingly intimate and behavioural terms that may well draw upon the expansive structures of the welfare initiatives of the 1960s that focused on ideas such as de-institutionalisation and community,<sup>19</sup> but

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*of Balance.*

17 Franco Sassi, *Obesity and the Economics of Prevention: Fit Not Fat*.

18 Lauren Berlant, “Slow Death (Sovereignty, Obesity, Lateral Agency),” 771-72.

19 There are parallels here with the use of Foucault’s work on intimate self-command in Critical Management Studies. In other words, insofar as Foucault’s critique of rights is not also a critique of the terms of intimate self-management, and therefore of the terms of the contractual, it gives way to a romanticisation of the autonomous subject (and ignores the significance of informed consent, workfare, the self-managed worker and similar

have their roots in the history of the insurance industry. By way of comparison, while the speculative aspect of migration (quite literally, the gamble of movement toward the possibility of a better life) is translated into an epidemiological framework of international risk evaluation and pre-emption, the panic about obesity is geared toward the reconfiguration of intimate self-control under the actuarial heading of “globesity” that has its origins in the determination of insurance premiums in the 1930s that were similarly premised on the prediction of future risk.<sup>20</sup>

Yet the current preoccupation with the “obesity epidemic” is predicated on the amplification of theories of human capital, articulated by Becker as constituting uninsurable risk. “Consumption capital,” he wrote in a paper on health as human capital, “in the form of good or bad habits and addictions, or in other forms, cannot be insured against by annuity markets.”<sup>21</sup> Even so, Becker offers a series of formulas for calculating the value and costs of epidemics and pharmaceutical markets, all of which unfold the logic of what he refers to as “the statistical value of life.”<sup>22</sup> It might then be noted that where migration policy translates the chance of movement into the prudential logic of risk assessment, often bundling together labour

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variants of neocontractualism).

20 On this last point, see Benjamin Caballero, “The Global Epidemic of Obesity: An Overview.”

21 Gary S. Becker, “Health as Human Capital: Synthesis and Extensions,” 389.

22 In the case of a possible outbreak of avian flu, Becker writes: “While this is an enormous loss, how much precautionary actions are justified depends on the probability of having such a serious pandemic. If the probability is 1/1000 of having a pandemic during the next decade of the same order of severity as the flu pandemic of 1918–19, then the expected worldwide loss in the value of lives would be about \$100 billion, which is big enough to justify hurry up efforts to develop vaccines and other protections. On the other hand, if the probability of such a pandemic is only 1/100,000, then the expected worldwide loss is only \$1 billion, and crash vaccine and other programs do not seem urgent. I leave it to the epidemiologists to supply information that could lead to credible estimates of what reasonable probabilities are.” “Health as Human Capital: Synthesis and Extensions,” 404, 407.



market policy<sup>23</sup> with those of health, welfare, education and security, the “obesity epidemic” transforms health into the combination of the logics of prudence and predisposition. These detailed modulations and redefinitions of contingency and necessity hinge on the contractual.

That is to say, both fields of governance are closely aligned to the history of rights discourse and practice, and the contractual in particular. The history of contagion shows that early attempts to theorise it grappled not just with medical and biological problems of disease but also, and perhaps even more sharply given the context of successive outbreaks of cholera in post-Revolutionary France, the boundaries and definition of the rights-bearing subject (and therefore citizenship) that emerged in that same period. Along similar lines, the claims of an obesity epidemic are significant for their preoccupation with failures of the will and with the enforcement of regimes of intimate self-management. If, in other words, the figure of the citizen was characterised as the bearer of rights, imbued with will and thereby capable of entering into contractual arrangements, early hypotheses of contagion were preoccupied with the spread of disease that, by contrast and on the face of it, indicated an absence of volition and demanded the circumvention of those newly-declared rights in the name of the management of public health. In other words, *while theories of contract were premised on will, it is in the claim of a failure of will that the question of performativity emerges as the field for reconstituting the contractual and its allocations of risk*. In the case of the “obesity epidemic,” the actuarial logic of pre-emption and denunciations of excess formed in the 1930s are increasingly tied to behavioural norms summoned by a pathology of the will. As Benjamin Caballero suggests, obesity is seen “as a disorder of individual behavior.”<sup>24</sup> Rogan Kersh and James A. Morone have illustrated the ways in which the health care policies of the United States increasingly focussed “not on avowedly public projects (such as building the health care infrastructure) but on regulating private behavior.” Discussing the increasing significance of the courts to health care, they note that

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23 As an instance of statistical reasoning in migration studies, see M. Alofs, “Migration Probability as an Incentive for Human Capital Accumulation When Information Is Asymmetric.”

24 Caballero, “The Global Epidemic of Obesity.”

the “explanation [for obesity] dating to the early twentieth century blames individuals for getting fat. They lack willpower.”<sup>25</sup> In the area of health policy, the inclination – particularly in the US – is to a widening application of tort law. While some would argue that tort law is distinct from contract law, the suggestion here is that it is the juridical form of the implied social contract of economics. That is, it is a species of contract rendered in economic terms, as the relation between buyer and seller.

In any event, Christopher E. Firth – writing of shifting understandings of masculinity as they appeared in fears of moral contagion in France in the eighteenth and nineteenth centuries – shows how moral contagion was thought to endanger economic productivity construed in explicitly masculine and heterosexual terms. According to Firth, the loss of selfhood implied by such contagion was construed as a form of feminisation. He writes: “Putatively equipped with firm wills and a strong sense of their own individuality, many contended that healthy men were able to resist being penetrated by external stimuli.” Theories of moral contagion were premised on notions of susceptibility that were arranged as properties of gender (specifically, masculinity and femininity), and which amplified panics about wayward sexual contact and the sharing of bodily fluids in an epidemiological register. These “notions of moral contagion depended upon a person’s susceptibility to the minute ‘corpuscles’ emitted by the bodies of others, which when absorbed by one’s own body facilitated the transmission of the moral qualities of the other.” While Firth goes on to show that, by the end of the nineteenth and in the early twentieth centuries, a hygienic movement organised around public health was predicated upon the shoring up of a masculine, impenetrable will, he nevertheless also notes that the “therapeutic ethos” at the beginning of the “twentieth century emphasised working the body as a means of overcoming crises of the will and resisting the power of moral contagion.” Noting that many health reformers of the time cited Rousseau’s claim that all “the sensual passions lodge in effeminate bodies,” Firth’s study, if implicitly, illustrates the ways in which theories of contagion involved a commentary on proper forms

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25 Rogan Kersh and James A. Morone, “Obesity, Courts, and the New Politics of Public Health,” 839-46.

generation, identity and contact,<sup>26</sup> in what, I would add, becomes a preoccupation with the movements of bodies.

If theories of contagion involved a particular, shifting understanding of the will, citizenship and rights in relation to the performativity of contract and its probabilistic allocation of risk, claims of an “obesity epidemic” have at the same time inspired a return to notions of virtue, in this instance defined as an interiorised ethics of diet, exercise and behavioural norms grounded in the history of actuarial science. “Fat, fitness, and related issues,” remark Kersh and Morone, “provoke images of vice and virtue.”<sup>27</sup> Citing Aristotle, John N. Burry suggested that “self-control of one’s own weight might be described as a form of bioethics,” proposing a BMI [body mass index] of 22 to 25 as “a ‘virtuous mean’ to which we should all aspire.”<sup>28</sup> The BMI is calculated by dividing a person’s weight by the square of his or her height. Christine Halse notes that it was the Belgian statistician, Adolphe Quetelet, who created the formula for BMI in the 1880s. She goes on to say that “the idea of a prudential, BMI norm has progressively colonized the policies, practices and procedures for measuring and documenting weight.” Quetelet, referred to by the science historian George Sarton as “the patriarch of statistics,” is famous for insisting that probabilistic reasoning could be applied to human life as a whole. It is Quetelet who, in the early 1840s, envisaged the field of social statistics and the category of “the average man.”<sup>29</sup> In any case, by Halse’s account, obesity has become a “metonym for laziness and ugliness,” the index of “some troubling physical or psychological pathology warranting oversight, discipline and correction.”<sup>30</sup> Quetelet’s understanding of statistical regularity echoed Hume who, in his discussion of the rise of the predictive arts of the state, remarked: “though many individuals may escape this contagion, and be ruled by passions peculiar to themselves; ... the multitude will certainly be seized by common

26 Christopher E. Firth, “Moral Contagion and the Will: The Crisis of Masculinity in *Fin-de-siecle* France,” 61-69.

27 Kersh and Morone, “Obesity, Courts, and the New Politics of Public Health,” 847.

28 John N Burry, “Obesity and virtue. Is Staying Lean a Matter of Ethics?”

29 Adolphe Quetelet, *A Treatise on Man and the Development of His Faculties*.

30 Christine Halse, “Bio-Citizenship: Virtue Discourse and the Birth of the Bio-Citizen,” 46-48.

affection.”<sup>31</sup> For Quetelet, the application of geometry and algebra to demography enabled the development of a “moral statistics” of crime, suicide, obesity, and marriage.<sup>32</sup>

Implicit in the argument above is that the techniques and semantics of quarantine have not been eclipsed by those of circulation and the valorisation and management of risk, just as the idea of the “average man” has not been entirely supplanted by the niche market and pluralism.<sup>33</sup> These operate in tandem, alternate geographically and temporally. What both the campaigns against the “obesity epidemic” and those of migration control have in common is a preoccupation with re-imposing the lines of austerity. In the case of the “obesity epidemic,” there is an obvious but rarely remarked on injunction against excessive consumption in the midst of abundance. In migration control, there is a constant attempt to re-impose the lines that distribute abundance and impose austerity both in a geographic and internal sense (as with the segmentations afforded by the distinction between legal and illegal, or temporary visas and so forth). There has been no irreversible epochal shift between the imposition of the line of hygiene (*cordon sanitaire*) and the deterritorialised flow, no permanent transition from the territorial to the biopolitical to governmentality in the sense that Foucault is generally assumed to have argued there has been.<sup>34</sup> The difference between these two approaches was always one of geopolitics, demography, cartography rather than chronology or teleology, which is to say: of zones that echoed the classical social contract’s demarcation between spaces of a putative contractual peace and that which was deemed akin to the State of Nature. If, seen from one side of this distinction, the emergency and the crisis were once regarded as the logical antithesis of the ordinary, as Mariella Pandolfi remarks of the humanitarian interventions in Kosovo and Albania, the

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31 David Hume, *Essays, Moral, Political, and Literary*, 113.

32 Quetelet, *A Treatise on Man and the Development of His Faculties*.

33 For another discussion of the connection between the closing of borders and the distribution of risk, see Neve Gordon and Dani Filc’s, “Annihilating the Logic of Risk: Israel’s Military Occupation and the Ascendancy of Hamas.” There, they illustrate the ways in which the rise of Hamas, with its provision of faith-based health care and welfare, became crucial to the lives of Palestinians after the Israeli government closed the borders.

34 Foucault, *Security, Territory, Population: Lectures at the Collège De France, 1977-78*.

“emergency no longer constitutes an extraordinary or exceptional temporal category.” She goes on to say that “in the territories of humanitarian intervention, it [the emergency] has become the sole temporal modality of the new social contract.”<sup>35</sup> Seen from the other side of this distinction, then, one in which crisis and the emergency are already routine, the question of the proliferation and expansion of the emergency poses a question about emergence as the conflictual field of capitalist innovation (not least that of pharmaceutical markets and in border control technologies).

Therefore, the historical nexus between migration control and theories of contagion should not lead us to believe that border controls are, in fact, techniques for the elimination of disease. Any more than it should incline us to believe that borders stop movement as such. What is at stake in border policing is not the elimination of diseases transmitted through contact, but their management, distribution and, increasingly, valorisation. Similarly, programmes against the “obesity epidemic” are not geared toward the betterment of health but, on the one hand, the valorisation of disease through the expansion of markets for pharmaceutical products such as statins<sup>36</sup> or for weight loss, and, on the other hand, the reconfiguration of intimate self-management in the wake of the increasing privatisation of health care. Indeed, there are persistent and notable claims that migration from poorer to richer countries such as the US increases one’s risk of obesity.<sup>37</sup> Moreover, the question migration controls seek to answer is not, exactly, how to stop the spread of the dangerous classes, foreign germs, the indiscriminate sharing of bodily fluids, data, or microbes. On the contrary, the question of migration control is how to transform movement into circulation, communication into commerce, and the moment of contact into an instance of exchange. In this, there is a constant swing between the opening up of borders and

35 Mariella Pandolfi, “Contract of Mutual (In)Difference: Governance and the Humanitarian Apparatus in Contemporary Albania and Kosovo”

36 See J. Eric Oliver, *Fat Politics: The Real Story Behind America’s Obesity Epidemic*. By all accounts, the market for statins (cholesterol-lowering drugs) is one the largest growing market for pharmaceuticals in the developed world, with revenues exceeding \$25 billion in 2009.

37 Lingxin Hao and Julie J. H. Kim, “Immigration and the American Obesity Epidemic.”

their closure, between connection and quarantine, deterritorialisation and re-territorialisation, the liquid and the solid. In the case of the “obesity epidemic,” the question is one of translating eating into diet, movement into exercise, of aligning consumption to production and the body’s health with that of the fictive national body, and re-asserting the boundaries of the contractual, intimately self-managed subject as its condition. Not least, the pre-emptive, prudential demeanour of campaigns against the “obesity epidemic” has acquired its militarised parallel in the apprehension of emerging diseases. Where the boundaries of migration policy have achieved an extraterritorial mobility in their management of the unproductive circulation of people, the programmes against the “obesity epidemic” are marked by the interiorisation of a limit on consumption deemed excessive. The discourse and measures against the “obesity epidemic” and those associated with the policing of borders converge around the figure of the migrant who risks obesity by migrating from a poorer to a richer country.<sup>38</sup> While the WHO discerns a “paradox” in the simultaneity of malnutrition and “globesity,” the strategies and discourses which surround claims of an “obesity epidemic” are oriented toward reimposing the boundaries of austerity, quite literally by following migrants into richer countries and into their bodies, a tracking legitimated by the implication that migrants from poorer countries are unfamiliar with self-control. The prudentialism of the “obesity epidemic” and migration policy’s reconstruction of the speculative act of migration into the flows and definitions of labour-power affords a bridge and checkpoint between immeasurable uncertainty and calculable risk, enabling the valorisation, distribution, and securitisation of the epidemic and the pandemic. In this instance, the epidemic and the pandemic deploy the premise of insecure boundaries of the *oikos*. The subsequent chapter looks at the endemic as the claim of a disordered oikonomic genealogy. Whereas epidemics and pandemics, by definition, presume an extrinsic risk, the

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38 Much of the inclination here is toward nutritional education, while very little of the commentary on this remarks on the issue of poverty and the quality of cheap food. The difference, of course, is that the former makes it a question of personal responsibility and implies, more or less explicitly, that newly-arrived migrants in ‘developed’ countries do not understand how to consume responsibly and in the midst of abundance.

contagion that appears from outside the body (politic), the endemic posits uncertain oikonomic arrangements as an intrinsic pathology of, simultaneously, territory and population.





## V. FOUCAULT, NEOLIBERALISM AND [THE] INTERVENTION

Neoliberalism should not ... be identified with laissez-faire, but rather with permanent vigilance, activity, intervention.

– Michel Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978-1979*.

This is not laissez-faire liberalism or light-touch government by any means.

– Australian Prime Minister, John Howard,  
*Little Children Are Sacred. To Stabilise and Protect*.

**Conventionally, neo-/liberalism is described as a form of limited government intervention, by most of its exponents and critics alike.** This chapter reads Foucault's lectures at the *Collège de France* delivered between 1977 and 1979 – published under the headings of *Security, Territory, Population* and *The Birth of Biopolitics*<sup>1</sup> – alongside an analysis of an intervention by a neoliberal government (namely, the Australian Government's Northern

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1 Foucault, *The Birth of Biopolitics: Lectures at the Collège de France, 1978-1979*; and *Security, Territory, Population: Lectures at the Collège de France, 1977-1978*. Hereafter in the notes, these volumes are abbreviated as *TBB* and *STP* respectively.

Territory National Emergency Response).<sup>2</sup> The question, in short, is what specifies this limit. For while this limit is usually characterised as a constraint on government intervention in the realms variously designated as the economy or society, or, differently put, as a limit on the scope of government in relation to individual freedoms, the history and practice of neoliberal governments conveys a need for a more precise analysis of what this limit entails. That is to say, really-existing (neo)liberalism indicates a much more nuanced trajectory than that of an expansion of freedoms and the diminution of government, suggesting instead a combination of freedoms defined in a very specific sense and coercive measures legitimated along the very same lines. It is not at all clear, for instance, that the much-touted reforms of the welfare state ushered in by nineteenth century liberals, such as the 1834 Poor Laws, or more recent neoliberal reforms, such as those which refigure beneficiaries as clients, have entailed a decrease in the welfare state's expenditures or reach so much as a complex fine-tuning of the impact of welfare arrangements. What these calibrations seek to accomplish – most notably, in their modulations of the market in labour and its reproduction – forms part of this discussion. In any case, the withdrawal or denial of welfare is as significant a decision as is its conferral; just as the outsourcing or privatisation of welfare has served to reshape and guide welfare spending rather than necessarily diminish it overall or necessarily.

Foucault's reading of neo-/liberalism gets closer than most to analysing these nuances; though in important respects he does not quite manage to escape its ideal-typical definition as, most notably, a politics inclined toward deterritorialisation or neutral abstraction. That said, in his lectures Foucault time and again took a very different view to that of conventional understandings of neo-/liberalism. According to him, liberalism produces (and consumes) freedoms, and "this very act entails the establishment of limitations, controls, forms of coercion, and obligations relying on threats, etcetera." The "principle of [utilitarian] calculation," that which determines the points at which limits are established, he called "security,"<sup>3</sup> while having remarked in the previous lecture that the

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2 "Northern Territory National Emergency Response Act."

3 Foucault, *TBB*, 64-65.

history of property rights is one of “a whole series of bridges, transits, and joints” between “the rights of man and the utilitarian calculus” which defines those limits.<sup>4</sup> This chapter explores those observations a little further, and in so doing questions Foucault’s qualified but still broadly epochal account of a transition from the territory to population. Though he notes in his discussion of the rise of security that “there is not a succession of law, then discipline, then security,”<sup>5</sup> readings of Foucault tend to focus – not entirely inaccurately – on the claim that there is indeed an historical sequence that goes from sovereignty to disciplinarity to governmentality.<sup>6</sup> Taken as a fragment, Foucault’s outline of a passage from exclusion and confinement to the management of risk would certainly give that impression: “it will no longer be the problem of exclusion, as with leprosy, or of quarantine, as with the plague, but of epidemics and the medical campaigns that try to halt epidemic or endemic phenomena.”<sup>7</sup> However, in a later lecture, in noting that “the conjunction between the disciplines and liberalism” entails “additional freedom through additional control and intervention,”<sup>8</sup> Foucault offers not something akin to discrete stages of development, but instead suggests a complicated dynamic of the expansion beyond limits and their restoration that is more explanatory (of the seemingly paradoxical case of a limit which proliferates) than a canonical reading of his work might furnish. I argue here for a more precise analytical proposition: that insofar as neo-/liberalism posits a state which does not intervene *except to enforce contracts*, in practice and in history this supposes the proliferation, re-imposition and expansion of the particular limitations of the contractual, with simultaneous recourse to coercive techniques and a redefinition of the very sense of freedom as contractual. This involves both a re-organisation of territory and the management of populations – and, in the case of the intervention I discuss below, the epidemiological sense of the endemic is crucial to the understanding of both population and territory.

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4 Ibid, 43.

5 Foucault, *STP*, 10.

6 Michel Sennelart, “Course Context.”

7 Foucault, *STP*, 10.

8 Foucault, *TBB*, 67.

## WELFARE/WARFARE

In Australia in mid-2007, the-then federal Liberal-National government introduced the *Northern Territory National Emergency Response* bill (NTER). It has come to be known, in its administrative, mediatised and political entirety, as the Intervention. It did not only evoke military intervention in so-called failed states and “liberal humanitarian wars,”<sup>9</sup> as well as techniques associated with the treatment of addiction. More, it raised a question about (neo) liberalism’s characterisation as limited government. In its initial stages, the Intervention involved the deployment of both military personnel and health workers; the suspension of the Racial Discrimination Act of 1975; dramatic changes to welfare provision, most notably including the “quarantining” of welfare payments; the banning of pornography and alcohol in “prescribed areas;” and a raft of measures geared toward transferring landholdings from the communal one of Native Title to that of private real estate. As its principal justification, the government cited reports of rampant child sexual abuse in indigenous towns in Australia’s north. The legislation, however, makes no mention of the sexual abuse of children, nor does it outline any evident measures in relation to it; instead defining its object in broad terms as the improvement of “the well-being of certain communities in the Northern Territory.”<sup>10</sup> In the previous year, the Northern Territory government had commissioned a Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse. Its report in June 2007 – titled *Ampe Akelyernemane Meke Mekarle* - “*Little Children Are Sacred*,” even as its authors would quickly distance themselves from the unfolding Intervention carried out in its name – was marked by the repetition of the claim of “endemic and intergenerational” sexual violence against children in indigenous towns.<sup>11</sup> It was a claim that would make for

9 In 1999, Tony Blair, then-Prime Minister of the United Kingdom, made a speech in Chicago in which he called for a “new generation of liberal humanitarian wars.”

10 “Northern Territory National Emergency Response Act.”

11 Patricia Anderson and Ron Wild. *Ampe Akelyernemane Meke Mekarle* ‘*Little Children Are Sacred*.’ *Report of the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse*. M. Ella-Duncan and the Aboriginal Child Sexual Assault Taskforce, *Breaking the Silence: Creating the Future: Addressing Child Sexual Assault in Aboriginal Communities in NSW*.

lurid headlines, as the Prime Minister declared in a speech to the Sydney Institute: “Tonight, in our rich and beautiful country, there are children living out a Hobbesian nightmare of violence, abuse and neglect,” to which he added: “This [the Intervention] is not laissez-faire liberalism or light-touch government by any means. It represents a sweeping assumption of power and a necessary assumption of responsibility.” Announcing that he would be appointing the head of the 2003 Australian-led military intervention into the Solomon Islands to oversee this one in Australia, Howard declared that on this occasion the condition of the failed state was not that of (his) government but of parents.<sup>12</sup> The state would, he made clear, step in to act as protector, parent, father. Undertaken amidst a mining boom and widespread talk of expanding markets for uranium, some critics considered the charge of endemic child sexual abuse, based as it was on anecdotal evidence, as the convenient and unanswerable pretext for a “land grab” on the eve of an impending electoral defeat.<sup>13</sup> While there remains a debate about motives, the initial aim of this chapter is to illustrate the ways in which the question of (landed) property – what Stuart Elden refers to in his reading of Foucault’s lectures as the “emergent concept of ‘space’ as a political category: owned, distributed, mapped, calculated, bordered, and controlled”<sup>14</sup> – was and is connected to the other aspects of the Intervention (including the charge of child sexual abuse, the recourse to state paternalism, and welfare reforms), which are in no way incidental and will have to be thought in their interlocking arrangement. Nicole Watson went further than most in this, arguing that “an obsession with home ownership and the criminalisation of poverty, provided the real impetus” for the Intervention.<sup>15</sup> Here, I would like to elaborate on and qualify that insight, bringing it to bear on theoretical understandings of biopolitics and territory, and suggesting that each of these and the relation between them should be conceptually refigured as an instance of oikonomics.

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12 John Howard, *Little Children Are Sacred – to Stabilise and Protect*.

13 Chris Petersen and Jess Moore, “NT Intervention a ‘Land Grab’.” Katarina Ferro, “A Neo-Liberal Intervention.”

14 Stuart Elden, “Governmentality, Calculation, Territory,” 578.

15 Nicole Watson, “Of Course It Wouldn’t Be Done in Dickson! Why Howard’s Battlers Disengaged from the Northern Territory Emergency Response,” 1.

## THE DISAPPEARANCE AND REAPPEARANCE OF FOUCAULT'S GENEALOGY

In his 1977-78 lectures, Foucault remarked that “prior to the emergence of the problematic of population, the art of government could only be conceived on the basis of the model of the family, in terms of economy understood as management of the family.” There is a caveat: according to him, population does not displace the familial, though it overrides it; the family is held in reserve “when one wants to obtain something from the population concerning sexual behavior, demography, the birth rate, or consumption.” Nevertheless, he insists, the “family will change from being a model to being an instrument.”<sup>16</sup> Pivotal to this chapter, and my use of the analytical category of the *oikos* (household), is an attempt to theorise the confluences of race, sex, class, sexuality, citizenship and gender in their entangled historical specificity – that is to say: not as identities (which might thought as more or less intersecting but, nevertheless, as discrete but analogous in form), nor for that matter through a dichotomisation of territory and population (or sovereignty and biopolitics), but as oikonomic arrangements, in which the conjuncture of the coercive and the self-managed turns on the question of capitalist re-/production posed in a wider dynamic of the crossing and restoration of genealogical lines. In this respect, I take some distance from Foucault’s claim of a shift from the familial as a political model to that of biopolitical instrument, not least because property rights are, above all, a matter of genealogy. The question of legibility and legitimacy of property rights and their transmission is decisive for the expansion of capital into new markets as well as the persistence of capitalism over time. Indeed, Foucault’s discussion of *parrhesia* concedes this point. In making this argument, I opt for genealogy’s vernacular definition as the tracing of origins and lines of descent, venture into Foucault’s labyrinthine account of (neo)liberalism, and highlight the rise of a specifically developmentalist variant of the neoliberalism, of which the Peruvian economist Hernando de Soto is the most prominent exponent.<sup>17</sup> I question the presentation of biopolitics in the later

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16 Foucault, *STP*, 105.

17 Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West*

writings of Foucault, not least because in those works, the question of territory is set aside by an increasing focus on the biopolitical regarded in non-spatial terms (the entrepreneurial subject, human capital, and so forth), while the question of genealogy (and its associated architectures of family, sexuality, household, gender, and race) is approached ever-more diagonally by way of a consideration of ethics, pastoral power and the care of the self. Yet the Intervention was composed of elements which resorted to both techniques of territorial ordering and a rather more intricately oikonomic – and overtly sexualised – play between the invisible hand of the market and the strong arm of government.

The NTNER stipulates in detail the exact latitude and longitude of the zones in which those laws would be applicable. Moreover, as the-then Prime Minister's remarks above illustrate, an avowedly neoliberal government sought to impose an entrepreneurial subjectivity through overtly punitive means. In this sense, it may in the end be more accurate to describe this contemporaneity of the territorial and the biopolitical, as well as the coincidence of the coercive and the self-managed, not according to an ideal-typical definition of (neo)liberalism but as the problematic of post-Fordism – though this, perhaps, is a longer discussion, even if it remains implicit here. To be sure, it would make sense to characterise the Intervention (indeed, much of the history of indigenous policy in Australia) as exemplary of biopolitics, as an instance, to put it in the terms Foucault did, of the management of populations, of life constituted as an object of power, of the deployment of policies around “health, hygiene, birthrate, life expectancy, race.”<sup>18</sup> Those are the terms through which Foucault summarised the series of 1978-79 lectures – though those lectures dealt far less, as it turned out, with elaborating on these themes than with what he called the art of government or, more specifically, with German and American variants of liberalism and neoliberalism, the rise of *homo oeconomicus*, human capital, calculation. But, to the extent that Foucault mapped the biopolitical as a transition from the “safety (*sûreté*) of the Prince and his territory” – that is to say, sovereignty – to a politics of “the security (*sécurité*) of the population”<sup>19</sup> he misconstrued

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*and Fails Everywhere Else.*

18 Foucault, *TBB*, 317.

19 Foucault, *STP*, 65.

a persistent dynamic as a more or less irreversible historical shift. One of the ways in which Foucault marked this shift from sovereignty to population was as a modification of the terms of the social contract, from the guarantee of territorial integrity to those coordinates of guarantee that run along the lines of insurance, risk management, protection and so on. Undoubtedly, there are moments when he qualified this claim of a wholesale transition from the government of territory to that of population. “The problem of sovereignty,” he remarked at one point, “is not eliminated; on the contrary, its made more acute than ever.”<sup>20</sup> But, by and large the questions of geopolitics, the organisation of space and borders, and what he called “the old model of the family”<sup>21</sup> were set aside as irrelevant to what he described, somewhat ambiguously but echoing Smith and Hayek,<sup>22</sup> as “the spontaneous synthesis of egoisms over the whole surface of the globe.”<sup>23</sup> In this process of the multiplication of profits, he contended that there “is no localization, no territoriality, no particular grouping in the total space of the market.” Instead, “the bonds of sympathy and benevolence” – which assume also the “contrary bonds of repugnance and the absence of support for or benevolence toward others” Foucault relegated to the orders of “civil society”.<sup>24</sup> Yet, Smith’s understanding of sentiment was a theory of the spontaneity of familial affection<sup>25</sup> – moreover, the organisation of repugnance and benevolence (which has certainly been evident during the Intervention) has proceeded along the axes and premises of the familial/racial.

In any event, the Intervention has not only had recourse to the techniques of risk management, the discourse of protection, and notions of human capital formation, but also (contrary to Foucault’s historical schema) has seen the return of the medical police and quarantine, the increasing displacement of the guarantee of welfare and amenities by the punitive contractualism of ‘mutual

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20 Ibid, 107.

21 Ibid, 107.

22 See Christina Petsoulas, *Hayek’s Liberalism and Its Origins: His Idea of Spontaneous Order and the Scottish Enlightenment*; Craig Smith, *Adam Smith’s Political Philosophy: The Invisible Hand and Spontaneous Order*.

23 Foucault, *STP*, 107.

24 Foucault, *TBB*, 301-02.

25 Smith, *The Theory of Moral Sentiments*.



obligation' and, more significantly, the application of measures which seek to reorganise territory and control movements across it. This latter involves four notable elements:

- (a) the legal mechanism of so-called "affected areas" (in this echoing the extraterritorial architecture of the Special Economic Zone, the lock-down laws introduced after the riots in Cronulla (Sydney), and the excision of parts of Australia from the regular functioning of asylum policy);
- (b) the effect of welfare income management, officially referred to as 'welfare quarantining' (the introduction of the Basics Card, which makes it difficult if not impossible for welfare recipients to spend one's income in shops that are not approved and located where they are registered);
- (c) the fiscal determination of a small number of growth towns (in an attempt to decompose the Outstations Movement); and, not least,
- (d) the transformation of communal landholdings granted under Native Title to private real estate.

Moreover, the significance of the claim of an endemic sexual abuse of children is not only the organisation of a moral panic which legitimates all sorts of measures in the name of child protection. Nor, as its corollary, does it only indicate the meshing of a libidinal and political economy, the simultaneously titillating and punitive aspects of neoliberalism that combine the seemingly voluntarist aspects of the contractual with its inherently coercive limits. More specifically, it creates a fear of disordered genealogy, and thus a demand for the reinstatement of the proper orders of property (eg., the paternity invoked by state paternalism), for the legibility of property rights, and so their legitimate possession and transfer. In short, the accusation of endemic child sexual abuse is not outside the semantic field of the "land grab" but a crucial part of its logic and legitimation.

## COLONIAL PROPERTIES

Foucault's rather too-narrow reading of the eighteenth century English jurist William Blackstone illustrates the ways in which the former's argument of a shift from territory to biopolitics does not quite hold. For Foucault, Blackstone's rendition of the social contract marked the moment of transition to "a purified subject of interest who has become calculating, rationalized, and so on."<sup>26</sup> While Foucault was, at this point, preoccupied with contrasting Blackstone's and Hume's accounts of contract, it would be a mistake to suggest Blackstone offers anything like a "purified subject," one stripped of the obligations of social rank and its lineages, and more importantly, of the question of lineage as it pertains to property rights and their transmission. Lineage — as the genealogy of property rights — made a crucial appearance in Blackstone's argument about the social contract and property, just as it did for Hume. In his *Commentaries on the Laws of England*, a four-volume treatise on common law, Blackstone wrote:

there is no foundation in nature or in natural law, why a set of words upon a parchment should convey the dominion of land; why the son should have a right to exclude his fellow creatures from a determinate spot of ground, because his father had done so, before him.<sup>27</sup>

According to Blackstone, property is not simply textual — "a set of words upon a parchment" — but its persistence across time is a matter of recorded genealogy (specifically, primogeniture, which is to say, Foucault's model of *parrhesia*). Blackstone defined property as falling into the categories of "corporeal" or "incorporeal hereditament," where the first he described as that which affects the senses, the latter he suggested is a creation of "the mind, and exists only in contemplation." But, in either case, property for Blackstone (following Edward Coke) is "whatsoever may be *inherited*."<sup>28</sup>

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26 Ibid, 23.

27 Blackstone, *Commentaries*. Volume 2, 15.

28 Ibid, *Commentaries*. Volume 2, 17. Emphasis in the original.

Blackstone was very far from making an argument that might trouble the security of private property, or inheritance and its legitimization of property ownership. Rather, he was attempting, at a very precise moment of imperial expansion and the rise of capitalism, to justify the emerging legal fiction of capitalist property rights. In that sense, the *Commentaries* are written not as an instance of certainty but, on the contrary, deep anxiety. Unlike Hume (who remained content with a legal positivist statement on patriarchal lines of descent, albeit moderated by chivalry), as the *Commentaries* proceed further from the discussion of property as an incorporeal hereditament, Blackstone resurrected the model of landed property and its definition of productivity as cultivation. At this juncture, it might be noted that Blackstone's writings on property have been central to the legitimization of colonial possession in Australia; specifically, the legal determination of *terra nullius* – that is, 'empty land.' Echoing Francis Bacon and Locke,<sup>29</sup> Blackstone's definition of property involved a normative definition of productivity, more precisely a claim about the productive use of land. And since indigenous people were not considered to be engaged in cultivation, they could not be regarded as being in possession of it. There are two things at issue here which amplify the significance of genealogy: the re-definition of property in the face of historically unprecedented uncertainty about its decipherable possession; and shifting definitions of productivity. Both of these matters turn not only on the difficulties of colonisation, but also the problems posed by the emergence and spread of capitalism into new markets. And it is this expansion which, not at all paradoxically, requires recourse to foundation. Blackstone was, as already noted, preoccupied with "assigning to every thing capable of ownership a legal and determinate owner."<sup>30</sup> Territory is, in this respect, not a fixed property of anything in particular but a "whatsoever" way of ordering space as both fixed and fungible, solid and liquid, serving by turns as a powerful trope with which to imbue the contingencies of a nascent regime of capitalist property rights with an air of immutability. Just as the contract in its presently dominant form braces against contingency

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29 Francis Bacon, *The Works of Francis Bacon, Baron of Verulam, In Three Volumes*; John Locke, *The Second Treatise of Government*; and, *a Letter Concerning Toleration*.

30 Blackstone, *Commentaries*. Volume 2, 15.

by allocating risk in a calculable register, the model of property in land (most emphatically for the Physiocrats) grants property rights a foundationalism that would otherwise, and not least during the emergence of capitalism and in the colonial encounter, feel decidedly precarious. Manufacturing, today, is often presented as the model of productive activity in contrast with (say) finance. In Blackstone's time, agriculture played this role, figuratively grounding an uncertain economic order during the rise of manufacture.

### HOUSEHOLD PROPERTY AND PROPER HOMES

Soto, not entirely accurately, has cited Foucault in support of his view of formal property rights as a form of translation which forever expands potential and wealth. "Formal property," he argued, "organizes knowledge about assets and extracts from them the potential to generate capital." He nevertheless added a remark about territory in the manner of the origin-story of property rights: "Unlike tigers and wolves, who bare their teeth to protect their territory," he suggested that "man, physically a much weaker animal, has used his mind to create a legal environment – property – to protect his territory." For Soto, "the representational system the West created to settle territorial claims took on a life of its own, providing the knowledge base and rules necessary to fix and realize capital."<sup>31</sup> This narrative of the founding moment of the social contract – in Hobbesian and possibly Schmittian terms – is perhaps nowhere more hyperbolic than in post-/colonial contexts such as Australia, in which *terra nullius* is continually being declared. Colonisation here operates as capture and extraction, rather than dispossession.

It is in this context that Noel Pearson echoed Soto's arguments, suggesting in a working paper co-authored with Lara Kostakidis-Lianos that "his insights are directly relevant."<sup>32</sup> Writing an op-ed piece on Soto's *The Mysteries of Capital* in 2006, Pearson wrote: "Aboriginal Australians living on Aboriginal lands

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31 Soto, *The Mystery of Capital*, 21.

32 Pearson and Lara Kostakidis-Lianos, *Building Indigenous Capital: Removing Obstacles to Participation in the Real Economy*, 1.

(though we own property) are not integrated into the Australian property system that enables capital formation. Most of our assets ... are inalienable and therefore have no capital value.”<sup>33</sup> He went on to insist that indigenous people “need private ownership vested in families” so as to transform “dead capital into fungible assets.” In drafting the Intervention laws, then-Prime Minister Howard (and then-Minister for Families, Community Services and Indigenous Affairs, Mal Brough) sought advice and support from Pearson. Pearson is the director of the Cape York Policy Institute for Policy and Leadership, a think-tank funded by Griffith University, and the Queensland and Federal governments. The Institute describes its goals as ensuring “that Cape York people have the capabilities to choose a life they have reason to value,” the restoration of social order, and an attack on “passive welfare.”<sup>34</sup> Pearson has been a long-standing advocate of Soto’s argument that formal property title is the best way to accomplish development and end poverty, though he differs from the latter in his calls for prohibitions against alcohol and in his calls to end unconditional welfare.<sup>35</sup> And while Pearson would end up qualifying his support for the Intervention, in some respects arguing that it did not go far enough, the legislation was notable for its combined focus on property titling and the restrictions of consumption through the management of welfare payments. Indeed, the Cape York Policy Institute delivered its report, *From Hand Out to Hand Up* (outlining a series of government-funded measures: conditional welfare, a transition to private home ownership, and the establishment of a Family Responsibilities Commission)<sup>36</sup> the day prior to the release of the “Little Children Are Sacred” report. Where Soto merely hinted that legal title “tends to discourage unruly behaviour,”<sup>37</sup> Pearson went further in associating private home ownership with a wider set of normative behaviours and the family, having called almost a year before the Intervention for the

33 Pearson, “Properties of Integration.”

34 Cape York Policy Institute, *From Hand out to Hand Up: Cape York Welfare Reform Project*.

35 Pearson, *The Cape York Agenda*.

36 Cape York Policy Institute, *From Hand out to Hand Up: Cape York Welfare Reform Project*.

37 Soto, *The Mystery of Capital*, 197.

introduction of a families commission whose role “would be to uphold basic social standards on parenting and family responsibilities.”<sup>38</sup>

But if Soto’s epistemic view of property rights seems to come closer to Foucault’s than does Pearson’s, a closer reading of Foucault’s lectures might indicate a more complicated (and ambivalent) account. As I previously noted, Foucault insisted that the family was no longer the model of politics but something held in reserve as an instrument for the management of populations. He remarked that in the sixteenth century, up until the eighteenth, the issue of the economy was posed in the terms of household management, since “the government of the family ... is called precisely ‘economy’.” He went on to say of the emerging discipline of political economy:

The art of government essentially appears in this literature as having to answer the question of how to introduce economy – that is to say, the proper way of managing individuals, goods, and wealth, like the management of a family by a father who knows how to direct his wife, his children, and his servants ... – how to introduce this meticulous attention, this type of relationship between the father and the family, into the management of the state?<sup>39</sup>

## **FOUCAULT, BECKER AND THE NEW HOUSEHOLD ECONOMICS**

With the rise of mercantilism, Foucault proceeded to argue, the problem of population emerges as the resolution of a growing tension between, on the one hand, the household and the father, and, on the other hand, the state and sovereign. This shift to population is accompanied and indexed by the rise of statistics. However, Foucault’s claim of an eclipse of the household by population was mistaken, and his insistence on the diminution of the family by the same is contradicted by his own (and others’) discussion of human capital. Turning to neoliberalism’s theory of *homo oeconomicus*, Foucault pointed out that

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38 Pearson, “Road to Responsibility.”

39 Foucault, *STP*, 94-5.

this figure is “an entrepreneur of himself,” citing Becker’s argument that the “man of consumption” is also a producer, “he produces his own satisfaction.”<sup>40</sup> What Foucault did not say is that Becker is notable not only for his work on human capital – which the latter explicitly presented as a question about income disparities along racial and sexual lines<sup>41</sup> – but the field of the New Household Economics. Economist Robert A. Pollack, himself critical of Becker’s approach in the detail, has insisted that while “the genealogists can trace the ancestry of the economics of the family to Malthus,” this did not form part of the curriculum for economists until Becker: the contemporary “economics of the family is Gary Becker’s creation.”<sup>42</sup> Human capital theory is a theory of *oikonomia*.

From the early 1960s on, Becker was preoccupied with applying neoclassical precepts of utility-maximisation “to explain behavior outside the monetary market sector.”<sup>43</sup> That is to say, and contra Foucault, while for Malthus at the close of the eighteenth century the problem of population was explicitly an oikonomic question (that is, the nexus of class and sexuality posed as a racialised question of the ostensibly excessive reproduction of below-subsistence households),<sup>44</sup> for Becker from the mid-1960s on, the question was precisely of the unfolding of (capitalist) economic logic onto putatively non-market behaviours at a time when the so-called new social movements were emerging as a challenge to the household orders of race, class and gender. Writing on the “marriage market” soon after the introduction of ‘no-fault’ divorce laws in the United States, Becker argued that marriage maximised household productivity.<sup>45</sup> Writing elsewhere around the same time, he suggested that:

One of the most significant developments in economic theory has been its application to behavior outside the monetary market

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40 Foucault, *TBB*, 226.

41 Becker, “On the Relevance of the New Economics of the Family,” 317.

42 Robert A. Pollack, “Gary Becker’s Contributions to Family and Household Economics.”

43 See Becker, “Investment in Human Capital: A Theoretical Analysis,” “A Theory of the Allocation of Time,” and “A Theory of Marriage: Part I.”

44 Thomas Malthus, “A Summary View of the Principle of Population.”

45 Becker, “A Theory of Marriage: Part I.”

framework: for example, decisions about family size, the labour force participation of married women, illegal behavior, political behavior, statistical inference, or the accumulation of education and human capital (which has been used to explain race and sex differences in income.<sup>46</sup>

Becker's later *Treatise on the Family* sought to apply neoclassical economic assumptions about "maximizing behaviour, stable preferences, and equilibrium in implicit or explicit markets to provide a systematic analysis of the family." It began with the claim that the "family in the Western world has been radically altered – some claim almost destroyed – by events of the last three decades." Citing the rise in rates of divorce, the "number of households headed by women," the drop in birth rates and, not least, the "large increase in labour force participation of married women, including mothers with young children, [which] has reduced the contact between children and their mothers and contributed to the conflict between the sexes in employment as well as in marriage."<sup>47</sup> Devoting a chapter to polygamy and monogamy, Becker suggested that polygamy has predominated over polyandry because the latter makes paternity insecure, while arguing in an earlier essay that monogamy is optimal because it "maximizes [the] total output of commodities."<sup>48</sup>

## THE RE/PRODUCTION OF HUMAN CAPITAL

While Foucault obscures these aspects of Becker's argument (and of the emerging preoccupation of neoclassical economics with the politics of the household), his own discussion of human capital – despite the overt analytical erasure – was nevertheless explicitly concerned with the interlocking questions of race, sexuality and gender located in the contractual frame of a neoclassical definition of the wage. Remarking that human capital is "made up of intimate

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46 Becker, "On the Relevance of the New Economics of the Family."

47 Becker, *A Treatise on the Family*, x and 1.

48 Becker, "A Theory of Marriage: Part II," 18.



elements and other, acquired elements,” the examples Foucault proceeded to give were of attributes established through “heredity” and “innate differences” which he asserted (rather crudely and unthinkingly) “are, of course, self-evident for anyone with the vaguest acquaintance with biology.” He went on to say: “I do not think there are any studies on the problem of the hereditary elements of human capital,” adding that

modern genetics clearly shows that there are many more elements than was previously thought are conditioned by the genetic make-up we receive from our ancestors. In fact, genetics makes it possible to establish for any given individual the probabilities of their contracting this or that type of disease at a given age, during a given period of life, or in any way at any moment. ... the application of genetics to human populations is to make it possible to recognize individuals at risk and the type of risk individuals incur throughout their life. ... we can identify what individuals are at risk, and what the risks of a union of individuals at risk producing an individual with the particular characteristics that make him or her a carrier of a risk ...

While Foucault notes at one point that he is merely articulating “a form of thought or a form of problematic that is currently being elaborated,” in the complete absence of a critical account of such a problematic, and given his remarks about the self-evidence of biological inheritance, the overall impression is of the uncritical acceptance of some rather conventional views of biology, genealogy and genetics. Carlos López Beltrán has shown how the very idea of the biological inheritance of disease, defined initially as the ground of theories of human heredity, was created by way of an analogy with the familial transmission of property and properties. According to Beltrán, the significant shift, between the early modern period and the nineteenth century, regarding theories of the transmission of disease was the passage from notions of accident to those which analogised

contagion with the familial inheritance of property.<sup>49</sup> This not only runs directly counter to Foucault's historical schema, but more importantly suggests that theories of race and of disease were closely linked in the very proposition of the endemic as the transmission of (diseased) properties across generations and in a specific place.

On the issue of the acquired aspects of human capital, Foucault's illustration is of "the time parents devote to their children .... We know that ... the child will be much more adaptive if in fact its parents or its mother spend more rather than less time with him or her. This means that it must be possible to analyze the simple parents spend ... giving them affection as investment which can form human capital." In this discussion, far from simply expressing the problematic of neoclassical economics in its attention to the familial orders of human capital formation, Foucault was, in my reading, remarkably sure of the oikonomic assumptions they rely on to imply self-evidence. "What," he asks, "in the child's family life will produce human capital?" In other words, even as he insists on a decreasing analytical insignificance of the familial, his own iteration of human capital theory never quite went beyond genealogical assumptions and an oikonomic framework. Nevertheless, in having insisted in his previous lectures on the links between the "the town, scarcity and the epidemic, or, if you like, the street, grain and contagion," Foucault astutely pointed to the question that obtains for this part of the discussion. As he noted, each of these "share the fact that they all more or less turn on the problem of circulation ... in the very broad sense of movement, exchange, contact, as a form of dispersion and also distribution, the problem being: How should things circulate or not circulate?"<sup>50</sup> That he assumed this problem is displaced by subsequent forms, and given his restricted critique of genealogy, *oikonomia* and intimate-self management, the explanatory and critical capacity of his discussion of neoliberalism (and biopolitics) remains limited, even if his perceptiveness regarding the interventionist aspects of the biopolitical continues to be pertinent.

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49 Carlos López Beltrán, "The Medical Origins of Heredity."

50 Foucault, *STP*, 63-64.

## VI.

# PROLIFERATING LIMITS

Its historical mission is ruthlessly to expand the productivity of labour, to drive it onwards in geometrical progression.

– Karl Marx, *Capital*. Volume 3.

**In his discussion of global modernity, Arjun Appadurai argued that “in a world in which both points of departure and points of arrival are in cultural flux,” “the invention of tradition [and of ethnicity, kinship, and other identity-markers] can become slippery.”** For Appadurai, this has meant that culture is less “what Bourdieu would have called *habitus* (a tacit realm of reproducible practices and dispositions)” than “an arena for conscious choice, justification, and representation.” The form which cultures assume in this context, Appadurai went on to suggest, is “fundamentally fractal” rather than epidemiological.<sup>1</sup> Noting the echo of Maine’s schema of a transition from status to contract, I take up the dichotomisation of the fractal and the habitually reproducible to instead pose the question of the reproduction of patterns. For while fractals are often assumed to be outside the logic of reproduction, an infinite and wild variation that might be juxtaposed to the reproduction of norms, Benoît B. Mandelbrot’s fractals distinguished themselves from the ‘pathological curve’<sup>2</sup> by introducing “renormalization.” As

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1 Arjun Appadurai, *Modernity at Large: Cultural Dimensions of Globalization*, 44.

2 In the late nineteenth and early twentieth centuries, Georg Cantor’s work on infinitely repeating patterns, and that of Helge von Koch’s on fractals were characterised as monstrous and pathological. For Cantor, the infinitely

with Pascal's projective geometry, Mandelbrot's fractals are scale-invariant, which is to say, they iterate the same pattern irrespective of scale. Renormalization makes the pattern scalable, *sans* the actual mutation of wild variation that, in any event, may have been taken as an initial point of departure. Fractals model are self-similar. In other words, while Mandelbrot's fractals can admit a mutation, once, in order to discern exposure, spread and pattern, they cannot foresee or pre-empt novel transformations. They can hypothesise mutation, by inserting stochastic perturbation into deterministic algorithms, but the rest unfolds as fractional, self-affine variation.

Mandelbrot began his work on fractals during his years at IBM, writing on "fractals in nature" and subsequently in finance.<sup>3</sup> By way of situating this discussion in relation to the previous chapter, the most recent innovation in epidemiology is that of "fractal epidemiology"<sup>4</sup> which places an emphasis on using fractals (causative complexity) to discern – through the use of computer modelling – the spread of contagion and risk. Fractal epidemiology, as compared to earlier epidemiological models, increases causal complexity rather than abandoning determinism as such, while stressing the distribution of risk in nonlinear terms. As in the field of fractal ecology, and that of fractal finance, the question of borders and contagion remains intact, which is to say: fractal modelling seeks to recognise the the potential

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repeating pattern was proof of the existence of God. Cantor, *Contributions to the Founding of the Theory of Transfinite Numbers*. Koch, "Sur les déterminants infinis et les équations différentielles linéaires."

- 3 Benoit B. Mandelbrot, *Fractals: Form, Chance, and Dimension*; *The Fractal Geometry of Nature*; *Fractals and Scaling in Finance: Discontinuity, Concentration, Risk*; and more recently with Richard L. Hudson, *The (Mis)Behavior of Markets :A Fractal View of Risk, Ruin, and Reward*.
- 4 The field is large and growing. Some examples are: Eystein Glattre, Jan F. Nygård, and Eystein Skjerve, "Fractal Epidemiology," M. Varela, R. Ruiz-Esteban, and M. J. Mestre de Juan, "Chaos, Fractals, and Our Concept of Disease," A. A. Tsonis and P. A. Tsonis, "Fractals: A New Look at Biological Shape and Patterning," M. A. MacDonald, "From Miasma to Fractals: The Epidemiology Revolution and Public Health Nursing." Though there remains a debate: N. Krieger, "Sticky Webs, Hungry Spiders, Buzzing Flies, and Fractal Metaphors: On the Misleading Juxtaposition of 'Risk Factor' Versus 'Social' Epidemiology."

for contagion across more or less naturalised boundaries.<sup>5</sup> Fractals comprehend the border as irregular and uncertain, but nevertheless as recomposable; just as, it might be noted, chaos theory proffers a theory of the order that emerges from disorder. Leaving aside the question of contagion and risk for the time being, I begin this chapter by underlining Marx's discussion of proliferating limits and points of exchange as a way of thinking the elaboration of a contractual geometry. In the third volume of *Capital*, Marx twice mentions the "geometric progression" of capital: the first time in his notes on the contradictions inherent to the tendency of the rate of profit to fall; the second with regard to interest-bearing capital's capacity to appear as if it produces "surplus-value in geometric progression by way of an inherent secret quality, as a pure automaton."<sup>6</sup> In this, capitalist dynamics and capitalist productivity are questions of an ostensibly self-reproducing scale and pattern.<sup>7</sup> The contention, here, is that recent attention to fractals highlights a correspondence between the

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5 See for instance, H. Li and J. F. Reynolds, "On Definition and Quantification of Heterogeneity," Kimberly A. With, Sean J. Cadaret, and Cinda Davis, "Movement Responses to Patch Structure in Experimental Fractal Landscapes."

6 Marx, *Capital*. Volume 3, 371, 523.

7 Undoubtedly, Marx's remarks on Malthus and his critique of Darwin are pertinent here. In an 1862 letter to Engels, and underlining a non-naturalist understanding of capitalist dynamics, Marx wrote: "I'm amused that Darwin, at whom I've been taking another look, should say that he also applies the 'Malthusian' theory to plants and animals, as though in Mr Malthus's case the whole thing didn't lie in its not being applied to plants and animals, but only — with its geometric progression — to humans as against plants and animals. It is remarkable how Darwin rediscovers, among the beasts and plants, the society of England with its division of labour, competition, opening up of new markets, 'inventions' and Malthusian 'struggle for existence.' It is Hobbes' *bellum omnium contra omnes* and is reminiscent of Hegel's *Phenomenology*, in which civil society figures as an 'intellectual animal kingdom,' whereas, in Darwin, the animal kingdom figures as civil society." That is, Marx does not critique a dynamic of "geometric progression" from the perspective of natural foundations, as does Polanyi. For more on automatons, capitalist dynamics and naturalism see Mitropoulos, "Uncanny Robots and Affective Labour in the Oikonomia."

diffusive patterning of the fractal and the scalability of the contractual. What this chapter seeks to do is take issue with the easy polarisation of normative views of boundaries as alluded to by Appadurai and the ostensibly more unconventional account of the border found in the proliferating limits of fractals.

## POINTS OF EXCHANGE

In his notebooks for the drafting of *Capital*, those published under the heading of “The Chapter on Capital” in the *Grundrisse*, Marx discussed at some length what he took to be the contradictory tendencies of capital to both overtake and posit limits. The tendency to “create the world market,” he wrote, in which every “limit appears as a barrier to be overcome,” simultaneously includes “the complementary tendency to create ever more points of exchange.” This “production of a constantly widening sphere of circulation, whether the sphere itself is directly expanded or whether more points within it are created as points of production,” underlined for Marx the crucial inseparability of circulation and production in the actual, historical processes of capitalism. This is what he referred to as the double movement of the limit that is inherent not to production conceived in ahistorical terms, but to a specifically capitalist form of production. Of the English political-economist David Ricardo, Marx suggested that he did not understand the tension between circulation and production which creates crises of realisation (or, what is the same thing, overproduction), and so imagined there were no crises intrinsic to capitalism; whereas of Jean Charles Léonard de Sismondi, the Swiss economist, Marx wrote that he perceived these crises as part of the regular processes of capital, and by contrast to Ricardo, “wants to put up barriers” through “custom, law etc.” Capital, Marx argued, respects only those limits which are internal to its dynamic, relevant to its futurity. Therefore, the expansion of capitalism is at the same time the proliferation of limits, most notably, the limit that consists in defining what is productive, what is labour, what might circulate and how. This depiction of the dynamics of capitalism has for the most part – and not without due reference to Marx’s texts – been presented as the unfolding of a contradiction between the forces and relations of production that, at some hypothetical moment, creates an irreversible

crisis that “will drive toward” capital’s “own suspension.” Yet, it is also nevertheless the case that this theory of the double movement of capital has perhaps proved more insightful when theorising the relation between crisis and innovation, a connection that “rests on the necessity of expanding and leaping over the barrier to circulation and the sphere of exchange.”<sup>8</sup> In the next chapter I take up these questions in relation to the insurance contract. In this chapter, I explore in more detail the issue of oceanic empire as the simultaneous positing of frontier space and bordered terrain, specifically by way of reading Marx’s remarks about the multiplication of “points of exchange” into an argument about proliferating contracts and the limits that this implies. By way of doing so, I begin with a discussion of prevailing assumptions about the border and capital. The claim here is that where a reconfiguration of oikonomics allows for the refoundation and expansion of surplus labour, not least through the oikonomic naturalisation of its terms and conditions, the technologies of the border are oriented toward transforming lines of flight into points of exchange.

## THE BOUNDARIES OF OIKONOMIA

Implicit or not, there persists a view of capitalism in which the border is understood as extraneous to the inherent tendencies of capital. In this, capital and the state are regarded as distinctive logics, the first inclined to overtake limits, the second emphasising limit as such. The continuing existence of the latter, oftentimes regarded as the perseverance of archaic, pre-capitalist forms is barely explained, except by reference to the extent to which they might be deemed to be anomalous or functional, and therefore, in either case, inessential. In brief, the state is viewed as an instrument of protection against, or obstacle to, the abstractions of capital. Oddly enough, this is often a premise that both critics and proponents of capitalism share. On the one hand, there is the assertion that capitalism is inherently progressive; which is to say, that the regular appearances of racism, sexism or any similar recourse to often violently hierarchical – or seemingly non-contractarian – distinctions is considered anachronistic, incompatible with the basically egalitarian principles

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8 Marx, *Grundrisse*, 407-17.

of capital. On the other hand, there is a more or less tacit argument which construes family, race and/or nation as a sanctuary from the abstracting violence of the transactional, the exploitative, or what are considered to be the degrading effects of technology. According to this perspective, the resort to, say, nationalism is an understandable means to restore dignity in the face of alienation. Along these lines, and in some ostensibly radical critiques of capitalism, it often seems sufficient to cite fragments from Marx so as to confirm the assumption that capitalism is intrinsically destructive of the seemingly traditional bonds of nation, family and race. To be sure, in the *Grundrisse* Marx wrote that “capital drives beyond national barriers and prejudices as much as beyond nature worship, as well as all traditional, confined, complacent, encrusted satisfactions of personal needs, and reproductions of ways of life.”<sup>9</sup> And, Marx and Engels had occasion to invoke the cataclysmic terminus of capitalism in corresponding terms. Most famously, in the *Communist Manifesto* they wrote: “All fixed, fast-frozen relations, with their train of ancient and venerable prejudices and opinions, are swept away, all new-formed ones become antiquated before they can ossify. All that is solid melts into air ... and man is at last compelled to face with sober senses his real conditions of life, and his relations with his kind.”<sup>10</sup>

## POLANYI AND MARX

Yet, the theory that capitalism is defined by the surpassing of limits – or what might be referred to in more current terms as deterritorialisation<sup>11</sup> – is not Marx’s argument but, to mention one of the most emphatic of its advocates, Karl Polanyi’s.<sup>12</sup> Recently, Polanyi’s theory has been revived, perhaps not surprisingly in the wake of the financial crisis of 2007-08. David Bollier has recapitulated Polanyi’s distinction between markets and – as Bollier puts it – the “sovereign dynamics” of “land and human beings,” in what amounts

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9 Marx, *Grundrisse*, 410.

10 Marx and Engels. “Manifesto of the Communist Party.”

11 Deleuze and Guattari. *A Thousand Plateaus: Capitalism and Schizophrenia*.

12 Karl Polanyi, *The Great Transformation: The Political and Economic Origins of Our Time*.



to a naturalist definition of “the commons.”<sup>13</sup> Elsewhere, in a piece applauding a report by the New Economics Foundation entitled “The Great Transition,” Bollier remarked that “the coming of the market order swept aside all sorts of social arrangements that had prevailed for millennia of human history,” among which he listed “the role of family, kinship, community and religion, the importance of moral order and other non-market principles.”<sup>14</sup> Joseph Stiglitz,<sup>15</sup> in his foreword to the recent republication of Polanyi’s *Great Transformation*, has suggested that Polanyi’s “arguments – and his concerns – are consonant with the issues raised by the rioters and marchers who took to the streets in Seattle and Prague in 1999 and 2000 to oppose the international financial institutions.”<sup>16</sup> Undoubtedly, it might to some seem prudent or reasonable to confuse Polanyi’s theory with that of Marx, not least given the use of similar terms such as “the commons,” and the conflation of anti-capitalism and anti-finance that was apparent in the so-called anti-globalisation protests. Hardt and Negri have argued for a distinction between the commons and the common; while Moten and Harney have – I think more interestingly – insisted on attention to the “undercommons.”<sup>17</sup> Moreover, the depiction of the protests referred to earlier as ‘anti-globalisation’ campaigns was always a matter of open dispute. Yet, the inclination remains. And, it has resurfaced in the wake of the most recent financial crisis as the denunciation of speculative excess and in calls for re-regulation (by Stiglitz and others). There is, perhaps, an affective purchase in the limit, in the boundary that one assumes limits capitalism but, as it turns out, restores and expands it at the same time, recuperating the tendency of rebellion into the re-imposition of austerity. The movements against austerity, in Europe and elsewhere, are not only challenged by the resurgence of ultra-nationalism – as with the fascist campaigns against migrants in Greece – but also hampered by a theory of the limit that is deeply complicit

13 David Bollier, “Why Karl Polanyi Still Matters.”

14 Bollier, “The Great Transition: A Visionary, Intelligent Report Envisions How to Reverse Karl Polanyi’s ‘Great Transformation’.”

15 Joseph Stiglitz served as an economic advisor to President Clinton and was Chief Economist at the World Bank (1997–2000).

16 Stiglitz, “Foreword,” vii.

17 Hardt and Negri. *Commonwealth*. Fred Moten and Stefano Harney. “The University and the Undercommons.”

with a politics of austerity in its romanticisation of a naturalist account of the commons, free labour, the state, and obligation (that is, debt). Polanyi reached back – as others do now – to Aristotle in order to defend what he sees as the archaic institutions of community during, as Scott Meikle puts it, “awkward historical circumstances.”<sup>18</sup>

The contention here, then, is that there a much more nuanced and provocative analysis of capitalism in Marx’s writings than that found in Polanyi’s, and, moreover, that the very idea that the complex imbrication of family, nation and race pre-dates the rise of capitalism is both anachronistic and restores the foundations of capitalist futurity in the midst of uncertainty. In the move from the writing of the *Manifesto* to the volumes published under the heading of *Capital*, not only is there a significant shift from the theme of alienation to that of surplus labour, but the intervening texts (most notably, the notebooks of the *Grundrisse*) are preoccupied with elaborating on a capitalist dynamic which consists in the overtaking of limits and, simultaneously, their imposition. Marx refers to this as the “double movement.”<sup>19</sup> The theory of alienation, unlike that of surplus labour, implies the loss of something that was previously possessed. It not only assumes a form of subjectivity (contractual, property in self) that would have made little sense prior to the seventeenth century. It is not only, in Marx’s writing, supplanted by the theory of surplus value, in which it is no longer a question of the alienation of a form of an implicitly contractual subjectivity that resides outside the logic of capital and the history of capitalism. As Marx puts it: “labour as a productive force is incorporated in capital.”<sup>20</sup> But, more importantly, I would suggest the theory of alienation has a tendency to play out a restorative and compensatory politics in a naturalisation of the contractual, precisely when the question of the distribution of abundance and the imposition of austerity is most uncertain, manifesting less as the consequence of a natural order than the conditions of social and political arrangements that, it might be added, could change. Premised on notions

18 Scott Meikle, *Aristotle’s Economic Thought*, 87. As I argued in Chapter Three, however, this version of Aristotle that presented by the Scholastics. This is not remarked on by Meikle, but it is pointed out when he notes the incorrectness of Polanyi’s claim that Aristotle argued for centralised price fixing as a means to regulate the market.

19 Marx, *Grundrisse*, 730.

20 Ibid, 594.

of property in self (which is to say, the pivotal assumption of contract theory as elaborated by Locke and others), the complex diffusion of contracts can be made to re-appear as the natural order of indebtedness, of belonging and, of course, of the ownership and transmission of property and properties. In the elaboration of migration policies as the increasingly fine-tuned organisation of a distinction between authorised and criminalised movements – which is to say, in the transformation of movement into the circulation of bodies as labouring subjects – the question of right is posited in simultaneously economic and oikonomic terms. Capitalism requires the legible inscription of property ownership (in other words, genealogy) so as to effect its legitimate transfer and transmission across space and time. The dilemma of capitalist futurity is answered by the interrelated workings of genealogy and contract.

The recent history of migration policy in Europe, Australia, the United States and elsewhere has been marked by a growing emphasis on solving the ostensibly demographic problem of an aging population (and all that this implies about racialised understandings of ‘fertility,’ the ‘domestic economy,’ and the migration of cheap care-labour at a time of declining and/or privatised welfare and health provision, and so on), as well as the increasing restriction of migration to the lines of family reunion and filiation in both skilled labour and refugee migration classifications. Across the eighteenth and nineteenth centuries, the spaces of home and factory were demarcated in such a way that the former was posited as a realm of private, familial affection that, in any event, allowed for the humanisation and reproduction of the male domination of the latter. During the Fordist period of much of the twentieth century, the definitions and correlations between home, factory and nation was formalised in the accounting of the family wage. A politics of the household – become more pronounced with the last three decades of privatisation and financialisation – pivots on the central question of the extraction of surplus labour. This is a process that continues to be shaped by the contours and allocations of the wage contract, but – logically and politically – surplus labour is that which is not recognised in or by the wage contract. It is, in other words, gratuitous labour. And the question, accentuated during times of crisis, is how to expand surplus labour, whether by innovation or by force, and preferably as if it is the most natural of arrangements.

While it is easy to suppose that forms of

identification and attachment such as the familial, racial or the national existed prior to the emergence of capitalism, more careful histories would indicate that what we understand by each, and as they appear in their precise combination today, had no clear-cut corollary before the fifteenth century. From a long-term perspective, the familial household, characterised as the residency of a nuclear family that did not include slaves, and situated as the interlocking foundation of inheritance and intimacy, is a recent invention. Nationalism (and the nation-state as the aggregation of ‘a people’ and ‘state’) rose to prominence as a political-cultural form in eighteenth century Europe, and acquired a globally eminent reach across the twentieth. Similarly, biological and (later) cultural concepts of race do not appear prior to the Renaissance and the so-called scientific revolution (with its techniques of classification and typology) and, most notably, in the process of European imperial expansion from the fifteenth century on. If historians generally agree on this timeline, there are very few who touch on what should, given the explicit character of the discourses surrounding border policing, be obvious: namely, that the control of migration proceeds through a complex meshing of notions of race, family and nation. That this is not always evident, even in critical understanding of the border, indicates the chief result of this combination, which is to naturalise the conduct, techniques and affective registers of border controls.

### THE GIFT OF SURPLUS LABOUR

The supposition that these are archaic forms of social attachment that stretch back to antiquity is as inaccurate as is the suggestion, made by Polanyi, that there is a fundamental opposition between the transactional dealings of the marketplace and the gift economy he ascertains in apparently pre-capitalist relations. And he does this by situating land and labour outside capital which, in any case, he reduces to ‘the market.’ For Marx, by contrast, the specificity of capital is the extraction of surplus labour. It makes its first appearance, in agrarian capitalism, as if it is a “free gift of Nature to capital.”<sup>21</sup> Surplus labour, he insisted in the same terms time and again, is that which is appropriated by the capitalist “free of charge.”

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21 Marx, *Capital*. Volume III, 879.

On the presumption that the role of the capitalist is to lend the worker materials with which to work, he wrote that “after settlement of all items, the worker ends up being the debtor, after not only having made restitution of the capitalist’s advance, but also having added his own labour to it free of charge.”<sup>22</sup> This is not only Marx’s bitter sense of irony in evidence, though it is surely that. Nor are the stakes here simply those of discerning some interesting but inconsequential divergences between Marx and Polanyi. The question Polanyi never asks, the question that is both political and economic, is of ways in which abundance is distributed and austerity imposed. In any case, if Polanyi adopts Marx’s phrase “double movement,” it is in order to romanticise the apparently pre-capitalist instance of the particular form of the gift economy – what he overtly calls at one point “householding”<sup>23</sup> – that capitalism presupposes at its core. According to Polanyi, the double movement consists of what he described as a contradiction between the self-regulating market and those forces which seek the protection of peoples, land and cultures. For Marx however, the double movement might offer analytically distinguishable terms but is historically and theoretically indivisible. The double movement, in brief, is intrinsic to capitalism – just as, it might be added, the formula of land, labour and capital is unique to the apologia of political economy.

The conservative critique of capitalism is preoccupied not with this, but with taking capitalism to task for setting up crises of its own realisation, as in the expansion of debts that cannot – or will not – be repaid. It is concerned not with the question of moving beyond the interrelated dynamics of expansion and crisis, but of restoring the very foundations of capitalism in the retrieval of the conditions of gratuitous labour. This can be accomplished by way of a technological reorganisation of production that increases the intensity of exploitation, or by the extension of labour time – but it is always naturalised by recourse to the apparently archaic, biological or cultural definitions of obligation, debt and origin. The oikonomic nexus of family, nation and race delivers up the gift of free labour in its most forceful senses through the interrelated boundaries of the wage contract and those of citizenship (that is, the social contract). It does so

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22 Marx, *Grundrisse*, 365 and 853.

23 Polanyi, *The Great Transformation*, 55.

in the forms of unpaid domestic labour; migrant labour that, by way of visa stipulations or outright criminalisation, is compelled to work for as little as possible; the geographic organisation of cheap and below-subsistence labour; to mention the most notable. The oikonomics of present-day organisations of the economy is also apparent in what I referred to earlier as the expectation that women, as a consequence of their very identity as women, deliver a labour that has affective purchase, circulating as an extension of (rather than refusal of or indifference toward) care-giving domestic labour that significantly must appear as if it is not work at all, but freely and naturally given. Far from being marginal to the extraction of surplus labour, this expectation of a labour freely given has always been central to capitalist re/production. Yet while Marx was astute enough to know that the extraction of surplus labour presupposes the delivery of this surplus as if it is a debt to the employer, or freely offered up by the worker – both of which rely on the premises of the contract – his critique of the contractual remained incomplete.

In the *Grundrisse*, Marx remarking on the paradoxical “tendency of capital to make human labour (relatively) superfluous, so as to drive it, as human labour, towards infinity,” noted that the analysis of the “creation of “surplus time” – what he suggested can be accomplished by the intensification of work time, or the “forcible prolongation of the working day beyond its natural limits,” or “the addition of women and children to the labouring population” – “belongs in the chapter on wage labour.”<sup>24</sup> As is generally well-known, Marx did not, in *Capital* or elsewhere, write this proposed chapter on the wage. Roman Rozdolski has argued that the pertinent aspects of the projected chapter on the wage were moved into other sections.<sup>25</sup> Negri, lamenting the absence of such a chapter, has hypothesised that it would have “been a chapter on the working class, on the level of needs, pleasure, struggle, and necessary labour.” This, he argued in *Marx Beyond Marx*, is “the foundation of the theory of surplus value.”<sup>26</sup> Along similar lines to Negri, Felton C. Shorthall has insisted that the absence of such a chapter restricted Marx’s critique of capital (and of its crises) to its objective aspects, leaving a

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24 Marx, *Grundrisse*, 398-99.

25 Roman Rozdolski, *The Making of Marx’s ‘Capital’*.

26 Negri, *Marx Beyond Marx*, 72.

more detailed analysis of the subjective forms of class struggle outside the explicit scope of *Capital*.<sup>27</sup> For Shorthall, Negri and others, this question of the missing chapter on the wage marks the possibility of moving beyond a theoretical and political impasse, one conditioned by the collapse of the Second International and the putative success of the Russian Revolution, in which (to put the question on its own crude terms) there are either objective laws of capitalist development and (conclusive) crisis, or there are revolutionary subjects construed as a vanguard force operating at the level of consciousness. Yet the juxtaposition of objective and subjective processes implicitly recapitulates Fordist distinctions, playing out the aspiration for transformation in the implicit suggestion that a move from the condition of the mass worker of the assembly-line to the autonomous agency of cognitive labour might construct the necessary subject of revolution. It also misses the significance of intimate self-management in the very organisation of the wage contract. As Staples has insisted: “lurking in the workingman’s historic demand for higher wages and a shorter working week is the ghostly figure of workingwoman. Class has long been a ghostly appearance of what we have come to think of as gender – and with gender always race.”<sup>28</sup>

When Marx suggested that surplus labour time might be expanded by way of the entry of women and children into the workforce, he misunderstood the character of the wage contract as the organisation of right and surplus labour in its socially amplified senses. Marx was writing at a time when the number of women in regular paid work – having increased most notably through and alongside the industrialisation of textile production – began to decline due to campaigns to remove women and children from the factory through so-called protective legislation and the emergence of the family wage, to be replaced by systems of day labour for women and an increasing dependence on male earnings defined as a breadwinner wage. Set in the midst of these complex shifts between public and private labour, the contested and gendered lines between paid, unpaid and precarious work,<sup>29</sup>

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27 Felton C. Shorthall, *The Incomplete Marx*.

28 David Staples, “Women’s Work and the Ambivalent Gift of Entropy,” 120.

29 One of the direct consequences of the removal of women from the factories was the increasing resort by women to day labouring arrangements that, unlike those which obtained around the time of the plagues referred to

and the early association of mechanisation with the increasing economic independence of women, this meant that the theory of alienation (linked as it was to notions of “de-skilling” from industrialisation) was highly charged with gendered assumptions about the distribution of right and the organisation of recognition. The wage contract seems to confer right, even as it extracts surplus value, not least from those who are not deemed to be formal parties to the contract but nevertheless crucial to its reproduction (such as the family wage). As industrialisation diminished the circumstances of waged workers, the wage contract served to nevertheless imply a compensatory distinction between those with, on the one hand, the authority to contract and those, on the other hand, who laboured under the condition of slavery or unpaid domestic labour. Beyond its symbolic recompense, the wage contract organised the distinction between home and factory and therefore the delivery of free labour that would humanise and reproduce the recognised and contracted labour that takes place the factory. As Staples argues, “in the Fordist era of the mass worker there was never any abstract or statistical measure of value for specifically reproductive labour other than that of the workingman’s socially necessary labour.”<sup>30</sup> Astutely, Staples links this to the issue of thermodynamics and debt, which is to say, the transfers of energy that are not recognised as labour but, instead, depicted as gift. Whereas he proceeds to discuss various anthropological understandings of the gift economy (such as those of Marcell Mauss and Georges Bataille), given my remarks on fractals and Polanyi above, I turn to a brief discussion of thermodynamics, the reproduction of patterns, and the border/frontier of capitalist accumulation.

## **PATTERN OF RE/PRODUCTION**

In thermodynamics, the question of the limit is posed as a problem of entropy. According to the so-called second law

previously, were likely to have favoured employers. It might be added that prior to this period of the industrialisation of textile production, much of the work on textiles in Europe was undertaken in households by women. Marx’s remarks that the *entry* of women and children into the factories (ie., into paid labour) expanding surplus labour are remarkably ahistorical. Indeed, the reverse seems to be the case.

30 Staples, “Women’s Work and the Ambivalent Gift of Entropy,” 125.



of thermodynamics, energy escapes and disorder increases, decreasing the availability of energy for conversion into *useful work*. In other words, the second law is not precisely a law of energy as such, but the problem of what might specifically be captured as re/productive energy. In his refutation of the thesis of immaterial labour, and updating Marx's theory of machines in the face of Philip Mirowski's critique of its preoccupation with the heat engine, George Caffentzis remarks: "at the core of capitalist commodity production is the reproduction of a pattern" (2007:43). I would insist that the pattern is by no means a metaphorical ornament in this discussion. In Caffentzis' account, the momentous technological innovation of Jacquard's loom (and the subsequent development of the computational machine) displace labour and enable the transformation of its composition insofar as machines adopt or admit reproducible patterns in the production process. For Caffentzis, Jacquard's punch-card device – commissioned, he notes, as a means to break the control of the Lyon silk weavers in the early 1800s by Bonaparte and Lazare Carnot – is pivotal to the mechanisation of the labour process that, above all, seeks the displacement and control of recalcitrant workers. More broadly, Caffentzis shows that the crisis of clerical labour in the late nineteenth century, and the shift to a largely feminised clerical labour force in the early twentieth, demanded the recourse to and refinement of Charles Babbage's Analytical Engine that (elaborating upon the principle of Jacquard's loom, and later echoed in Alan Turing's universal machines) would enable the emergence of what we understand today as the computer. Caffentzis' analysis is not, I think, significant for its dismissal of Hardt and Negri's thesis of immaterial labour<sup>31</sup> (a proposition that, as Caffentzis suggests, is easily faulted for its recapitulation of Cartesian assumptions), but for his remarks on patterns.

Generally named for having been invented by Joseph Marie Jacquard in 1801 (but based on previous work on automata by Jacques de Vaucanson), the loom mechanised the weaving of intricate patterns, such as damask, matelassé and brocade. Caffentzis does not take this up, but prior to the French Revolution, such fabrics had been the mark of courtly dress and upholstery – in other words, the development of the loom indicated not just a transformation in

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31 Hardt and Negri, *Empire*.

the labour process, but the shift from General to Emperor Bonaparte; in short, the passage from revolution to coup d'état to the restoration of empire that included, most notably, the re-imposition of slavery. Formally banned since 1794, in the middle of 1801 Bonaparte issued a decree reversing its prohibition in the French colonies, dispatching generals to Saint-Domingue (now known as Haiti) to violently – but, as it happens, only fleetingly – restore control and the French Empire's sugar plantations. Very briefly put, it is in this context of the problematisation of energy transfer, accumulation and the legitimate form of labour that the Jacquard loom begins to transform the textile industry over succeeding decades, and the production process across the next two centuries. Controlled by cards with rows of punched holes that correlate to a row in the design, the Jacquard loom slings these cards together to weave a pattern. Its ability to sequence operations in this way is a significant precursor to computing, and signalled a leap in production methods that extended far beyond that afforded by modulating the divisions and tempo of the labour process, as with Taylorism and scientific management. To be sure, the reproduction of a pattern is central to capitalism, but the question of what this pattern is runs much deeper and wider than Caffentzis acknowledges. In this, the pattern is not simply a question of the reproducibility and therefore automation of parts (or the whole) of the labour process – though this remains pertinent to the debates around the trope and aspiration of infinite re-/production (self-replicating machines, perpetual motion, breaking the second law of thermodynamics). The pattern is a question of the conflation of capitalist re-/production and life, of the interaction – in other words – of closed and open systems, of the ways in which multiple and irreducible forms of generation are transformed into production and reproduction. Differently put: the interaction between contracts and contagions models the recomposition of an open field into the closed system of capitalism.

In the outer edges of conjectural markets, and in particular that of molecular biology and nanotechnology, entropy marks the very problem to be overcome. For Luciana Parisi and Tiziana Terranova, entropy is that “energy which cannot be reabsorbed back into the industrial social machine.” For them, as for Mirowski, thermodynamics

is inextricably linked to a prior phase of “industrial capitalism.”<sup>32</sup> Unlike Mirowski, they go on to suggest that the quest for “indefinite production” is answered by a renewed attention to experimental biology and “female flows, [with] their capacity to introduce a differential, yet coherent element within production is turned into an inexhaustible source of surplus value.”<sup>33</sup> Differently put: innovations in biotechnology and nanotechnology, in their quest for infinite (capitalist) re/production, have both relied upon and placed limits on non-genealogical understandings of life. In *Acquiring Genomes*, Lynn Margulis and Dorion Sagan, argued that it was “microbial creativity” – and its transmission to higher forms of life through, they speculated, viruses – which precipitated the emergence of new species. Viruses, while “too small to function on their own,” are capable of shifting their genomes into “plant, animal, protoctist, bacterial, or fungal cells,” co-opting the metabolism of their hosts. To illustrate the significance of viruses to genomic transfer, they noted that the plant variegation can be produced through, most notably, the mosaic virus which “in hybrid tulips or certain *Abutilon* species [...] cause stripes or beautiful yellow and cream patches.” For them, this marked the proof of “genome acquisition as the source of heritable variation.”<sup>34</sup> This is only one of the examples Margulis and Sagan used to rewrite the paradigm of the origins of species, but in so doing they underlined the emerging theories that would become central to the development not only of nanotechnologies but also recombinant techniques in biology. Often credited as the forerunner of nano-scale research, Richard P. Feynman’s 1959 lecture, “There’s Plenty of Room at the Bottom: An Invitation to Enter a New Field of Physics,” outlined a new field for experimental physics in “manipulating and controlling things on a small scale.” Having worked as a junior physicist on the Manhattan Project, Feynman in this instance wondered about the possibility of organising “the atoms the way we want; the very atoms, all the way down!”<sup>35</sup> But while he invoked biology as a model, he did not quite envisage the

32 Philip Mirowski, *Machine Dreams: Economics Becomes a Cyborg Science*.

33 Luciana Parisi and Tiziana Terranova, “Heat-Death: Emergence and Control in Genetic Engineering and Artificial Life.”

34 Lynn Margulis and Dorion Sagan. *Acquiring Genomes: A Theory of the Origins of Species*, 90-91.

35 Richard P. Feynman, “There’s Plenty of Room at the Bottom: An Invitation to Enter a New Field of Physics.”

eventual prominence of biology, in more than a metaphoric sense, to the unfolding research, and in particular, the re-engineering of viruses as nanotech. It was Kim Eric Drexler in 1981 who, with a nod to Feynman, proffered the emerging techniques of gene synthesis and recombinant DNA as the means by which nanotechnology would be advanced. “Biochemical microtechnology,” he wrote, “provides a beachhead at the molecular level from which to develop new molecular systems by providing a variety of ‘tools’ and ‘devices’ to use and to copy.”<sup>36</sup> The virus has become the principal tool of research in biomedical nanotechnology and industrial nanotechnology (building electron circuits from single atoms and molecules). The viral, as a technique of genetic modification, has been central to the development of genetically modified foods; but it also starkly illustrates the specific limits alluded to here. The development of Genetic Use Restriction Technology (colloquially referred to as terminator technology) makes genetically modified seeds sterile, an agricultural version of anti-piracy laws that seek to prohibit unlicensed copying. While viral transmission and modification have enabled advances in biotechnology and nanotechnology, genealogy is nevertheless recapitulated as the model of property and its transfer. Even as experiments in biotechnology and nanotechnology have relied upon non-genealogical ways of understanding biogenetic kinship, they remain frontier sciences, which is to say: the means by which specifically capitalist limits on speculation are reinstated. These frontier sciences acknowledge and deploy non-re/productive forms of generation in the quest for the infinite reproducibility of capitalist social relations.

## EMERGING MARKETS, FRONTIERS

In a brief, though at times ambiguous discussion on exodus, Virno distinguished frontier from border in this way: “The border is a line at which one stops; the frontier is an indefinite area in which to proceed. The border is stable and fixed, the frontier mobile and uncertain. One is obstacle; the other is chance.” He nevertheless added, almost in passing, that the frontier is “the presence of a boundless territory to colonise.”<sup>37</sup> Hardt and Negri, however, have been far less

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36 Eric Drexler, *Engines of Creation: The Coming Era of Nanotechnology*, 5275

37 Virno, “About Exodus,” 20-21.

ambivalent. For them, the distinction between border and frontier – and the ascription of the latter with a positive political value described as the “boundless frontier of freedom” and “frontier of liberty” – has been pivotal to the presentation of “absolute democracy” as a desirable political strategy.<sup>38</sup> And yet, it is clear from Virno’s account that while the frontier is often conceived as a space of expansion without limit, it is also I would suggest the rolling out of limits in the form of the proliferation of borders. That is, unlike the border against which it is so often defined, and as this delineation arises in the contrast between old Europe and the New World, the frontier is that space into which people carry those borders with them as they might their own personal possessions. In the final pages of the first volume of Marx’s *Capital*, which Virno refers to, the significant differences between European and American class struggles lie in the “constant transformation of the wage-labourers into independent producers,” in view of a relative absence of surplus labourers (as distinct from a superfluous population) and the availability of “free land” in the colonies. By this logic, the possibility of land ownership and a ‘labour shortage’ opens up the chance of escaping the condition of wage labour – but, importantly, that escape, such as it is, takes the (largely idealised) form of becoming a small property owner. That is to say, something like Xenophon’s manager of the noble household, with all the subsequent naturalisation that a dehistoricised understanding of the *oikos* allows. Marx cites Edward G. Wakefield, a theorist of colonisation and a principal founder of New Zealand, who complained of a “parcelling-out of the means of production among innumerable owners” that, Marx adds, “annihilates, along with the centralisation of capital, all the foundations of a combined labour.”<sup>39</sup> Turner would present the frontier as the very thesis of American exceptionalism, in terms not entirely dissimilar to Marx. For Turner, the frontier is productive of individualism and therefore of a democracy and egalitarianism grounded in the diffusion and perpetual expansion of property in land. Thus, the utopic version of the frontier does not imply escape so much as escape whose sense is exhausted by and as individuation – and individuation in some very precise terms: as self-possession,

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38 Hardt and Negri, *Multitude*, 406, 169.

39 Marx, *Capital*, Volume I, 720-21.

sovereignty, the ability to enter into contractual relations, to see oneself (one's body, one's labour, one's relations with others) as a question of property ownership and propriety. In other words, the frontier is also a way of depicting, as Turner puts it, "the outer edge of the wave – the meeting point between savagery and civilization."<sup>40</sup> The sense of chance here is Machiavellian. In other words, what the optimistic version of the frontier elides is the violence that is inherent to the definitions of freedom, escape and selfhood as self-possession, individuation and, not least, intimate self-management. In the frontier, the Machiavellian understanding of chance joins with Lockean notions of rights, property and enclosure to produce not (as Marx suggested) the annihilation of class, but the naturalisation of the oikonomic limits and self-managed foundations of capitalist expansion. The contract is fractal in its scalability of the pattern of oikonomic re/production. The points of departure and those of arrival are points of exchange. There is, therefore, no neat juxtaposition between the fractal and the ostensibly traditional oikonomic markers of ethnicity, identity and kinship in the constant reorganisations of the transfers and expansions of surplus energy across and through the lines of gender, sexuality, class, nation and race.

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40 Turner, *The Frontier in American History*, 38.

# ANNOTATION: AFFECTIVE LABOUR<sup>1</sup>

**Recent analyses of work, of its transformation and significant aspects over the last two decades, turn around the key themes of affect and precariousness.** Post-Fordism is defined by a meshing of worktime and the time of life, the demand to be constantly available, always preparing for work.<sup>2</sup> Social networking is also net-*working*.<sup>3</sup> Particularly in the still-feminised occupations of care and service work, in the expanding post-Fordist areas of the economy, with its own particular exertions, fatigue and forms of an oftentimes intimate self-management, it is affects that are put to work. Akseli Virtanen, Paolo Virno and others have theorised affective labour as the valorisation of human sociability as such.<sup>4</sup> Setting aside an easy distinction between human and machine, Patricia Clough *et al* argue “that there is an abstracting of affect to affect-itself, which disregards the bounded-ness of the human body, thus troubling the conceptualization of the body as the body-as-organism.”<sup>5</sup> Along similar lines, Kathi Weeks has insisted that there is an impasse in presenting “a true self versus its estranged form, or a reproductive sphere of practice separate from a sphere of properly capitalist production.”<sup>6</sup> The divergence between

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1 This is an excerpt from my essay “Uncanny Robots and Affective Labour in the *Oikonomia*.”

2 See Mitropoulos, “Precari-Us?”

3 See Mitropoulos, “The Social Softwar.”

4 Akseli Virtanen, “General Economy: The Entrance of Multitude into Production” and Paolo Virno, *A Grammar of the Multitude*.

5 Patricia Clough, Greg Goldberg, Rachel Schiff, Aaron Weeks and Craig Willse, “Notes Towards a Theory of Affect-Itself.”

6 Kathi Weeks, “Life Within and Against Work: Affective Labor, Feminist

these two accounts is significant, not least because the latter presume a feminist, anti-racist and queer critical history leery of the implicit proposition, in Virno's account and that of others, of nature deformed by cultural and economic processes.

It is not, then, authentic human sociability that is valorised in affective labour, but the apparently genuine circulation of affect *as if it is not work*. Affective labour, whether paid or not, has long circulated as part of a compensatory logic, offered as a humanisation of the mechanisation of the labour process, in both Fordism and post-Fordism. In this respect, it is not simply a question of lamenting the indistinction between life and work as if the former might offer refuge, but of noting the ways in which a politics of the re-enchantment of life proceeds alongside the infinite expansion of worktime. Cooper, in her discussion of the complex articulations of neoliberalism and anti-abortion politics in the United States, has suggested that fundamentalism emerged here as an attempt to "reimpose the property form in and over an uncertain future," a form that "as the right-to-life movement makes clear, is inextricably economic and sexual, productive and reproductive. It is ultimately a claim over the bodies of women."<sup>7</sup> What I would emphasize is that the incertitude of property rights is resolved through recourse to genealogical inscription, and the exceptionalism that treats women's bodies as bearers of properties (as distinct from property in one's self) is simultaneously constructed through the legitimating assumptions of sex, gender, nation and race. Moreover, *oikonomia* legitimates the distribution of surplus labour, orders the excesses of affection, allocating its sources and objects. It is, then, not a matter of reinstating a 'work-life balance,' inasmuch as that restoration might be tacitly understood as or, in practice, entail the return of (largely) women's time to unpaid domestic work and the reproduction of life.<sup>8</sup> Nor would it be a matter of denouncing the enslavement that

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Critique, and Post-Fordist Politics."

7 Cooper, *Life as Surplus*, 171.

8 In the biological sciences, one could contrast the work of Lynn Margulis to that which conventionally posits family trees (Margulis and Dorion Sagan, *Acquiring Genomes: A Theory of the Origins of Species*.) A symbiotic understanding of biological evolution – derived from a consideration of the transfer of genetic information between bacterial cells or viruses and eukaryotic cells – regards the human body, among other apparently discrete



is implied by the indistinction of worktime and that of life, as if unpaid and poorly paid labour has not always been the precondition of the circumscribed 'normal working day.' The expansion of precarious work, the increasingly widespread predicament of infinite worktime that has overtaken the demarcations between life and labour need not play out, once again, as the naturalised allocation of surplus labour along oikonomic lines.

Nevertheless, given the indistinction between worktime and the time of life, the question of how workers might take (what might be redundantly referred to as) industrial action becomes both more difficult to answer and all the more pressing. To be sure, there is a more complex story to be told about both affective labour and precarious work, not least because these are hardly new, even if they are new experiences for some; and even as they emerge as novel motifs in social analysis, likely because (over the last two decades) these forms of work have come to impact upon the experience of work for white, middle class men in metropolitan countries. Still, the question of what to do when the strike becomes structurally implausible, when workers are spatially and temporally disaggregated, or when the work contract is both precarious and infinite in its reach, becomes a more pertinent one for all that. Given the pertinence of (faking) affective attachment, what becomes increasingly troubling is the uncanniness of robotic feeling. In *The Managed Heart*, Arlie Russell Hochschild, remarking on the strategies some flight attendants use when confronted with speed-ups, wrote: "Workers who refuse to perform emotional labour are said to 'go into robot.' They pretend to show some feeling. [Yet in] the conditions of speed-up and slowdown, covering up a lack of genuine feeling is no longer considered necessary. Half-heartedness has gone public."<sup>9</sup> Perhaps, then, the *oikos* is haunted not by communism – at least as it has come to be understood, as party or state or policy – but by disaffection, a detachment from the oikonomic that signals attachments otherwise and, for this reason, barely deciphered by conventional political analyses, but nevertheless distinctly uncanny.

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bodies, as composed by multiple organisms.

9 Arlie Russell Hochschild, *The Managed Heart: The Commercialization of Human Feeling*, 135.



## VII.

# FLORA AND FORTUNA

... their rarity seemed capable of domestication.

– Simon Schama, *The Embarrassment of Riches: An Interpretation of Dutch Culture In the Golden Age*.

It is impossible to deny that the blending of foreign blood has seriously impaired the value of the pure strains. Many of the continental sorts lack cleanliness and when they crop up amongst their purer sisters their appearance at once betrays them.

– Miss Prism, in Oscar Wilde’s *The Importance of Being Earnest*.

**In literary and artistic texts, in political and economic commentary, the** theory of financial contagion makes a nascent but notorious appearance in discussions of the sharp rise and fall of the price of tulip bulbs in the Netherlands in the 1630s – what is usually called “tulip mania.” As it happened and in short, from early November 1636 to May 1637, there was a twenty-fold rise and corresponding decline in tulip prices.<sup>1</sup> Prices rose, until, it seemed very suddenly, few believed they would continue to do so. By 1638, under pressure from the states to mediate increasing disputes over debts, the High Court of Holland voided all contracts of sale on the plantings of the previous season, going on to stipulate that outstanding contracts could be liquidated upon receipt of three

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1 Earl A. Thompson and Jonathan Treussard, “The Tulipmania: Fact or Artifact?”

and a half per cent of the original purchase price.<sup>2</sup> Over the last two decades, this seventeenth century, and apparently inexplicable price movement of the tulip bulb has served as one of the most prominent reference points for debates about money supply, fundamental value, and more besides. US Economist Robert Shiller dubbed it “the most famous bubble of all,”<sup>3</sup> while Mark Hirschey, writing in the *Financial Analysts’ Journal*, suggested that dot.com stocks were (in 1998) today’s tulips.<sup>4</sup> A decade later – less concerned with rapidly rising dot.com stocks, and some time after the subprime collapse had eclipsed their crash in 2000 – a business columnist of the *New York Times* pronounced alarm that, “in the sophisticated, computerized 21st century, we find ourselves experiencing the same kind of financial panic – the same kind of financial insanity, really – that has dogged mankind at least since the Dutch tulip mania of the 1630s.”<sup>5</sup> Economic historian Charles Kindleberger called the rapid rise in tulip prices a “more nearly pure mania,” going on to quip that the “appetite for income is highly infectious.”<sup>6</sup>

Imported into Europe from Turkey, Anne Goldgar reminds us that, at the time, the tulip did not so much represent “the ultimate in Dutch domesticity” as “novelty, unpredictability, excitement.”<sup>7</sup> In a similar vein, Simon Schama noted that the tulips “were, at least to begin with, exotic, alluring and even dangerous,” and went on to make the suggestive comment that it “was precisely at the point that their rarity seemed capable of domestication for a mass market that the potential for runaway demand could be realised.”<sup>8</sup> For, in addition to its purportedly strange origins, the petals of the tulip were at times brilliantly transformed – in colour, pattern and shape – by a mosaic virus transmitted by aphids. While the existence and role of the virus was not then known or understood, the brilliant lines and colours sometimes created by the tulip breaking virus garnered

2 Schama, *The Embarrassment of Riches*, 360-61.

3 Robert Shiller, *Irrational Exuberance*, 177.

4 Mark Hirschey, “How Much Is A Tulip Worth?,” 11.

5 Joe Nocera, “Swept Up by Insanity of Markets.”

6 Charles P. Kindleberger, *A Financial History of Western Europe*, 272.

7 Ann Goldgar, *Tulipmania: Money, Honor, and Knowledge In the Dutch Golden Age*, 2.

8 Schama, *The Embarrassment of Riches*, 350.

the highest prices. The market in proliferating tulip varieties and vivid blooms did not only, then, involve trading on minor differences but also – because of the seasonal character of tulips and the indeterminable effects of the virus – transactions heavily mediated by futures contracts and risk. Bulbs would be sold while still in the ground, at times more than once, but most likely not as often as has been implied. This, in itself was not remarkable. Complex financing, forward contracts and futures trading were a part of the wider economy in the Netherlands before and after these events.<sup>9</sup> Though by many accounts, the temporal aspect of the sales served to underscore moral tales of a perilous indistinction between investment and gambling, the real and the speculative, the already rich and those who wanted more money.

At the time, numerous pamphlets and drawings lampooned the speculative excesses of the tulip bulb market, though these mostly appeared after the dramatic fall of bulb prices. In many writings and works of the period, the goddess Flora was identified as “the ‘*Bloem-hoertje*,’ or little flower whore. [...] Her beautiful appearance – her combed hair, ‘like a slippery mermaid,’ her tulip-like clothing, bordered, varied, and flamed – hid a false ‘knave-goddess,’ seductive yet, beneath it all, suffering from the pox.”<sup>10</sup> More famously and later, in *Memoirs of Extraordinary Popular Delusions and the Madness of Crowds* (first published in 1841), the Scottish journalist Charles Mackay chronicled what he called peculiar follies, by his reckoning: “some scheme, project, or phantasy into which [an age] plunges, spurred on either by the love of gain, the necessity of excitement, or the mere force of imitation.”<sup>11</sup> Among the Crusades, alchemy, the South Sea Bubble and more, Mackay listed “tulipomania” in his catalogue of ostensibly irrational crowd behaviour. Mackay mocked a trade in tulip bulbs that, by 1634 was, by his reckoning, geared not toward enhancing the cultural and/or actual capital of already wealthy collectors, or those displaying eventual blooms, but for storing and resale in a sharply rising market. In Mackay’s view, and expressing his obvious disgust, “the population,

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9 Goldgar, *Tulipmania*, 217

10 Ibid, 281.

11 Charles Mackay, *Memoirs of Extraordinary Popular Delusions and the Madness of Crowds*, 288.

even to its lowest dregs, embarked in the tulip trade.”<sup>12</sup> For the most part, popular discussion of “tulip mania” has followed Mackay in seeing this tulip market as a case study in speculative bubbles, turning around the questions of fundamental value, conjecture, and the rationality or otherwise of market behaviour. For Mackay, the insanity of the bubble (that is, the inexplicable deviation of prices from fundamental value) was evidenced not only by the tulip bulb’s resemblance to an ordinary onion that could not, however, even be eaten, but also by the cultivated beauty of its bloom. He cited John Beckmann’s *A History of Inventions and Discoveries* at length:

There are few plants which acquire, through accident, weakness, or disease, so many variegations as the tulip. When uncultivated, and in its natural state, it is almost of one colour, has large leaves, and an extraordinarily long stem. When it has been weakened by cultivation, it becomes more agreeable in the eyes of the florist. The petals are then paler, smaller, and more diversified in hue; and the leaves acquire a softer green colour. Thus this masterpiece of culture, the more beautiful it turns, grows so much the weaker, so that, with the greatest skill and most careful attention, it can scarcely be transplanted, or even kept alive.

Effacing the distinction between nature and culture, the tulip was additionally charged with the valorisation of malady – in the manner, Mackay went on to write, of “a mother [who] often loves her sick and ever-ailing child better than her more healthy offspring”<sup>13</sup> Against this reading, Peter Garber situates the question of fundamental value in scarcity of supply (the rarity of particular varieties).<sup>14</sup> Even so, there remains in Schama’s and Garber’s telling of the story of “tulip mania” a lingering sense, albeit ambivalently put, that what precipitated

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12 Mackay, *Memoirs*, 74.

13 Ibid.

14 Peter Garber, *Famous First Bubbles: The Fundamentals of Early Manias*.

the lurch toward crisis was the entry of “nonprofessionals”<sup>15</sup> or those who were not “genuine tulip fanciers”<sup>16</sup> into the ranks of the the tulip bulb speculators – and drunken ones at that, since some of the trading occurred in taverns. Goldgar argues that the kind of social mobility imagined to result from the entry of the poorer classes into the tulip market signalled not a financial crisis but a cultural one. Citing texts and songs which circulated at the time, she writes:

An unbridled and rapid acquisition of wealth by the poorest would, if true, completely reverse the structure of wealth in society. ‘To whom is Flora to be compared?’ asked one pamphlet: ‘For she now makes rich people out of the poor.’ This was not necessarily a good thing. Certainly it was not if the previously poor came to ‘dominate’ society, a word used in several songs. [...] in a song about weavers and tulips that appeared in a general songbook published in 1643, Mary Smul, a weaver’s wife, exclaims to her neighbour, Grietje, ‘Away now with Weaving ... Let us Dominate [...]’<sup>17</sup>

There is not much that can be added to Goldgar’s excellent study of “tulip mania.” What I would like to do in the remainder of this chapter is summarise the most significant arguments around this topic, and offer a reading that, in her account and that of others, remains implicit but which, I think, significantly shifts the analysis. There are three things to be underlined before doing so: the historical emergence of a distinction between finance and gambling, the socio-historical character of scarcity and value and, finally, the coincidence of bubonic plague, mosaic virus and tulip market that called forth a demand for the re-imposition of debt and property along genealogical lines.

Firstly, early modern Europe was the scene of the creation of a distinction between finance and gambling. In this respect,

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15 Garber, *Famous First Bubbles*, 25.

16 Schama, *The Embarrassment of Riches*, 360.

17 Goldgar, *Tulipmania*, 174.

“tulip mania” represents not an instance of affective disorder but, on the contrary, a narrative and pre-history through which finance emerges as a distinct realm of monetary transactions having the legal status of contracts – which is to say, these contracts became enforceable by law. These moral tales, however accurate, are a prelude to the organisation of legitimation and subsequent legal orders. Garber remarks that the authorities repeatedly set forth edicts, beginning in 1610 and restated in 1636, that futures contracts would not be enforced,<sup>18</sup> but it is by no means clear whether this only applied to the tulip market, those sales made in taverns, or more generally (not least, given that the Netherlands grain trade had been similarly predicated on the exchange of promissory notes since the beginning of the century). In any event, the question of contractual arrangements having the backing of law and legal remedy remains pertinent to the organisation of a distinction between legitimated investment and unauthorised gambling. Schama, writing of the increasing turnover of futures contracts, notes that “the elite viewed this degeneration of business into gambling with deep misgivings – and the church, of course, with unconcealed horror. It was the contagion of pandemia: the gullible masses driven to folly and ruin by their thirst for unearned gain.”<sup>19</sup> Moreover, as Marieke de Goede illustrates in fine detail, conceptually, both gambling and finance are “strategies of confronting chance and uncertainty,” and she goes on to show that

Over time, the attack on gambling became the means through which finance distinguished itself as a morally responsible sphere of thought and action. [...] it was only through creating a contrast with gambling that finance was able to emerge as a respectable element out of early modern networks of monetary activity.<sup>20</sup>

After all, contingent claims (otherwise known as aleatory contracts) are – by definition – bets on the occurrence of some event in the future. Life and maritime insurance, the most

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18 Garber, *Famous First Bubbles*, 34.

19 Schama, *The Embarrassment of Riches*, 359

20 Goede, *Virtue, Fortune, and Faith*, 50.



classic of aleatory contracts, were already widespread in Holland from the sixteenth century on.<sup>21</sup> More broadly, Gerda Reith situates the separation of chance (in its probabilistic and epistemological sense) from religious understandings of providence and fate in the seventeenth century.<sup>22</sup> With particular force in that century then, and positioned as emblematic of the folly of speculation,<sup>23</sup> allegories of speculative excess conveyed moral codes about the proper modes of creation, acquisition and distribution of wealth. Such tales served as righteous warnings against the disruption of social hierarchies and, not least, the hierarchy of values – an alarm no doubt amplified by the fabricated character of socio-economic value which the mosaic-infected tulip exemplified.

Interestingly, Goldgar observes that the apparently incomprehensible rise and fall in tulip prices occurred in the same month as the annual carnival was held. Traditionally, carnival was a time of ritualised social and political inversion. In February 1637, it must surely have focused attention on a seemingly disordered world that threatened to go beyond its manageable expressions. As Goldgar puts it: “Flora worshipped instead of God, drink preferred to labour, and an apparently worthless flower prized above all”<sup>24</sup> – values, in other words, seemingly turned upside down. For Mikhail Bakhtin, the medieval carnivals were times of authorised transgression. The apparent subversiveness of the carnival was ordained by ecclesiastical authority and punctual in its temporality. In its parodic exhibitions of power, the carnival simultaneously posited, inverted and reinforced social norms. Bakhtin’s analysis of the carnivalesque, then, is that it functioned as both safety-valve and restoration.<sup>25</sup> What the tale of “tulip mania” seeks to restore, I argue here, are the proper boundaries of property, and this restoration proceeded along genealogical lines. In one sense, this involves what Schama refers to when he notes that criticism of the trade in tulips saw it as violating, among other things,

21 Charles Farley Trenerry, *The Origin and Early History of Insurance, Including the Contract of Bottomry*.

22 Gerda Reith, *The Age of Chance: Gambling in Western Culture*, 13.

23 Frans De Bruyn, “Reading *Het groote tafereel der dwaasheid*: An Emblem Book of the Folly of Speculation in the Bubble Year 1720.”

24 Goldgar, *Tulipmania*, 297.

25 Mikhail Bakhtin, *Rabelais and His World*.

the “reciprocity between effort and reward.”<sup>26</sup> In the Calvinist ethos, work and productive investment was the will of God. I discussed the labour theory of value in more detail in previous chapters; but emphasise here that, in the tulip market, for a time, the orderly genealogies of debt and wealth seemed to be thrown into disarray. Suffice to remark at this point, however, that both Church authorities and the Netherlands elite had been involved in the raising of money for asylums, flood relief and similar public works through lotteries,<sup>27</sup> such that the pertinent question was not any formal distinction between finance and gambling, but the establishment of a moral and (eventual) legal and institutional boundary between discrete spheres of economic activity (trading houses rather than taverns, for instance) – and the legitimisation (or not) of who might partake in them.

Secondly, scarcity is a socio-historical artefact. Rarity does not constitute a system of values; it presupposes one. Moreover, shortages are historically and socially constructed; and it is a specific way of life which causes demand to exceed supply of any given thing. The available quantity of even the most ostensibly natural of resources (or needs) is implacably transformed by its quantification. What in economic parlance is referred to as a bubble is an index of this trajectory, shunting value between medium and object, money and asset, price and bulb. As Federico Aguilera-Klink and others have shown in their study of water in Tenerife, shortages are the result of “a set of social processes that reflect the conflicts concerning the desirable kind of society and social order.”<sup>28</sup> Similarly, the much-touted scarcity of particular resources, such as oil, is a function of socio-economic structures and events predicated upon oil as a prime source of energy. What scarcities point to is the arrangement of particular ways of life, and not life as such. These processes are no different when it comes to tulips – albeit running along different axes of discernment and peculiar socio-cultural histories, the financial-aesthetic appreciation of particular varieties of blooms regarded as more exotic than others, and

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26 Schama, *The Embarrassment of Riches*, 362.

27 Ibid, 306-10.

28 Federico Aguilera-Klink, Eduardo Perez-Moriana, and Juan Sanchez-Garcia, “The Social Construction of Scarcity. The Case of Water in Tenerife (Canary Islands),” 233.

so forth. Even though the cultivated character of the tulip lends itself to historicising accounts, and in so doing can prompt marvel or disdain depending on the disposition of the narrative, the construction of scarcity is no more or less operational than with other assets or needs deemed to be (more) natural or fundamental. Benedict S. Robinson, in his reading of seventeenth-century texts on the tulip, has argued that these “solicit our recognition of the market’s power to assign fantastic values to what might seem to be trivial or ephemeral objects.” Significantly, he adds, echoing Marx on the character of commodities: “it is naïve to be shocked at the high prices tulip bulbs could command, since exchange value is a function of the market, that is, of desire.”<sup>29</sup> Unlike Robinson, however, what I would like to underscore here is not the empty indifference of exchange value, but the genealogical re-/arrangement of desire in which finance, property and labour mesh with an inseparable complex of gender, sexuality, class and race. In this oikopolitical nexus, fundamental value is a euphemism for the expectation of (or demand for) a more or less stable capitalist futurity, and this is a future premised on the persistence – or, as the case may be, the restoration – of genealogical composition and lines of inheritance or, more broadly put: on the orderly transmission and transfer of property, debt and authority across time. In citing Miss Prism’s remarks (those which I have placed in the epigram above), Jennifer Wicke suggests that while we

imagine we know the discourse of empire, with its binaries of contamination and purity, self and other, so well we could gloss this in our sleep. Yet the excoriation of sordid miscegenation with pure native stock emerges not from imperial apologetics, nor from the popular press, but from a troubled report put out by the beleaguered British tulip growers association, circa 1900.<sup>30</sup>

Yet even as we might be able to rehearse the

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29 Benedict S. Robinson, “Green Seraglios: Tulips, Turbans, and the Global Market,” 94.

30 Wicke, “Appreciation, Depreciation,” 390.

motifs and epidemiologies of Empire, as it were, “in our sleep,” what remains at the level of assumption are the links between the thematics of “foreign blood” and “pure strains” and the ordering of inheritance, the transmission of property (and properties) and the contaminations of filiation that are inherent to this story of empire, aesthetics, horticulture and (not least) the limits it reinstates on speculative economies.

Thirdly and by way of expanding on the above, a steep rise and fall in prices does not establish the difference between gambling and finance, even if the particularly dramatic speculative activity of a short period remains to be explained. If Mackay’s account offered, above all, a nascent version of contagion as a theory of market behaviour, he nevertheless also pointed to the early existence of futures contracts which speculated on differences of value generated, in no way metaphorically, by contagion. As Robinson puts it, “promissory notes for the future delivery of a bulb were exchanged for promissory notes for future payment. The same bulb – buried somewhere in the ground – could be exchanged ten times in a day.”<sup>31</sup> Yet what I would like to underline at this juncture, is not quite the exoticised risk and danger of the apparently outlandish tulip in the purportedly native English garden, though Robinson’s analysis of this remains relevant here, relating as it does to the discussion above on border controls and quarantine. Of greater interest is the connection between contracts (both the futures contract and the social contract) and what Robinson refers to as the tulip’s “unpredictable proclivity for breaking out into wild patterns.”<sup>32</sup> Locating the question of (fundamental) value as a distinction between those for whom the tulip was a matter of costly aesthetic appreciation or display and those for whom it was an investment imagines the existence of a strict demarcation between cultural and money capital. Yet whether the blooms adorned the dinner tables of the wealthy, were bought by gardeners, or circulated in the form of forward contracts, they were nevertheless figured as assets. What the moral injunction against speculation seeks out is not an insistence upon a non-economic value (which is to say, of a fundamental value that exists outside but is reflected by and underwrites real economic

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31 Robinson, “Green Seraglios,” 93.

32 Ibid, 114.

values), but the restoration of boundaries in a speculative economy. This is the re-imposition of contractual integrity, a matter of desire. Goldgar, Schama and Garber have all pointed to the proximity of a terrible outbreak of the bubonic plague to the rapid rise and fall in tulip prices in 1637. Beginning in the middle of 1635, by the end of that year over 14,000 people had died of the plague in one town; in Haarlem, well over 5,000; while in Amsterdam the toll went above 8,000, rising to over 17,000 in the next year. The authorities resorted to quarantine. Writing on this, Goldgar emphasises the connection to the tulip market: "In the time of plague, property was in many ways central. For a number of young families, tulips formed the bulk of the estate [...] Death meant inheritance."<sup>33</sup> She goes on to remark that the month of "tulip mania" in 1637 occurred just as the numbers of deaths from plague was in decline, with many pamphlets, plays and songs nevertheless and increasingly making direct links between death and illness, inheritance, and the tulip market – one of which was titled, *The Opening of the Will and the Division of Property by the Relatives and Heirs of the late Floortje Floraas*. But while Goldgar hints that that experience of mortality, uncertainty and the redistribution of wealth through inheritance may well have formed the backdrop for the entry of more people into the tulip market, I would argue that this, above all, indicates the heightened importance of genealogy that Goldgar's account mostly alludes to. In this context, it is not simply that the high prices of the tulip offered those with newly-acquired wealth the opportunity for investment, nor even perhaps that this market might be seen as a form of (familial) life insurance and a means of navigating the pronounced contingencies of life. As important as these aspects are, more sharply and inflecting all of this, what the coincidence of plague and speculative market calls into question is genealogical order.

In this respect, Goldgar's history of "tulip mania" is crucial but requires a further analytical step; one in which the exoticised risks of the tulip market and the severe contingencies of the plague years are thought in their complex relation to genealogy as a question of the durability of a particular socio-economic order. In this history, the heightened pertinence of debt, the honouring of promises and contracts, life insurance, wills and fraternity make little

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33 Goldgar, *Tulipmania*, 255-57.

sense outside the naturalised – but perhaps shaken – presumptions of familial lines. Moreover, the particular character of tulip market and criticisms of its diseased state, the figures of Flora and Fortuna, and, not least, the exoticism and (much later, nationalist) domestication of a flower imported into Europe from Turkey, depicts in stark manner a genealogical cosmology that is as gendered and sexualised as it is racialised and nationalising, as marked by class boundaries as it is by heteronormative understandings of proper forms of generation. These are the assumptions through which this history makes sense – the context in and concepts by which fascination is mobilised alongside horror, through which danger is perceived and against which measures are enacted. It should not be surprising, then, that Goldgar introduces this history of “tulip mania” by relating the story of two brothers, one having died while in possession of a bulb which he had not paid for in full, the other being pursued for his debt,<sup>34</sup> concluding it by arguing that what was at issue for the time was the honouring of contracts in a world of relative values.

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34 Ibid, 1.

## VIII.

# NEOCONTRACTUALISM, FAITH-BASED CAPITALISM

Frances Fox Piven and Richard Cloward,<sup>1</sup> in their foreword to Jamie Peck's *Workfare States*, begin by noting that in "New York City, some 45,000 people, mainly women, sweep the streets and clean subways and parks." Doing the work "once done by unionized municipal employees," "instead of a paycheck and a living wage, they get a welfare check that leaves them far below the unionized workers. Perhaps just as bad," Piven and Cloward add, "they have become public spectacles of abject and degraded labour – of slave labour, many of them say."<sup>2</sup> Accused by David Horowitz and Richard Poe of inventing "the strategy of exploiting black rage to advance the cause of 'social justice',"<sup>3</sup> Piven and Cloward have since been placed – via Glenn Beck – at the center of a Tea Party narrative about the collapse of the subprime housing market and the ensuing financial crisis. That strategy, as Horowitz et al have articulated it, amounts to simultaneously viewing social movements as the generators of progressive reform and (perhaps more shockingly) regarding welfare recipients as part of social and political movements. The "Cloward-Piven strategy," so named by Horowitz et al in their discovery of a conspiracy by hippies from the 1960s, entailed a "massive drive

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1 Frances Fox Piven and Richard A. Cloward, *Regulating the Poor: The Functions of Public Welfare*.

2 Piven and Cloward, Foreword, in Jamie Peck, *Workfare States*, ix.

3 David Horowitz and Richard Poe, *The Shadow Party: How George Soros, Hillary Clinton, and Sixties Radicals Seized Control of the Democratic Party*, 106.

to recruit the poor onto the welfare rolls” in order to bring about “a political and financial crisis.” The overt and indisputable signal of this crisis, in this narrative, is the ratio of debt to Gross Domestic Product; that is to say, the socialised echo of the subprime household. If the poor had once lived the high life on welfare, as Horowitz et al have contended, the financial crisis was obviously a result of too much credit. Indeed, the conflation between nation and home – not least for those who clean New York’s streets, parks and subways – hardly seems metaphorical, just as the oikonomic premises expressed in the trajectory of welfare reform over the last thirty years remains more than explicit.

Peck has argued that the contingent workforce situated at the “interface of welfare systems and low-waged work” is – following Piven and Cloward – the object of welfare policy, a “a site of complex and relentlessly contradictory intersections of labour-market processes and regulatory systems, mediated through the vagaries of politics and the uncertainties of statecraft” in which the poor “repeatedly pay the price for their structural position at this pressure point in the job market.”<sup>4</sup> That structural position is akin to what Peck, citing Michael Piore among others, describes as a “secondary sector” characterised by systematic insecurity and low wages, running parallel to the gendered and racialised demarcations of work and welfare/ insurance, and fostering “habits of behavior and thought characteristic of secondary jobs.” Piore had pointed out that the “personalized, dependent relationship between client and social workers is closely akin to the relationship between worker and supervisor in the secondary sector and totally unlike the institutionalized procedures” of “primary jobs.”<sup>5</sup> But if welfare policy has to be analytically situated at the blurred threshold between economics and politics (*oikos* and *polis*) so as to become intelligible, workfare’s “faith in the method of ‘experiment’”<sup>6</sup> requires a critical sense of the theological practices that construe this “secondary sector” as undoubtedly domestic and servile in demeanour and proximity, if not always located in the physical space of the home. Leaving aside the organisation of a New Federalism,

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4 Peck, *Workfare States*, 46.

5 Ibid, 42.

6 Ibid, 100.



the question of how to think the continuities between servitude and service work is undoubtedly a question of care labour – as Evelyn Nakano Glenn put it some time ago as a way of going beyond an additive analytical paradigm in which race, gender and class vied for analytical primacy<sup>7</sup> – but it is also one of service. Whether invoked as training in contracts of service or schooling in contract for service, whether servicing the debt or working in the service sector, or in the distinction between serving the community and doing community service, or servicing a machine, serving in the army, and serving God, service is the simultaneously performative and pious language of contract. Moreover if the specificity of service work is that it does not result in the transfer of a tangible item, it is nevertheless very far from being disembodied, immaterial or intangible. Service work is personalised, even if this only means (as Arlie Russell Hochschild has illustrated) that it is in the form of service with a smile.<sup>8</sup> Indeed, service work is as preoccupied with forms of intimacy as have been the welfare reforms of the last three decades in the United States, and both are questions of capitalist futurity.

## CONTAGION AND PLAGUE

Presenting his 1995 State of the Union address under the heading of a “New Covenant,” Bill Clinton announced that “our most serious social problem” is “the epidemic of teen pregnancies and births where there is no marriage.” Insisting that the welfare system “rewards welfare over work,” “undermines family values,” lets millions of parents get away without paying their child support,” and encourages “dependency,” in that same speech Clinton famously vowed to “end welfare as we know it.” The resulting legislation – the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) – was ushered in under the pressure of a newly-elected Republican Congressional Majority campaigning under the banner of Newt Gingrich’s “Contract With America.” Even so, it detailed

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7 Evelyn Nakano Glenn, “From Servitude to Service Work: Historical Continuities in the Racial Division of Paid Reproductive Labor.”

8 Arlie Russell Hochschild, *The Managed Heart: Commercialization of Human Feeling*.

the increasing convergence between Republicans and Democrats around the religiously-inspired proposition that state welfare had catastrophically supplanted the labour market as a source of income, just as it had displaced the normative family as the appropriate site of care and support. Ronald Reagan's Family Support Act of 1988 (FSA) had already dramatically shifted the emphasis of welfare to family values and workfare. In other words, Reagan had already taken some steps toward legalising forced labour, compelling marriage, and penalising extra-marital sex. But PRWORA brought the theological premises of welfare reform to the fore by entrenching the turn to faith-based welfare provision (in the "charitable choice" provision) that had emerged out of state-run behaviour modification initiatives organised under the terms of the FSA. Along with the Temporary Assistance for Needy Families (TANF) legislation, welfare reform over these years linked access to welfare to citizenship status, penalised extra-marital childbearing as illegitimate, dismantled the safety-net for those with disabilities and chronic illness, and presented poor women with a stark economic landscape: submit to a highly intrusive social wage, and/or seek out privatised economic dependence on a husband, and/or be available for clandestine, below-subsistence, or intermittent work. Building on the "charitable choice" elements of PRWORA, in 2001 George W. Bush established the White House Office of Faith-Based and Community Initiatives (OFBCI), whose remit under Barack Obama's presidency would expand from the subcontracted delivery of a theological understanding of welfare to the undefined aim of involvement in White House "policy issues where religious and local leaders can be effective."

According to David Stoesz, the "welfare behaviourism" that emerged from the funding regime of the FSA would be "unlikely to deliver on its sponsors' promises" of protecting children, but it nevertheless represented the adoption of the argument that, rather "than alleviating problems of the behaviourally poor, public welfare exacerbated the 'culture of poverty.' As poverty programs expanded," Stoesz suggests that conservatives had argued "the social dysfunctions of the behaviourally poor metastasized."<sup>9</sup> While some of the ideas contained in the "Contract With America" can be traced to the

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9 David Stoesz, "Welfare Behaviorism," 68.

conservative Heritage Foundation, Clinton's principal advisor – David Ellwood – had nevertheless already argued that marriage and work should be the foundations of welfare policy. For both Republicans and Democrats, and increasingly in the United Kingdom, Australia and Canada, marriage and work were increasingly seen as the alternative to welfare provision, even as it was becoming more than apparent that the waged work was not a route out of poverty for an increasing number of people and that the proportion of two-headed households in poverty had risen dramatically. Indeed, in the late 1960s, a full-time minimum wage in the United States was estimated to enable the support of three people above the official poverty line; by 1995, that income would situate those people some 30% below that threshold – in other words, the minimum wage paid out for anything less than the duration of the 'normal working day' would not support one person.

Writing toward the end of the 1980s, however, Ellwood felt confident in arguing that welfare should be replaced by a system of incentives which emphasised the ostensibly moral dimensions of the "virtues of work" and the "primacy of family."<sup>10</sup> If in 1932 around half of state governments had made it illegal for married women to be in paid work, by Reagan's term in office the vast proportion of married women were working for a wage, for the most part in a burgeoning service sector deemed resistant to productivity gains, and at a time when married couples with children had ceased to reflect the majority of household arrangements. Between 1950 and 1990, the proportion of women in the formal labour market went from around a third to almost 60%, while the involvement of married women with children under six years old went from under 19% in 1960 to almost two thirds by 1990. In 1989, the Bureau of National Affairs famously announced the disappearance of the conventional Fordist family, suggesting that only "about 4 percent of American families fit the stereotypical image of a father who works outside the home and a mother who stays at home and takes care of the children." Against the suggestions that this was part of a 'decline of the welfare state,' it is worth pointing out that, accompanied by the expansion of welfare to normative household arrangements (ie., 'middle class welfare'), the reforms over these years did not amount to a decline in overall welfare spending so much as

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10 Ellwood, David T. *Poor Support : Poverty in the American Family*, 14-16.

they directed an increasing share of state funding to a form of intimacy and attachment that since the late 1960s was no longer the norm.

In Loïc Wacquant's discussion of the history of poor laws, the invention of the "ghetto" is crucial to the history of welfare reform. As he puts it, the four elements of the ghetto – "stigma, constraint, spatial confinement, and institutional encasement" – organise space so as to "maximize the material profits extracted out of a group deemed defiled and defiling" and "to minimize intimate contact with its members so as to avert the threat of symbolic corrosion and contagion they carry."<sup>11</sup> But if the urban uprisings of the Watt neighbourhoods in Los Angeles in 1965 had inspired both Piven and Cloward to address the welfare rights campaigns that emerged in their wake, just as they had precipitated the recourse to the carceral state and its meshing with (as Wacquant argues) welfare reform, it continued to be a matter of contagion and capitalist futurity (or contagion and reproduction). Wacquant has suggested that, at a time of increasingly precarious and poorly paid work, PRWORA made welfare beneficiaries into "*civic felons* for whom workfare will serve as an analogon of probation fit to ensure they abide by the reaffirmed national norms of wage work and family morality, on pain of being effectively kept out of the citizenry."<sup>12</sup> But the correlations between workfare, prisonfare and – to borrow a phrase from Wacquant and Linda Coco<sup>13</sup> – debtfare also involve a shared preoccupation with the "time clocks, surveillance, and documentation of the routines and intimacies of workers' and clients' daily lives" that Janet Finn and Lyne Underwood have underscored in their critical account of welfare services in Montana.<sup>14</sup> Irreducible to the urban riots, strikes, sit-ins and protests of the 1960s and '70s, the question staked out in the conflicts over welfare policy is the waning importance of wage and marital contracts to a growing number

11 Loïc Wacquant, "What is a Ghetto? Constructing a Sociological Concept."

12 Wacquant, *Punishing the Poor: The Neoliberal Government of Social Insecurity*, 80.

13 Linda Coco, "Debtor's Prison in the Neoliberal State: 'Debtfare' and the Cultural Logics of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005." See also Susanne Soederberg, "The US Debtfare State and the Credit Card Industry: Forging Spaces of Dispossession."

14 Janet L. Finn and Lyne Underwood, "The State, the Clock, and the Struggle: An Inquiry into the Discipline for Welfare Reform in Montana," 110.

of people's intimate lives. Moreover, as Joseph N. DeFilippis has suggested, the welfare rights campaigns of the 1960s had expanded welfare entitlement beyond the small number of mostly white single mothers, and limited welfare agencies' scrutiny and regulation of the lives of the women who did receive it.<sup>15</sup> Of declining significance to the generation of life, but of some importance in shaping the so-called new social movements of the 1960s and 70s, the eclipse of the standard wage and marital contracts by a combination of expanding social incomes, easier if variable credit, greater access to post-school education, and the growth of service work unsurprisingly focussed political conflict around the theological-political distinction between generation and reproduction. As Wacquant puts it in passing, by the late 1980s the dominant view of poverty among welfare reformers was of "anomalous families ... perceived as a 'virus' whose diffusion must be circumscribed if it cannot be stopped, the living precipitate of an indelible and contagious blemish of the self, a foreign 'enemy' upon whom one wages war."<sup>16</sup> More than moral individualism, the neoconservative reactions of the 1980s and early 1990s were galvanised by the combined spectres of excessively generative poor women and virus-breeding (often foreign) homosexuals.<sup>17</sup> But the twist in the long tail of the epidemiological narrative is that mutation is its only structural truth. By the mid-1990s, moral hazard had become financial risk, and the moral panics about the risk of sexually-transmitted diseases and illegitimate issue during the 1980s had segued into regular talk of global financial contagion in less than two decades. Assuming the universal taint of original sin, the problem had spread so far beyond its initial urban 'ecologies' that it began to be posed instead as the existential problems of loose ties, toxic debt, unknown paternity, bad service and, above all, little faith.

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15 Joseph N. DeFilippis, "Common Ground: The Queerness of Welfare Policy."

16 Wacquant, *Punishing the Poor*, 81,

17 As N. Ordovery notes, until very recently the "United States, which had first an administrative and then a statutory ban [on the migration of people with HIV] has, in fact, the highest HIV prevalence in the so-called developed world." N. Ordovery, "Defying Realpolitik: Human Rights and the HIV Entry Bar."

## MORAL HAZARD AND THE NEW COVENANT

In the months prior to the 1996 Presidential elections, the incumbent signed three bills into law: PRWORA, the *Defense of Marriage Act* (DMA), and the *Illegal Immigration Reform and Immigrant Responsibility Act* (IIRIRA). Clinton went on to win that election – and to lose the next, under scrutiny from an investigation that segued from charges of financial impropriety in the Savings & Loans industry to talk of sexual misbehaviour with a White House intern.<sup>18</sup> Between the respective bailouts that followed Black Monday in 1987 and the financial crisis that began in 2007, the question of who, or what, bore responsibility for creating moral hazard was played out in laws related to banking and finance, but also in the increasingly harmonised areas of welfare, migration, marriage and prisons. In 1972, Isaac Ehrlich and Becker had argued, from the assumption of utility-maximising behaviour, against “the notion that ‘moral hazard’ is an inevitable consequence of market insurance.” Capitalism, in their reckoning, did not create the conditions of further and more significant crises, for itself. The probabilistic subject, Ehrlich and Becker they contended, was complicated by the fact that “different persons use different probabilities in their decision-making processes,” due to “differences in ‘temperament,’ or optimism,” or “differences in productivity at self-protection” which “may be attributed to differences in education and other forms of ‘human capital’.”<sup>19</sup>

In other words, insurance (and welfare) would have to find a way to measure human capital in its assessment, management and allocation of risk; such that moral hazard was increasingly seen, not – for instance – as a consequence of insurance, or more pointedly the S&L bailouts, but as the inherited properties of “different persons.” Moral hazard, then, was a consequence not of markets but of failing to signal the right measure by realigning

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18 On the latter, in its manifold dimensions, see Berlant, Lauren Gail, and Lisa Duggan. *Our Monica, Ourselves: The Clinton Affair and the National Interest. Sexual Cultures*; and Perlin, Ross. *Intern Nation: How to Earn Nothing and Learn Little in the Brave New Economy*.

19 Ehrlich, Isaac, and Gary S. Becker. “Market Insurance, Self-Insurance, and Self-Protection.” *Journal of Political Economy* 80.4 (1972): 640.

price with value. The inability of the United States to recover from the Savings & Loans crisis of 1987 and, almost a decade later, the collapse of the subprime mortgage market, heightened attempts to theorise, model and manage the risks of financial contagion. This emerging sense of finance as a field of a simultaneously biological, cultural and moral hazard had its counterpart in the intervening passage of reforms. The development of workfare – from a series of experiments precipitated by claims of an epidemic of unwed teenage mothers to its culmination in PWORA – profoundly reconfigured the calculus of risk. Where Becker went on to develop the New Household Economics – in which putatively non-market contracts, such as marriage and the division of household chores would be characterised as scenes of human capital formation – with Oscar Lewis’s “culture of poverty”<sup>20</sup> thesis resurgent in welfare programmes throughout the 1990s, the generative phraseology of “inter-generational poverty” gave human capital theory an explicitly genealogical and oikonomic form. If Lewis had argued that poverty was inter-generational and behavioural, a condition that was cultured in marginal households and migrated across borders, the contracts associated with welfare-to-work programmes outlined checklists of performance indicators, obliged non-negotiable and often coerced work, instructed in appropriate deportment toward superiors, and offered (sometimes ‘optional’) Bible study classes.

While PRWORA was touted as the construction of a moral path from welfare to work, the bill made little reference to work. Preoccupied instead with establishing sexual and marital conditions on welfare provision and limiting its disbursement to citizens, the law brought together theories of contagious generation with the simultaneously punitive and instructional practices of the new behaviourism already making its way through welfare initiatives, and formalised by the adoption of “charitable choice” provisions. According to reformers, welfare had thus far encouraged – and unwed teenage mothers had quite literally bred – a culture of poverty in

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20 Oscar Lewis’ first book in his series outlining his argument of a ‘culture of poverty’ – *Five Families; Mexican Case Studies in the Culture of Poverty* – came from anthropology, going on to become a matter of debate throughout the social sciences over the next two decades.

which citizenship and marriage were barely involved in generating the conditions of life, and, what work there was, was increasingly undocumented or clandestine in form. If, then, welfare had previously underwritten the risks associated with not being in regular work, or migrating, or staying single and sexually active, Clinton's "New Covenant" promised to "make America work again." Restoring the "moral dimension" to welfare would entail – in the idiom of contract law – a shift of liability from welfare to the increasingly precarious nexus of family, work and nation.

Recalling Abraham Lincoln's "Covenant With God" more than Roosevelt's "New Deal," the "New Covenant" placed a determined emphasis on unbreakable contracts. Citing a fragment from Thomas Jefferson's letters, Clinton invoked the "debt of service" that is "due from every man proportional to the bounties which nature and fortune have measured in him." The necessities of nature and the contingencies of fortune, therefore, measure the debt and determine the risk. And the debt, as Jefferson went on to remark but was not cited by Clinton, must be paid in full: "There is no bankrupt law in heaven, by which you may get off with shillings in the pound." If it is possible to find nuance in these remarks, the same cannot be said of the legislated reforms. The repeal of mandated fixed interest rates in the savings and loans industry made it possible to judge the creditor's risk on the basis of what "nature and fortune have measured" in the one who owes "a debt of service," just as the reform of bankruptcy laws in favour of creditors followed in the wake of the S&L bailouts. As Linda Coco has argued in discussing the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, the changes to bankruptcy law shifted "the risk and the responsibility of the lending relationship onto consumer debtors. BAPCPA does this by keeping financially distressed individuals servicing debt obligations both inside and outside the bankruptcy system." If workfare legalised forced labour, as Coco put it, "BAPCPA mandates a lifestyle of austerity for middle class debtors."<sup>21</sup> More importantly, BAPCPA was marked by an insistence that economic bankruptcy was a moral act. Characterising bankruptcy as akin to "shoplifting," the House of Representatives report on BAPCPA regarded it as a

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21 Coco, "Debtor's Prison in the Neoliberal State," 1 and 7.



“conscious decision not to keeps one’s promises.”<sup>22</sup> The promise, of course, concerns the future.<sup>23</sup>

## **SOCIALLY-NECESSARY LABOUR, HUMAN CAPITAL AND SERVICE WORK**

In concluding his discussion of human capital, Foucault suggested that aside from the “political connotation” of that theory, the question was one of “technical progress,” that is to say, a variant of Joseph Schumpeter’s concept of innovation and creative

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22 Ibid, 2.

23 Lisa Duggan, puzzling over the almost exclusive ascendancy of the campaign for marriage equality in LGBT circles, outlines that question in another way: “How did marriage equality come to represent the ultimate progressive goal of queer politics? Since the Reagan 1980s, the emphasis on the importance of marriage as a national political issue has been anything but progressive. Various efforts to ‘promote’ marriage have been attached to welfare reform legislation since 1996. Government-supported marriage education projects run by conservative Christians have doubled as ‘moral’ or ‘values’ pedagogy, and as tax-saving initiatives designed to push marriage as an alternative to public assistance. Efforts are ideologically directed to poor women and women of color, assumed to be immoral and inappropriately dependent on the upright taxpaying citizenry. In the broadest sense, ‘marriage promotion’ in welfare policy aims to privatize social services by shifting the costs of support for the ill, young, elderly and dependent away from the social safety net and onto private households.” [Lisa Duggan, “Beyond Marriage: Democracy, Equality, and Kinship for a New Century.”] In one sense, Duggan’s question is about an economic conflict within LGBT movements over whether the most wealthy among them set the political agenda in favour of a legal form that makes the transfers of property legible and distinct. In another sense, the entire period of debates around welfare, its legislative reform and the practices of its agencies could be seen as almost two decades of a sustained “[g]overnment-supported” and bipartisan “marriage education” project. But whether the current debates over marriage equality will amount to the LGBT re-enchantment of an increasingly minor heterosexual institution or divide LGBT circles along the lines of class, sex and race, the chronology would suggest that an entire generation has grown up under that Church-run and government-funded project.

destruction which, he argued, invalidated Marx's argument regarding the tendency of the rate of profit to fall.<sup>24</sup> Foucault's implication, in brief, is that human capital dissolves class struggle by making everyone into a capitalist. Human capital theory, as Bryan et al suggest, sees labour as a form of capital, in which "'we' are all accumulators," where "individual success is [regarded as] entirely contingent on our own performance, not just in accumulating 'human capital,' but also in evaluating and managing opportunities and risk."<sup>25</sup> However, as Foucault's discussion of human capital makes clear in the detail, and Bryan et al go on to suggest, human capital theory presents individuation in the context of oikonomic inheritance, whether by way of the transmission of putatively naturalised properties (including that of 'talent,' predisposition, upbringing, and so on) or inherited property in its legal and economic senses. For Bryan et al, the distinction between labour and capital reappears in human capital theory in the form of "asymmetry in household access to and utilization of risk markets,"<sup>26</sup> but it should also be emphasised that the category of the household is not only a place-holder for questions of the transmission of wealth along the lines of class, but also the scene of the reproduction of the demarcations of race, gender, sexuality and nation. Moreover, while Marx's understanding of finance remained by and large limited to the emergence of systems of national credit during his time, his remarks on the transformation of labour into a variant of capital in the frontier nevertheless furnish a way to think the dynamics of labour-as-capital through the concept of the frontier household. Expansive, fractal, scalable and therefore instantiating also the proliferation of limits, the frontier household is a more precise (and critical) category – than that of human capital – through which to understand the simultaneously individuated, sexualised, racialised and classed character of financialisation. What, then, does this suggest about the so-called tendency of the rate of profit to fall? Marx's draft chapter on a "falling general rate of profit" begins with the division of

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24 Foucault, *TBB*, 227-30. Joseph Schumpeter, *Capitalism, Socialism, and Democracy*.

25 Dick Bryan, Randy Martin, and Mike Rafferty. "Financialization and Marx: Giving Labor and Capital a Financial Makeover," 468.

26 Ibid, 469.

time between “necessary labour” and “surplus labour.” Surplus labour is that portion of time which is surplus to “the reproduction of ... wages.”<sup>27</sup> Whether construed in its Hegelian terms as an essential contradiction, or in the thermodynamic vocabulary of tendencies, laws and their countervailing factors in a closed system, as an internal dialectic or the motor of history, in its usual characterisations it tends to resolve into the Cartesian dilemma of the ‘ghost in the machine.’ Is there another way to think about the “falling general rate of profit,” before and beyond its industrial form, without acquiescing to teleological necessity, biological foundationalism or, for that matter, technological determinism?

In the *Grundrisse*, Marx linked the “countervailing tendency” to, among other things, the naturalisation of surplus value. Of Smith, Marx wrote: “With him ... labour in principle is the source of value, likewise of wealth, but actually labour too posits surplus value only in so far as in the division of labour the surplus appears just as much a free gift of nature, a natural force of society, as the soil with the Physiocrats.”<sup>28</sup> The “tendency of the rate of profit to fall,” then, is significant not because it might assert the inevitable decline or terminus of capital, but inasmuch as it clarifies the dynamics of crisis and restoration. For Marx, this dynamic is largely understood in terms of thermodynamic tendency and its countervalences, drafted at a time of a large-scale shift from agriculture to manufacturing. Marx had criticised Smith’s labour theory of value by pointing out that in this understanding, the labour that “posits surplus value” appears as if it is “a free gift of nature” within a particular division of labour, much as the Physiocrats had previously revered land as the source of value. In other words, where Marx pointed out the shift between the Physiocrats’ understanding of land as foundational to value and that of Smith’s labour theory of value, from the middle of the 1960s, economists in the United States had begun to doubt that it was possible to easily map a Fordist, manufacturing diagram of production and reproduction into emerging markets and on the basis of a shifting foundations of the household. Becker redefined the household as simultaneously consumer *and producer* of, above all, services. From the

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27 Marx, *Capital*. Volume III, 317.

28 Marx, *Grundrisse*, 330.

labour theory of value to human capital theory, the service that once appeared as a ‘free gift of nature’ would be sifted through “thresholds of credit-worthiness,”<sup>29</sup> variable interest rates and passport checks to become human capital. Along with this, the state debt of the Keynesian period would relocate into the private debt of households, not only financialising the household as a result, and meshing finance with household liquidity, but also in financing the risks associated with it.

Yet Becker’s analysis of the “allocation of time,” far from being a simple matter of technical advances, was directly concerned with the household.<sup>30</sup> That is, Foucault’s reading of Becker assumed the significance of a politics of the household as a countervailing trend of the so-called “tendency of the rate of profit to fall,” while supplanting the category of the household with that of human capital (and risk), in so doing. However, the household is not a category of the same order as is human capital; the latter does not chronologically substitute for the former, in ideas or in practice. On the contrary, in the theory of human capital, the household appears as an economist’s answer to the debates around unpaid domestic labour that, as Bryan et al argued, criticised Marx’s understanding of the value of labour power, defined as it was by the concept of “the socially-necessary costs of its reproduction.”<sup>31</sup> In political-economy, the household is the social (albeit often-naturalised) convention that formulates the question about the cost of the reproduction of labour-power. In the neoclassical terms of Becker’s argument, and in the debates over unpaid domestic labour of the 1960s-70s, the question was, explicitly, about whether and how to measure this cost, because while there was disagreement about whether domestic work should be paid,<sup>32</sup> it was nevertheless increasingly seen by most as work.

29 This phrase is from Bryan et al, “Financialization and Marx,” 462.

30 Becker, “A Theory of the Allocation of Time.”

31 Bryan, Dick, Randy Martin, and Mike Rafferty. “Financialization and Marx: Giving Labor and Capital a Financial Makeover, 461.

32 The disagreement, within feminist circles, was how payment for domestic work would resolve the issue of who is allocated to doing this work, and whether it means that the activities associated with it should necessarily take place within a privatised domestic sphere. Most conservatives would, if pressed, concede that looking after children, cleaning, etc is work, but are more likely to argue that it is ‘priceless,’ which is to say, a “gift of nature.”

What, then, is the queue? Is it construed as a problem of not enough staff, or too many customers, too many of the wrong kinds of students who expected to be waited on, or an opportunity for new domestic appliances, or not enough wives and mothers, or some combination of all of these? Becker was pondering the allocation of time devoted to the “non-working time” of service work in the home, less than five years after four male black students ignored the refusal of service at the food counter at Woolworths in Greensboro, North Carolina in 1960, and in the wake of the emergence of the civil rights movement.<sup>33</sup> For the economist, then, and as might be expected, the aim was to delineate between paid and unpaid service work, situated outside and within the household, at a time when the rate of productivity was declining in the service industry. The allocation of a bigger proportion of service labour to the household, according to Becker, eradicated the inefficiencies of queueing. His essay, published in 1965, suggested that “the allocation and efficiency of non-working time may now be more important to economic welfare than that of working time.” “At the heart of the theory” of the allocation of time, he went on to say, “is an assumption that households are producers as well as consumers.”<sup>34</sup> The productivity of the service industry, therefore, could be increased by allocating a larger proportion of service work to the “non-working [ie., unpaid and unmeasured] time” of the household.

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33 Less famous are the 1965 protests at Dewey’s Lunch Counter in Philadelphia in 1965, precipitated by the refusal of service to African-American queers wearing “non-[gender] conformist clothing.” See Monica Roberts, “The 1965 Dewey’s Lunch Counter Sit-In’s.”

34 Becker, “A Theory of the Allocation of Time,” 516.



IX.

## MUTUUM, MUTARE

The most virulent global financial crisis ever.

– Alan Greenspan, “The Crisis.”

Quarantine regulations began to appear in the newspapers all over Western Europe alongside the financial reports.

– John Carswell, The South Sea Bubble.

This financial epidemic may endure in the memories long after SARS has been forgotten.

– Andrew G. Haldane, “Rethinking the Financial Network.”

**In these times, contagion seems to be as much a hermeneutics of everything as it is a biological model of the generation, transmission and course of various diseases.** Politics has become epidemiological. Contagion is the emblematic meme – and the meme, by definition, spreads by contagion. Contagions are understood in simultaneously affective, financial, sexual and biological terms. The 1997 financial crisis in parts of Asia was characterised as the Asian flu. Pop psychologists speak of a contagion effect, involving mimicry, susceptibility and repetition. Marketing goes viral, its research arm turns to pattern recognition. Surveillance goes panspectric. Biotech and venture capital ply the recombinant and symbiotic. With the concept of emerging diseases, the War on Terror became bio-defensive and biologically speculative. Contagion is said to be endemic to the network, the exemplary model of globalisation.

But it is with the emergence of the theory of financial contagion that the question of contracts and contagions assumes its most emphatic elaboration. In the wake of the collapse of the Thai baht in 1997, theories of financial contagion assumed centre stage in both analyses of what had occurred and in the proposition of remedies against future calamity. Indeed, the scope and rapidity of crises seemed to confirm the model of contagion in a world of increasingly interconnected (and delicate) transactions and instruments. In 1997, the Thai government – in a context of significant debts accrued in real estate speculation and property development – floated its currency. Previously pegged to the US dollar, the float triggered a rapid fall in the baht and, soon after, a depreciation of the Malaysian ringgit, Philippine peso, and Indonesian rupiah. Just as these began to stabilise, a second wave of depreciations hit the South Korean won, Taiwan dollar, Brazilian real, Hong Kong dollar, and Singaporean dollar. By 1998, the ensuing fall in commodity prices (principally oil), coupled with an increasingly costly war in Chechnya, precipitated what came to be known as the ruble crisis. Across the world, the US hedge fund, Long-Term Capital Management – notable for its employment of Myron Scholes' work on derivatives – lost well over 4 billion dollars in four months, was bailed out, and ceased operations in 2000.

Less than a decade later, in the heady maelström of official and tripled declarations of crisis – not least, that of the collapse of the subprime housing market in the United States – some notable phrases began doing the rounds from late 2007 and well into the next two years. There was talk of Green New Deals, new New Deals, and a resurgence of interest in Keynes' General Theory,<sup>1</sup> to note the most prominent. Under the rubric of such a perfect storm (the invocation of crises financial, environmental and in energy supply), there would not only be a reaching back to the moral economy of the 1930s for dubious inspiration. In the circulation of what would pass as critique and commentary, there would not only be talk of parasitic capital, of something called unproductive (or unreal) capital, and rounds of calls for greater regulation, the criminalisation of bankers, or demands to euthanise the rentier. Of these, there had been much discussion already. But, just to make everything more explicit, these

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1 Keynes, *General Theory*.



motifs – these fantasies of capitalist equilibrium, without which no punctual definition of crisis is possible – were soon joined by that of usury, that more medieval bundling of evils. With the collapse of the subprime housing market in the United States in 2007 and the debt crises in the Eurozone, theories of financial contagion have appeared as indisputable in their description of the spread and transmission of financial crisis as they have been presented as innovative in their analytical power. Yet far from signalling an often overdone but perhaps nevertheless useful metaphor, as Kristin Forbes and Stijn Claessens suggest,<sup>2</sup> theories of financial contagion are by no means simply a suggestive analogy between biology and economics. The proximity between life (as we know it) and its eminent (capitalist) mode of re-/production is no mere metaphor. While theories of financial contagion – in their epidemiological, biological understanding of economics – have betrayed a normative presumption about boundaries and flows, the rise of complex systems theories in the discussion of financial contagion acknowledges the deep incertitude of oikonomic arrangements while, nevertheless, seeking to reinstate those boundaries. The shift from a neoclassical theory of constrained optimisation to the apprehension of field of dynamic or strategic optimisation implies the attempt to model the economic risk involved in uncertain and emergent attachment, affection and preference. Theories of financial contagion assume the existence of loose ties. It is in this context that the preoccupation of policy turns increasingly to installing limits to bankruptcy and breach, the moral economy of neocontractualism in which the infinite debt contract is distinguished from the limited liabilities of capital.

## USURY AND THE RETURN OF THE DARK AGES

What amounted, particularly in 2009, to something of a campaign to reinstate the medieval sin of usury was by no means incidental, hyperbolic or anachronistic, though it often seemed to be just that. It was, more significantly, instructive of what is at stake in *oikonomia*. In October 2008, Ann Pettifor (self-described co-author of the Green New Deal and co-founder of *Jubilee 2000*) wrote

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2 Stijn Claessens and Kristin J. Forbes, *International Financial Contagion*, 4.

a piece for *The Guardian* arguing for bringing “back the ancient truth that usury is a sin.”<sup>3</sup> In the next month, *Harper’s* published a special edition, featuring an article by Thomas Geoghegan on “infinite debt,” in which he lamented the dismantling of “the most ancient of human laws, the law on usury.”<sup>4</sup> Of six pieces carried on *Democracy Now’s* website on the financial crisis, five published since January of 2009 mentioned usury, while *The Daily Kos* carried a post in the same month entitled “Obama vs. Usury? Why Not?”<sup>5</sup> By March 2009, Democrat Whip, Dick Durbin, spoke of wanting to “reinstitute the notion of a usury law for the United States.”<sup>6</sup> This talk of usury marked the reinvigoration of certain conservative agendas which circled around what the mainstream opted to call the anti-globalisation movement, and reappeared in oblique form in the revival of Polanyi. And, just as the panic over some apparently new-found globalisation at the end of the 20th century was attended by an actual proliferation of controls on the movements of people – and in some notable instances, open alliances between greens, social democrats and xenophobic groups during the campaigns against the MAI and WTO in the late 1990s<sup>7</sup> – the inclination here was similarly toward a normative rectification that is more or less violent in its requirements and decidedly transcendental in its vantage point. I will not rehearse the debates over the branding of a series of anti-summit protests and the irreconcilable many who gathered there – over whether they were anti-globalisation, globalisation from below, anti-capitalist, or counter-globalisation. Plainly, they were all

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3 Ann Pettifor, “Face to Faith.”

4 Geoghegan, Thomas. “Infinite Debt: How Unlimited Interest Rates Destroyed the Economy.”

5 At *Democracy Now!*, for instance, see the interview with Juan Gonzales, titled “Usury Country: Payday Loans Pushing Millions of Middle Class Americans Deeper into Debt.” On *Daily Kos*, see Freiheit, “Obama vs. Usury? Why Not? (Updated)”

6 In Ryan Grim, “Sanders To Introduce Bill To Cap Credit Card Rates At 15 Percent.”

7 Eric Krebbers and Merijn Schoenmaker, “*De Fabel van de Illegaal* Quits Dutch Anti-MAI Campaign.” Chip Berlet, “Global Trade Watch and Right Wing Xenophobia.” Mark S., “The Progressive Left’s Dirty Little Secret: Public Citizen, IFG and the Far Right.” Alicia Montgomery, “Pat Buchanan courts the Teamsters.”

of those and then some. Yet, the alliances between parts of the left and right against globalisation were, even if only fleetingly, more than the mistakenly shared platforms of a few conferences and press releases. And, as with lyrical condemnations of ‘people smuggling’ and ‘sex trafficking,’ which have unfolded their hypocrisy alongside the fortification of border controls (without which, it goes without saying, neither ‘people smuggling’ nor hyperexploitation would be possible), so too the calls to reinstate the sin of usury are directed toward a restoration of boundaries. In accountant’s language, and to borrow Pettifor’s, this translates as a restoration of “faith and trust in the way banks do business.”<sup>8</sup> At stake in current pronouncements against usury is the redemption of contract and control of issue. This is not only a question of banking but, more broadly, of faith, promise and the authentication of value as these resonate across contracts simultaneously rendered as social, marital, industrial and fiduciary.

The question of borders is, then, more than analogous. Recalling capitalism’s bloody inauguration in the enclosures and witch hunts, and its most vicious moments since, sermons against the sin of usury have always implied that crises might be transcended in the determination of a boundary between that which is excessive and that which is proper. Usury connotes neither finance, nor interest, debt or capital, as such. Even less does it suggest a critique of finance, interest, and so on. To confuse this would be the first mistake. Usury is, more precisely, a signal of debts deemed exorbitant and illegitimate (if not exactly, or not yet, illegal). To denounce usury is to point an accusatory finger at debts whose repayment cannot be guaranteed and therefore should not have been promised. Unlike the debt that can be repaid, which in its repayment makes the future a calculable version of the present, usurious debt assumes the existence of an incalculable, unknowable – and, quite possibly inflationary – risk. In its malevolently construed history, usury has signified both unnatural generation and an obstacle to proper generation, not so much non-normative as abnormal. Take Pettifor, writing in *The Guardian*, for whom usury is the accumulation of “reserves of unearned income” and “creating money at no cost,”<sup>9</sup> that is, both the absence of productivity and the

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8 Pettifor, “Restoring Faith in Finance.”

9 Pettifor, “Face to Faith.”

seemingly magical accumulation of money. Elsewhere she calls bankers “wizards.”<sup>10</sup> Usury is a complex semantic assemblage, irreducible to its intimate, political, sexual or economic registers. It is not, however, the ancient, pre-capitalist law overtaken by capitalism that Geoghegan and Pettifor imply. As expected, the medieval Church pronounced injunctions against usury depending on whether it was a lender or borrower but, more significantly, it mobilised its denunciations in the process of expanding a purgatorial market upon which it made rental claims of its own. In a philosophical-economic register, the sin of usury is the labour theory of rights (and of value) in its most forcefully oikonomic – that is, its most insistently naturalising, moralising and reterritorialising – form. All questions of the authentication of value will be solved by invoking this right. It is labour that will distinguish what is counterfeit from what is real and has value, and that will differentiate hoarding from thrift, and so on. To be sure, it has its strongest philosophical precedent in the Aristotelian distinction between the *oikos* and the *chrematistic*. Following Aristotle, Aquinas declared usury to be analogous to sodomy. Though nowhere, leaving aside Dante’s Seventh Circle of Hell, is the demand that bodies partake in authentic, productive issue – whether what passes between them is defined as sex, labour, touch or communication – more spectacularly put than Ezra Pound’s *Canto XLV*. A fragment:

Usura slayeth the child in the womb  
It stayeth the young man’s courting  
It hath brought palsey to bed, lyeth  
between the young bride and her bridegroom

Pound, of course, goes on to intone that usury is “CONTRA NATURAM,” against nature.<sup>11</sup> Usury, for him, as for many before and since, indicates both unproductive excess and impotence. It is this condition which elicits the charge of usury, and the obligation to return to natural, productive arrangements through fiat and force, for example in the heteronormative household, in nationalism (or the domestic economy), in the guarantee of issue and the redemption of

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10 Pettifor, “Restoring Faith in Finance.”

11 Ezra Pound, “The Cantos of Ezra Pound,” 23-4.

value through labour. That is, production and reproduction should be turned to their properly deemed effect and union. For this reason, the sin of usury was not only part of that medieval confluence that included the sins of sodomy and prostitution, sermons against gambling, the witch burnings, pogroms and anti-heresy trials. Nor was it only the pertinent aspect of national socialist and Shakespearian figurations of, respectively, cosmopolitan and faithless Jew – around which resentment would be organised and the fraternal equality of the nation restored. After all, the prohibition against usury was never invoked when the borrower was deemed a brother. Indeed, according to Luke Bretherton, the scriptural injunction against usury is closely aligned to the Schmittian distinction between friend and enemy that, he argues, becomes inclusive in its missionary unfolding.<sup>12</sup>

### THE FORDIST DOMESTICATION OF LIQUIDITY

The theme of usury returned in the 1930s, for socialists both national and democratic, because this time was marked by, among other things, the rise of line-work and the problem of its management – a problem that was simultaneously sexual, racial, libidinal, intimate and economic because it was a question about what bodies do and can be made to desire. In this instance, the management problem was resolved in a re-alignment of the connections between factory, household and domestic market that we call Fordism. Henry Ford's name is not only associated with a time of the fraternalised assembly-line and family wage. It also appears as the author of *The International Jew: The World's Foremost Problem*.<sup>13</sup> What Ford reproached the International Jewish Banker for was not only his unproductive use of money, idle speculation and profit (that is, making money without recourse to labour), but an exorbitance in every sense: as too high, but also beyond the pale – in other words, a future unable to be captured by the productively interlocking flows, geopolitics, and architectures of gender, citizenship, sex and race. In this sense, current discussions

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12 Luke Bretherton, “‘Love Your Enemies’: Usury, Citizenship and the Friend-Enemy Distinction.”

13 Henry Ford, *The International Jew: The World's Foremost Problem*.

of the sin of usury are not quite the anachronism they seem to be. It is no small matter that Pound's Canto begins: "With usura hath no man a house of good stone."<sup>14</sup> Usury is indeed disruptive of the normative household, the *oikos* that inclines toward productive pursuits. Denunciations of the corruptive influence of money on the poor, on women and the otherly-complexioned – or, less figuratively, on those deemed not to understand or unable to adhere to the conditions of the contract, or who squander money in enjoyments when they should be virtuously working – are a moral campaign against the spread of inflated desires as much as inflationary prospects and their deflationary comedowns; in other words, the possibility that the currency itself will be debased. This is the danger of surplus becoming excessive.

Keynes acknowledged in the *General Theory* that the Scholastic prohibitions against usury had the merit of allowing the "marginal efficiency of capital to be high, whilst using rule and custom and the moral law to keep down the rate of interest." The rate of profit on "productive capital" would remain undiminished, even as interest rates on "unproductive" loan capital were curbed.<sup>15</sup> The Keynesian taxonomy of economies is reminiscent of the medieval Scholastics not only in its attention to the corrosive effects of interest-bearing capital on the social contract but also in its insistent sexualisation of the transactional relation as such. It is a question, then, of the security or insecurity of the contract (whether sexual or economic), and of the tensions between contract and circulation, the union and dissolution of bodies and fluids. Where the Scholastics obsessed over the counter-natural acts of prostitution and sodomy – economies of desire which liberated transaction from the space of household consumption, generating pleasure from pleasure with no comparable investment in the reproduction of lineage and familial property – Keynes' idiom was that of medical hygiene. His exemplar of counter-natural generation is the solipsistic production of pleasure through masturbation. But the point remains the same: in its capacity to generate interest through the excessive liquidity of money, speculative investment is similar to the wasteful economy of masturbation. True enterprise, in contrast, puts the (re)productive potential of fluids to good use by securing

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14 Pound, "The Cantos of Ezra Pound," 23.

15 Keynes, *General Theory*, 352-56.

their investment in the reproduction of putatively organic unities, be they familial or national. The Keynesian sexual problematic can be expressed as follows: how to domesticate the exorbitant contingencies of desire? How to contain the overly liquid circulations of body fluids within the genealogical space of household consumption, where its wastes can be redeemed? At one point, Keynes asks himself whether in fact the investor should be held to his investment by a contractual agreement on the model of the marital union:

The spectacle of modern investment markets has sometimes moved me towards the conclusion that to make the purchase of an investment permanent and indissoluble, like marriage, except by reason of death or other grave cause, might be a useful remedy for our contemporary evils.<sup>16</sup>

Ultimately, however, he opts for a settlement between the gambler's surplus consumption of pleasure and the reproductive investments of the marriage contract, the coincident application of stimuli and demand management on bodies demarcated and linked as households, superintended by the national convention as a way of channelling liquidity to the ends of long term growth. After all, marriage, whether gay or straight, is both a social and marital contract, as much about recognising the nation state's authority to vouchsafe issue and trust (and to link property to what is proper, possession to authenticity), as it is about some theoretically expansive recognition of couplings. But it might be noted that Keynes began his career as economic theoretician with a rebuke of "unfertile habits" in the English colonies.<sup>17</sup> His was a Malthusian formula of population, production and territory that defines optimal population numbers according to their assessed levels of productivity. Life before and after work or rather life in excess of work is in this way recaptured in the reproductive margins of the normative household, redelivered in other words to the ends of proper social production and the reproduction of the time of labour. The Keynesian welfare state constituted the household as the ultimate foundation of the national economy. It is this foundational value which will guarantee the trustworthiness of state fiat money – a promise that all debt issued by the state will be redeemable, if only in the long run, premised as it is

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16 Ibid, 160.

17 Keynes, *Indian Currency and Finance*, 100.

on the ‘gift’ of female labour and the familial consumption of the fruits of industrial labour. Yet, whatever else the history of the welfare state suggests, it is also the case that neither Fordism nor the welfare state extended their reach until the second half of the 20th century – and they did so in the wake of the conscriptions of labour and of violence and, not least, the industrialised liquidations that culminated in the Second World War. We are once again in a time of repatriations.

### MARX’S INTERMUNDIA

Marx’s ambivalence on the question of the labour theory of right – an ambivalence that continues in the divergent legacies of socialist productivism and the refusal of work – is no more cause for hesitating in the face of these repatriations than can his critical remarks on the attachment of rights to production be set aside for the sake of conforming with the rise of a seemingly inexorable neo-Keynesian consensus. Indeed, when it comes to discussing usury, in the third volume of *Capital* Marx refers to it as the “occult quality” of interest-bearing capital, insisting that it exploits the conditions in which it finds itself but in no way should be considered as having created them. For him, usury “seems to live in the pores of production, like the gods in Epicurus’ *intermundia* [the space between worlds].” He goes on to say that “the usurer ... does not come up against any barrier except the incapacity of those in need of money to pay or their capacity to resist.”<sup>18</sup> The repartitionings in the wake of the crisis – whether rendered as the liquidation of that which is toxic or (in the recent Italianate) a clearing away of the rubbish – seek to restore the borders, the filters and walls, between those who need money to pay and those who need it to resist. Here, violence is made rightful on the ground of the labour theory of right. As Caffentzis puts it, if “the rentier, through his/her right of exclusion, disrupts the productive development of a profitable industry, then there is a right of the ‘more productive’ to lay claim to the right of exclusion.”<sup>19</sup> And what counts as labour is that which might, simply put, be counted, exchanged, made

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18 Marx, *Capital*, Volume 3, 733-44.

19 Caffentzis, “Peak Oil and National Security: A Critique of Energy Alternatives.”



indifferent. Put schematically, the rentier lays out fence lines – within which there exists a monopoly on violence, including that which secures the legitimacy of the currency – can command labour to be exerted, guarantee contracts and so on. The rentier shifts from being a good (finance) capitalist to a parasitic usurer when they lend to those who cannot (or will not) repay. But the question for those of us who do not concern ourselves with balance sheets is how this ostensible conflict between good and bad capitalism unleashes a redemptive, morally sanctioned violence to, as Obama remarked, put “people back to work” or, on the other hand, declare them superfluous, parasitic or simply a barrier to more productive pursuits. Whether this legitimated violence unfolds in the form of what Tatjana Greif has referred to as the New Inquisition (against unproductive sex and gender indeterminacy) announced by Pope Benedict XVI in his pre-2008 Christmas address to the Roman Curia or, as with the emergence of the welfare state last century, in the expansion and proliferation of wars more officially declared and undertaken, the question is of the domestication of the crisis. There is no such thing as a non-violent counter-cyclical.

For Marx, the restoration of limits and boundaries did not mark the resolution of capital as such (as the moral critique of capitalism always imagines), but rather the retraction of credit which occurs once the expansive phase of capitalist debt creation has ceased to be profitable. Capital oscillates between the poles of credit expansion and credit retraction, and is maintained in tension between the two poles in a dynamic that is neither dialectical nor progressive. As such the restoration of boundaries of all kinds is a periodic necessity of capitalist accumulation, as intrinsic to the capitalist dynamic as the expansive production of credit. Yet while Marx acknowledged that the moment of restoration, in its abstraction, can take on any number of geographical, contractual and productive forms (from the enclosures to the wage contract to the creation of the poor houses) he was unable to perceive the dynamics of restoration in its most intimate operations. In other words, in those moments when it claims to reimpose proper boundaries on the sexual transaction, to reconfine production within the household economy of familial reproduction, and sexual transit within the genealogical limits prescribed by the race, people or nation.

The financial crisis was an effect of usury from below, a consequence of speculative household consumption that

extended beyond the limits which were tolerable to capital. And so, while it is a commonplace to speak of predatory lending, it is too easy to assume that those who took out the loans had no sense of risk or, rather, did not strategise within the cramped conditions of what was a monetised, racialised and gendered housing regime well before the advent of subprime loans. Usury lives in the pores of production because that is where many live, or attempt to. Condemnations of usury, even where seemingly pronounced in the interests of the poor, have – as Marx noted – a tendency which “turns pious wishes into their very opposite when they are realized.”<sup>20</sup> Disorganised from the perspective of social movement theory, and yet nevertheless effective, the subprime class rolled over their debts and lived beyond their means, generating surplus in the most unproductive of ways.

### **STUDENT DEBT, EDUCATION BUBBLES AND SPECULATION**

The ‘speculative bubble’ is a theory of the movement of crowds between value and price. Price, according to this theory, is no longer a rational indication of *real* value. It is conjecture undisciplined by the ‘fundamentals,’ the play of rainbows upon soapy surfaces that are liable to pop at any – but nevertheless inevitable – moment. It the story of original sin, of the fall and redemption. It is affect suspended between the paradise of easy credit, booming prices and being busted by the law, when money is following an enthusiastically liquid crowd, but at increasingly variable rates of interest indexed by confidence in fundamental values. This, in any event, has been the moral lesson meted out between the collapse of the subprime housing market in the United States, and re-enacted in the more current preoccupation with levels of student debt. Almost without exception in news and commentary, it has a lesson conveyed through Mackay’s moralistic presentation of the collapse of the tulip market in his *Extraordinary Popular Delusions and the Madness of Crowds*. As student debt passed the seemingly magical trillion dollar mark in 2012, and the possibility of those debts being discharged diminished at a time of declining incomes and rising unemployment, calls for

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20 Marx, *Capital*. Volume 3, 736.

debt relief (and, indeed, default) were met with proposals whose undeniable effect would be to restrict access to post-school education. Moreover, the restoration of boundaries is not only a matter of pricing prospective or current students out of further education – and into the increasingly stringent compulsions of welfare and precarious work – under the pretext of an “education bubble.” As commentators and economists in mid-2012 increasingly linked the “education bubble” to the protests of 2009-12 (the student occupations of campuses in California, the movements of the squares in Tunisia and Egypt, the series of occupations that began with Occupy Wall St, and the more recent student protests in Quebec), the colourless vocabulary of price, value and asset gave way to an explicit preoccupation with the movements of crowds.

Facing one of the highest rates of unemployment in recent times, an unprecedented two thirds of 2010 graduates in the US held debts above the \$25,000 mark. Moreover, the number of graduates carrying debt from the more stringent private loans schemes leapt from just over 930,000 in 2003-04 to slightly under 3 million in 2007-08, and (leaving aside federal loans) is currently estimated at around six billion dollars. Pointing, as it does, to the possibility of large scale default, the growing gap between student debt and (potential) income is not only the financialised trace of conflicts over the expansion of contingent labour, of sharply declining wages and access to welfare, and of an increasingly privatised, costly education system. It is also the signal of the deeply racialised appearance of subprime loans schemes which are adjudicated by variable interest rates and unprecedented limits on the discharging of debts. To be sure, debt became the means of deferring declining incomes and, particularly in the case of recent student debt, the source of brief respites from - or hopes of escaping - increasingly precarious work. As education was privatised and tuition costs rose by six hundred per cent from 1980 (in the main to provision corporate managements and real estate value), by 2007 a thriving (and, it might be added, prescient) private loans industry was furnished with legislation that made it impossible to discharge debts through recourse to bankruptcy. Tightening restrictions on the bankruptcy provisions of student loans that began – perhaps unsurprisingly – in 1978, student debt is situated in the exceptional legal zone of debts accrued through fraud or crime. More recently, while President Obama promised debt

relief, he excluded the private loan sector. Though its profits remain enormous, its earnings have fallen in recent times between 10 and 40 percent depending on the company, and so the private loan industry continues to spend heavily on political lobbying to stem further decline by ensuring the constant renegotiation of unbreakable contracts. While the greater proportion of loans remain federally-funded and guaranteed, the biggest increase in student debt has been in the subprime market. That is, private loans for smaller initial debts bearing more onerous conditions: over half of such loans are for attendance at institutions charging less than \$10,000; they have few, if any, provisions for hardship; interest rates are not fixed, and they are almost impossible to discharge. That the expansion of student debt has been a lever for the increasing enrolment of poorer students is indicated by the rise in the numbers of African-American undergraduates taking out private loans, quadrupling between 2003-04 and 2007-08. Some of this went to supplementing insufficient federal loans, a further index of rising costs and declining incomes.

Rates of default, late payment and evasion continue to climb and are predicted to worsen. An estimated 50 billion dollars worth of federal loans are already in default. And, as with the subprime housing market, there are those who would denounce not the injunction to repay what could have been made available, but the fleeting avoidance of austerity in increasingly cramped conditions. There is talk of a speculative bubble in education, in readiness for a bust. Speculation, it seems, is the prerogative of Wall Street. As is debt, since it should go without saying that stock exchanges are involved in raising money for corporate use in the form of shares. Bailouts perform a similar function. For everyone else, debt and speculation remain morally suspect, the chance of deferring the settling of accounts and determinations of value, a dangerous break in the logic of commensurability, representation and right that ostensibly links income and labour, yet construes surplus labour as a type of indebtedness. That is to say, workers are assumed to owe employers more work than is reckoned necessary for their own renewal. This transactional modification of the sentimentalised, unmeasured ways in which domestic labour is often rendered as obligation, and that slaves were considered to be fugitives until they performed the labour regarded as due their masters, continues to be understood as a variant

of indebtedness. In its increasingly precarious forms, that indebtedness troubles the boundaries of recognition and recompense that apparently connect the wage to the normal working day, returning us to the question of the allocation of the surplus rather than the assignment of right.

So, while these figures surrounding student debt are striking, they detail the larger questions campaigns against debt have to confront. Debt is, above all, the reach for a future that might be other than the present, or just a bit better. These student debts are contractual projections of financial obligation into the prospective time of the future. They forge intense links by way of interest rates, repayments and rescheduling between the speculative present and a calculable tomorrow. Yet it is in this distance, however fine, between speculation and calculation, between the bold gambling on possibilities and the settling of accounts, or between immeasurable uncertainty and calculable risk, that capitalist futurity becomes recomposed less as an inexorable necessity than a question of whether and how the restoration of austerity might proceed. Generalised indebtedness holds open possibilities. However, if debt has become the prominent motif of protests around the world, this is not to suggest that all critiques of debt are anti-capitalist. Or, this is not to imply that all opposition to debt is concerned with the interlocking questions of debt, right and recognition that, for centuries, have made unpaid labour (whether as surplus labour or without pay at all) appear as a more or less naturalised form of indebtedness to capitalists. In other words, insofar as the expansion of debt marks a crisis of social reproduction (financially expressed as a gap between income and expenditure, but nevertheless articulated as a brazen reaching beyond the austerities obliged by this decreasing income), the political question to be posed of various critiques of debt is of the extent of their opposition to (or complicity with) the re-imposition of the injunction: 'live within one's means.'

Do denunciations of debt servitude imply a critique of the indentured labour that debt obliges or do they merely demand its reallocation according to the seemingly natural lines of race, gender and class? Debt includes a salient instance of speculation (however cynical, foolhardy or prudent) that for conservative critics should only be the prerogative of those who can command the labour of others. Debt is legitimated by its connection to productivity. If

debt is not to result in a diminution of income during repayment, it presumes a rising income. Either labour is extended, intensified or acquired from others. This, crudely, is the formula of capital. It is also the logic of investment in human capital that, as it turns out, must be outfitted with moral and legal limits in the form of the unbreakable contracts of student debt, lest the sequestered surplus of capital be misconstrued as general abundance. Of course, these dynamics have a much longer history than that of recent student debt in the US. Before the much touted turn to neoliberalism in the US, the UK and elsewhere, with their increasingly privatised schema of social reproduction (education, welfare, housing, health care and so on) and the expansion of personal and household debt that this precipitated, the Keynesian welfare state that emerged in the wake of the Second World War was premised on deficit spending. That debt was underwritten by the below-the-line labour in the colonies, by former slaves faring a little better than before, recent migrants and unpaid domestic work. It was guaranteed by imperial force, the credibility of the US dollar as the *de facto* global currency and that combination of racism, sexism and nationalism that makes below-the-line labour appear natural or obligatory. But the second half of the 20th century was also the history of the civil rights movement, second wave feminism and struggles around unpaid domestic work, the unprecedented reversal of colonial flows, the emergence of migrant workers' movements and more. In this, the boundaries that had limited the demands on the Keynesian state to the family wage claims of citizens gave way to fiscal crisis, switching the displacement of debt from the geographic, racialised and gendered architectures of Fordism to those of post-Fordism. This, in turn, entailed the spread of contingent labour, the relocation of debt from the state to households, and an emphasis on human capital formation. The post-Fordist financialisation of daily life, the indistinction between the time of work and that of life ushered in by the expansion of precarious work, and the personalisation of debt are, in this regard, less a signal of the appearance of a new epoch than of the collapse of the Fordist compromise between sections of the working class and capital in the wake of its challenge by those who were not deemed to be parties to the deal, but nevertheless made it possible.

## FINANCIAL CONTAGION, LOOSE TIES AND COMPLEX SYSTEMS

Whereas early versions of complex systems theories dismissed the regulatory function of states and central banking, as did Hayek in his argument for the de-nationalisation of money,<sup>21</sup> recent articulations of complex systems theory have nevertheless arisen in central banking as novel techniques of risk assessment and pre-emption. Put simply: the rise of theories of financial contagion does not suggest a decline in the reliance on the forceful guarantee of money and the performance of contracts by the state so much as an attempt to recapitulate the distinction between risk and uncertainty in non-linear, scale-free and, on occasion, eventual terms. In this respect, it might be noted that this is an instance of the argument that capital follows in the wake of social transformations, even as in doing so it is oriented toward the unfolding of specifically capitalist patterns of re/production. What theories of financial contagion emphasise, in their often abstracted and technically neutralised terms, is an analytical shift from the nodal to the relational – which is to say, the uncertain lines of affection, contact, infrastructure and contract. The models here are the fractal, the network, the adaptive, complex systems of biology, that of the internet, and they take place through infrastructures that are more or less mobile – even as the premise of financial contagion assumes national boundaries depicted in an epidemiological register. Further, the distinction between uncertainty and risk is modulated into that between “anticipated and unanticipated events.”<sup>22</sup> In the historical account of financial contagion, while the interconnectedness of financial institutions is viewed as a form of mutualised insurance against liquidity shocks, all the same, it also serves to expose such a fraternal sovereignty to the dangers of toxic assets and moral hazard.<sup>23</sup> It is the singular irony of the anti-globalisation movements from the turn of this century that what began as a call for to drop

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21 Friedrich A. von Hayek, *Denationalisation of Money: An Analysis of the Theory and Practice of Concurrent Currencies*.

22 Graciela L. Kaminsky, Carmen M. Reinhart, and Carlos A. Végh, “The Unholy Trinity of Financial Contagion,” 55.

23 Sandro Brusco and Fabio Castiglionesi, “Liquidity Coinsurance, Moral Hazard, and Financial Contagion.”

third world debt (against the Structural Adjustment Programmes of the International Monetary Fund) that, today, the questions of debt and austerity are at the very centre of protests in Europe, Canada and Northern America, spread across and through financial networks by the collapse of the subprime housing market in the United States. What could possibly be more globalised than debt and, at the same, so very intimate? If the designations of First, Second and Third World marked a developmental timeline that indexed Cold War rivalries, by the beginning of the twentieth century debt had become personal. Even with the introduction of variable interest rates and limits to bankruptcy, debt became a speculative bubble of the worst kind: an intimately uncertain commonplace increasingly threatened by the contagion of widespread default. What was always at stake in the trajectories of these “movements of movements” was the question of whether the exuberant boom times of credit would be restrained by a more forceful imposition of capitalism’s moral economy of debt.

Of course, the debate that lies at the centre of such theories – as to the relative merits of re-regulation (quarantine) versus risk assessment and prevention – has its precedent in the proximity and significance of contagion to the history of speculative markets. Writing on the late eighteenth century’s South Sea Bubble, John Carswell shows that the issue was not merely one of the geographic demarcation and national monopolisation of markets (particularly that of the trade in slaves regulated by the *Asiento*). Not only were there rumours that John Laws had dispatched emissaries to Madrid to negotiate a share of the *Asiento* contract, but of the arrival of plague in France. “At Marse on 31 July,” Carswell wrote, “two dockers unloading wool from a ship from Siden were overcome by dizziness. It was the plague. In a few days, the town was ringed with a cordon and fugitives were shot on sight.” Carswell goes on to write:

Quarantine regulations began to appear in the newspapers all over Western Europe alongside the financial reports. Cragg’s mail from Paris enclosed the form of intercession to be used in Churches with the latest decrees regulating the paper currency. The plague, which seems to have



been a particularly virulent form of smallpox, spread rapidly, defying measures to check it. ... Ordinary human alarm at its approach was heightened by a superstitious fear that it had been sent as a judgement on human materialism, and much was made of it having apparently been delivered through commercial channels. Altogether, the news had a disheartening effect on markets and on confidence generally. ... Hideous accounts of the casualties mingled with the stock exchange news .... Thirty thousand were said to have died in Marseilles, and reports suggested that in the south of France civilized life had almost broken down.<sup>24</sup>

As Carswell suggests, the limits placed on circulation by the cordon sanitaire impacted upon trade, perhaps more than it did the disease. Yet the meshing of the economic and biological in the “belief that trade itself was infected”<sup>25</sup> nevertheless implied a theory of sentimental attachment and the proper boundaries of affection on the road to achieving its complete elaboration as a theory of financial contagion. In other words, the theory of financial contagion applies a theory of proper contact, an understanding of what might amount to appropriate or healthy boundaries and of their traversal by disease. The overt question posed by theories of financial contagion is: “Through what channels does a financial crisis in one country spread across international borders?”<sup>26</sup> Along with an explicit reliance on the epidemiological, with its assumption of naturalised boundaries and usually extrinsic causation of disease “transmitted ... across borders,”<sup>27</sup> current theories of financial contagion not only presume *oikonomia* as the ostensibly spontaneous orders of affection and filiation, but have occasion to reinstate the distinction between temporal and divine power in their re-imposition of a transcendental determinism as pronounced as that which the Scholastics adhered to.

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24 John Carswell, *The South Sea Bubble*, 172-200.

25 Ibid, 200.

26 Kaminsky et al, “The Unholy Trinity of Financial Contagion,” 55.

27 Andrew G. Haldane, “Rethinking the Financial Network,” 1-2.

Nevertheless, what current theories of financial contagion attempt to grapple with more precisely is the inoperability of oikonomic boundaries. In other words, even as the Bank of England's Andrew G. Haldane offers an epidemiological understanding of finance, his insistence on mapping the actual organisation of financial networks as a means of assessing the dispersion of risk – which is to say, the connections that are “uncovered by following the money, rather than by using institutional labels or national or regulatory boundaries” – attempts to precisely situate the divergences between the conventional boundaries of oikonomia and the actual flows of money. Emphasising an epidemiological and sexualised view of finance, Haldane underlines the affective, mediatised contagion of rises and falls in expectation. “Depression,” he suggests, “is a psychological state as well as an economic one.”<sup>28</sup> Marked as a question of affect, this situates financial contagion as a problem of what, in socio-psychological accounts is referred to as crowd psychology. Theories of affective contagion are, similarly, not new, even if they have become the subject of an increasing number of studies in recent years. One of these, *Emotional Contagion: Studies in Emotion and Social Interaction* by Elaine Hatfield et al, credits Smith's *Theory of Moral Sentiments*<sup>29</sup> with the origins of a theory of reflexive emotional mimicry. In discussing what might “spark a shared emotional response,” Hatfield et al cite Smith:

Though our brother is upon the rack ... by the imagination we place ourselves in his situation, we conceive ourselves enduring all the same torments, we enter as it were into his body, and become in some measure the same person with him, and thence form some idea of his sensation, and even feel something which, though weaker in degree, is not altogether unlike them.<sup>30</sup>

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28 Ibid, 24.

29 Smith, *The Theory of Moral Sentiments*.

30 Elaine Hatfield, John T. Cacioppo, and Richard L. Rapson, *Emotional Contagion: Studies in Emotion and Social Interaction*, 7-8.

Yet this is not exactly a theory of emotional mimicry but, more precisely, the supposition of fraternal identification and attachment as the spontaneous order of affection. The theory of financial contagion, as Franklin Allen and Douglas Gale outlined it over a decade ago, is preoccupied with the exposure of national banking to interbank claims construed, on the one hand, as a form of insurance against liquidity shocks,<sup>31</sup> which is to say: declines in credibility, failing expectations, bankruptcy, broken contracts or the potential for default. Mutualisation, which includes wagering on sovereign debt through credit default swaps also, on the other hand (and in the absence of declaring war to retrieve debts), generates the conditions of (further) austerity as a means to avoid outright default and systemic risk. Smith's imaginary scene of "our brother upon the rack" turns out, ironically, to be one of infinitely punitive action against populations that, nevertheless, assumes the demeanour of fraternal sympathy between governments unable to advance their ratio of debt to Gross Domestic Product. Even so, the changing conditions, therefore, of the expansion of surplus labour, require a re-consideration of the uncertainty of attachment.

While Haldane, in his recourse to the model of the network, insists on an agnosticism with regard to "nodes," the methodology he offers is nonetheless geared toward identifying the "key nodal sources of risk ahead of financial crisis."<sup>32</sup> Outlining the differing approaches of governments to HIV/AIDS to make his point, Haldane contrasts (what he refers to as) the theological with the biological approaches of, respectively, abstinence programmes in the United States with those of prevention in Australia. For Haldane, this implies a strategy of "targeting high-risk, high-infection individuals," – what he calls the "super-spreaders" – and (introducing models derived from fisheries management) the development of risk quotas "applied node by node, species by species." In his criticism of the 2004 recommendations of the Basel Committee on Banking Supervision (Basel II), Haldane's analogy between biology and finance grounds itself in an explicitly sexualised distinction between abstinence and promiscuity: "Basel vaccinated the naturally immune at the expense of the contagious: the celibate were

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31 Franklin Allen and Douglas Gale, "Financial Contagion."

32 Ibid, 21-22.

inoculated, the promiscuous intoxicated.”<sup>33</sup> As Ludovic Desmedt argues, the analogy between blood and money was pervasive in the seventeenth century political arithmetic of Hobbes, William Petty and others.<sup>34</sup> Hobbes regarded money as a commodity whose circulation measures “all commodities, Moveable and Immoveable,” and thereby “accompany a man, to all places of his resort, within and without the place of his ordinary residence.” He went on to declare that, as such, money

passeth from Man to Man  
within the Common-wealth; and goes round about,  
Nourishing (as it passeth) every part thereof;  
In so much as this Concoction is, as it were, the  
Sanguification of the Common-wealth: for naturall  
Blood is in like manner made of the fruits of the  
Earth; and circulating, nourisheth by the way every  
Member of the Body of Man.<sup>35</sup>

But with Haldane, the analogy is not only the setting for an understanding of the circulation of nutrients of the commonwealth, as it was for Hobbes, but the threat of contagion in the midst of promiscuity, which is to say: an incertitude as to the lines of descent, ownership and right. If the equivalence of beds and houses – which Aristotle had such trouble conceiving of – is reconfigured (in Hobbesian terms) as that universal measure which travels with a man within and outside his household, the transformations of households and the expansion of financial instruments which expanded in order to accommodate them in fractal fashion has, in more recent times, made the legible transfer of property profoundly doubtful. Nowhere is this perhaps more apparent than in the ostensible problem of the derivative. Having bundled risk, the credit default swaps that expanded debt have made it almost impossible to discern which financial institution has the legal authority to foreclose in particular cases of mortgage default.<sup>36</sup>

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33 Ibid, 26.

34 Ludovic Desmedt. “Money in the ‘Body Politick’: The Analysis of Trade and Circulation in the Writings of Seventeenth-Century Political Arithmeticians.”

35 Hobbes, *Leviathan*, 300.

36 A number of judges presiding over foreclosure cases have demonstrated

And, as the cycle of bailouts and foreclosures unfolded, it was perhaps not surprising that the thematic of protest would switch – both practically and symbolically – to one of occupation and default.

## **FROM INFINITE DEBT TO ENDLESS CREDIT**

If all this raises the question of just who is indebted to whom, it might also trouble the moral injunction against debt, reanimated during times of crisis, that was written into the historically pivotal pact between ecclesiastical authorities and merchant capitalists at capitalism's inauguration. Threatened by the anti-feudal struggles, the Scholastics turned to Aristotle to both enable speculation and limit it to its specifically capitalist (i.e., re-/productive) forms. In their insistences that income should only be accumulated by labour, just as sex should only be for the purpose of women going into labour, the Scholastic tirades against debt were always intended for the lower classes. Surplus was, is, reserved for capitalists. Church prohibitions against usury were invented at around the same time as purgatory and the introduction of indulgences. Just as sermons against gambling, sex and excessive pleasure reached a crescendo in the Middle Ages, the Church invented the space of purgatory situated between heaven and hell where one could pay off one's debts, and it fabricated the means by which one could literally buy one's way into heaven with a donation. These apparently anti-capitalist decrees, with significant caveats for capitalists themselves, remain the hallmark of conservative critiques of debt. They are the Middle Ages version of lobbying and bailout. Moreover, the current resort to the unbreakable contract (the neo-contractualism of welfare, student debt and more) returns to early forms of contract as it emerged from theological understandings of covenant: absolutely binding, transcendental and infinite. For conservatives today, the expansion of debt is a problem because the crisis of reproduction it signals can, with widespread default, segue into a crisis of capitalist futurity more generally.

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they are not willing to foreclose on a mortgage when they cannot determine where it originated, or who actually owns the loan.

Unpaid debt, very simply put, holds out the possibility of ‘living beyond one’s means’ when the means of re-/production are no longer in one’s easy reach. The revival of Aristotelianism at the very moment of its historical obsolescence during capitalism’s rise – something a little more complex than what Marx nevertheless grasped through his insight into the historically momentous separation of the worker from the means of production – marks a persistent feature of attempts to reimpose the demarcations that makes capitalism what it is. If the Scholastics borrowed Aristotle’s understanding of language, with its stress on commensurability and representation, at a time when value had become speculative and uncertain, the recourse to an Aristotelian distinction between politics and economics today indicates a similarly anachronistic move in far from critical understandings of the conditions of capitalism. Aristotelian equality, as Marx notes, cannot conceive a specifically capitalist equivalence, the commensurability of the qualitatively incommensurate, just as (I would add) his realist theory of language has difficulty admitting the future-contingent that defines the contractual, and his understanding of logical axioms can only assume the representation of natural rather than contingent value. As fleeting as Marx’s remarks on Aristotle were, he nevertheless noted that this limit to Aristotle’s thinking relates to the situation of slavery in ancient times. In other words, the neo-Aristotelian emphasis on a repartitioning of politics and economics – more or less explicit in the arguments of Polanyi, Foucault and Arendt, as well as in calls for a return to ‘real democracy’ – rely on a crucial fudging. For Aristotle, the egalitarianism between free men in the *polis* (city) was necessarily predicated on the slavery that was relegated to the *oikos* (household). Leaving aside the question of whether the logic of democracy partakes of the sense of capitalist equivalence rather than equality as Aristotle could have understood it (as with Arendt’s idealisation of ancient democracy), the resort to neo-Aristotelianism either romanticises the *oikos* (as do Polanyi and Foucault), or it sidesteps the decisive question posed by the expansion of debt at this particular time, and as the issue makes an appearance in the occupations.

In doing so, it abandons the critical conjuncture of default and occupation that points not to a revival of democracy (since the models of decision making are not democratic but take their

cues from decentralised networking), but instead to experiments with “promiscuous infrastructures” that have been ongoing in protest camps for more than a decade, from Seattle to Tahrir and beyond. In the seemingly tangential arguments over how to organise the labour that goes in to sustaining the occupations, how to arrange kitchens, energy, medical care, shelter, communications and more, in the correlations between homelessness and the #occupy encampments, in the very question posed of how to take care of each other in conditions of palpable uncertainty, live the pertinent issues of the *oikos* in these times. It is not surprising, then, that in her discussion of the occupations at the University of California, Amanda Armstrong begins with foreclosures and the transformation of universities into real estate in order to go on to highlight the centrality of “bonds of care” to both the protests and the creation of a different kind of university.<sup>37</sup> If debt marks a crisis of social reproduction, then the question surely becomes how to generate forms of life beyond its specifically capitalist forms?

The boundary between economics and politics is mutually constitutive. It has been constantly reconfigured not by capitalists but in the process of their pursuit of fugitive slaves from modern sites of *oiko-nomics*: the flight of women from the home, working class children from the factories their parents laboured in, the middle classes from increasingly precarious labour, the great grandchildren of slaves from the servitude of workfare, migrants from impoverishment and devastation. To dream of returning to a fanciful time of self-sufficiency and independence is to yearn for the conditions that made the subject of politics or the head of the household possible, and so for the reconstruction of the boundaries erected against this flight. Debt made this flight viable, but it is for the most part the debt that might be understood in terms of the irreducible, incalculable inter-dependence of sharing a world if not always a circumstance. As Annie McClanahan put it, the growing calls for mass student default mark a challenge to “the temporal logic of indebtedness,” the discovery of “a present in which our debts are only to one another.”<sup>38</sup>

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37 Amanda Armstrong, “States of Indebtedness: Care Work in the Struggle against Educational Privatization.”

38 Annie McClanahan, “Coming Due: Accounting for Debt, Counting on Crisis,” 544.

In this sense, the increasingly common predicament of financial debt bondage calls not for the restoration of a common identity as the *demos* (the fantasy of a return to the putative nobility of politics untainted by slavery); nor for a rallying of the university as an apparently meritorious machinery of credit and value unsullied by the presence of (former) slaves; nor, still, for the re-imposition of what it might mean to 'live within one's means' for those deprived of the means of life without labouring (not alongside but) for another. It calls instead for the political consolidation of student debt with all the other forms of debt that dare to venture beyond austerity, for the transformation of infinite debt into endless credit, and a break with the capitalist limits on speculation. As the implications of student indebtedness unfold into already-uncertain financial circuitry, or are quarantined by the wall of the unbreakable contract, debt may well serve as the projection of the present into a calculable, foreclosed future. Or, in the congruence of default and occupation, the crowds just might wander beyond the intimate reckonings of human capital's self-imposed imperatives into the creation of infrastructures of another kind of indebtedness and conjecture.

## CLINAMEN

Is One the founding start of a series – or is it an atom? ... There is an area, almost unnameable, where metaphorical description bleeds into the nonmetaphorical.”

– Denise Riley, “The Right to Be Lonely.”

Lucretius therefore is correct when he maintains that the declination breaks the *fati foedera*, and, since he applies this immediately to consciousness, it can be said of the atom that the declination is that something in its breast that can fight back and resist.

– Karl Marx, “The Difference Between the Democritean and Epicurean Philosophy of Nature.”

In *oikonomia*, there is no boundary between the figurative and the literal, though the distinction between materialisation



and policy remains a pertinent one. Riley insists that there are only “two broad tactics in the movements toward new family forms: to cope with the furious miseries of social exclusion by the gesture of nominating absolutely everyone as a legitimate family,” or declaring “that really no one constitutes a family, but then no-one should want to anyway.” If Riley irreproducibly and passionately emphasises the affective range of struggles for recognition, inclusion and rights, she does so by invoking a Lucretian cosmology of the swerve in the most subtle of ways. For Riley, the jealousies that drive demands for greater social inclusion nevertheless – given the structural negativity of rights – result in pushing “everyone further into the backwoods of an unspeakable deviancy.”<sup>39</sup> But if this describes the impact of policy, perhaps the more explicit Lucretian question is less about the atom than the deviation – neither the one nor the many, but the future contingencies of repulsion and attraction. “The anomalous family” that “must mimic the virtues supposedly enacted within the conventional family form, and be seen to outshine it,” underlines the performativity of contract, but it also – as Wacquant makes use of the same terms, and in posing a question about recent welfare policy – implies that “anomalous families” are perceived as a ‘virus’ whose diffusion must be circumscribed if it cannot be stopped.”<sup>40</sup> The same can be said about economic policy and financial arrangements around, say, bankruptcy, in the wake of the financial crisis, the toxic debts of subprime as the most risky, least familial and ultimately uninsurable of swerves. As the young Marx remarked, “the determination of [the atom’s] appearance depends on the domain in which it is applied,” and in the “political domain,” the questions of repulsion and deviation appear in the form of “*covenant*.”<sup>41</sup> If Marx refers to “consciousness” and Riley writes of wilfulness, to treat it instead as a question of contractual performativity eschews the residual Cartesianism that is coincident with the oscillating history of contract, whether lauded as reciprocal voluntarism or re-sacralised as the necessity of absolute covenant. The bonds of fate are always being tied and re-tied, in the circulation of money, the movements of bodies,

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39 Denise Riley, *Impersonal Passion: Language as Affect*, 48-58.

40 Ibid, and Wacquant, *Punishing the Poor*, 81.

41 Marx, “The Difference Between the Democritean and Epicurean Philosophy of Nature.”

and the affective thickness of recognition, but there is nothing certain about the generative dynamics of the *clinamen*.

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# MINOR COMPOSITIONS

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*As well as a multitude to come...*