

No “No Trespassing!” The cultural logic of property rights and their moot pleasures of denial

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Abstract

The trope of private property may usefully be approached culturally according to its own logic of denial. What is apparently most powerfully denied in the ownership of property is the right of others to take advantage of that property without their being given consent. Among the discursive articulations of this right to exclude are “No Trespassing” and “This [property] is wholly mine”. Suchlike speech acts contribute to an economic subjectivity that wishes, above all, to establish personal liberty through the sovereign practice of ownership. This sovereignty, however, is philosophically inconsistent with a market context that demands that one ceaselessly exchange one’s goods and act as “guardian” to the commodity form. The pleasure of denying the market itself access to one’s property is thus continually thwarted. This fact discloses multiple tensions within the logic of political economy.

Keywords: capitalism, subjectivity, speech acts, feudalism, philosophy of economics

HAMLET – Whose grave’s this, sirrah?
FIRST CLOWN Mine, sir. (5.1.111-112)

Ownership is a strange business. The possession of property may be analyzed as something much closer to dispossession than to anything else. What I have – and, equally, what I do not have – may thus be taken into account using the logic of denial, or restriction of access. Jacques Lacan’s claim that “to exercise control over one’s goods is to have the right to deprive others of them” accords with precisely such an argument and is extremely suggestive.¹ In this assessment, economic power and pleasure do not come to me directly from whatever it is I have in my possession; such benefits (if that is what they are) must travel a circuit that maps out a negative relation – I gain because what I have, let us say, dents or retards your will. In other words, it is *your not being able to do something* (because of my ownership rights) that yields me a certain dividend from case to case.² Where the dividend of ownership relates to physical property, for instance, restriction of access may be measured in terms of the movements of another person’s body. If I own a piece of land, then my pleasure in restricting your access to that piece of land may be triggered by your stopping just short of my barbed wire fence. Depending on my mood, I may also benefit from opening a gate and letting you slip past those barbs onto a private domain. I have controlled the movements of your body and this control has been conferred to me by virtue of the “bundle of rights” that constitutes my ownership of this particular property.³

This logic of denial of access *as* property can also be realized in less palpable form. Take H. L. Mencken’s question concerning the precise character of the pleasure he feels, all soapy and pink, having just slipped out of the tub: “Did I enjoy a decent bath because I knew that John Smith could not afford one – or because I delighted in being clean?”⁴ There is no direct implication here that Mencken owns the only bathtub on the street, rather that bathtub ownership (or perhaps the economic freedom to run hot water into such receptacles) is not, in the land of Smith and Mencken, universally shared. It is nonetheless acknowledged that *part* of the bather’s dividend arrives courtesy of the implied denial of access that this non-universality underscores. Of course, it is not Mencken who enforces this denial – the suggestion is rather that there is an economic background, made up (in part) of denials and concessions of access to hot baths, and that Mencken benefits not simply from the concession (his hot bath) but also from the denial (and John Smith’s crustiness).

The bathtub case plainly affords us a broader view of ownership and its relationship to the pleasures involved in denial of access to property – that is, a view which sees some of the benefits of denial necessarily lying within an uneven field. A bather’s pleasure could not be indexed to a non-bather’s non-pleasure were all afforded the capacity readily to bathe. As we have noted, for bather A to enjoy his bath because B cannot enjoy his bath need not require that A *directly* restrict B’s access to anything. B’s personal access to baths is none of A’s concern; it need simply be the case that A possess the right to enjoy his bath while someone else *not* be able to enjoy his. The formal freedom to partake of hot baths conceivably belongs to all. A

participates in B's not being able to take a bath only insofar as he depends upon that inability for his satisfaction.

What the owners of bathtubs (and property all told) also seem to depend upon for their satisfaction is a background of *complete* ownership of whatsoever it is they have. Fully controlling access to one's goods presupposes a regime of univocal and inalienable property rights. Unless I own my property it is not wholly *mine* (and it is not wholly *property*) – which is to say I must not share claims on my goods with others if I am to be held their owner.⁵ Historically, this trait of exclusivity is a fairly recent innovation. With respect of real estate, for instance, as Mark Overton notes, “the establishment of private property rights on ... the arable land of England” traces back to no earlier than “c. 1550”.⁶ Prior to this two points prevailed: first, there was scarcely a market for land; it simply was not sold⁷; second, in the feudal system, multiple claims of ownership could fall simultaneously upon the same property and be respected.⁸ Feudal mechanisms operate with practices of conditional ownership⁹ – land, especially, cannot be alienated because there exist multiple and overlapping claims upon it.¹⁰ The pleasure of restricting access to one's property is, under such a logic, consequently thwarted. It is only when feudal arrangements are broken that that particular pleasure can be inaugurated.

That which breaks the feudal system (in Europe at least) is the “recasting” of the elements of production in their “specifically capitalist form”.¹¹ Property is on the verge of being reshaped. Attitudes to the land, in particular, undergo radical change. Whereas “[I]and was profitable to feudal landowners mainly because of the tenants who occupied and worked it[,] with the rise of markets for land and wool and with the development of improved methods of agriculture ... land became transferable and in some cases more profitable when stripped of its customary inhabitants”.¹² As Robert Brenner points out, the sequence of this realignment of forces was “the peasants' failure to establish essential freehold control over the land [in the sixteenth century], [and] the landlord[’s being] able to engross, consolidate and enclose, to create large farms and to lease them to capitalist tenants who could afford to make significant capital investments”.¹³ From this point forth, the agrarian economy is reconstituted. Land is now a commodity. “The modern notion of ownership” has emerged – where “one can do whatever one wants with one's own”.¹⁴ Part of what property owners wished to do, of course, was to expel feudal tenants from the land and replace them with new ones (under new conditions). With land commoditized, the execution of such wishes is properly enabled. Restriction of access to one's property is beginning to be regularized and understood as an expression of the law.

These practices of restriction belong to an economic logic that changes both the subjects who partake of it and the goods they traffic. Once land – and property full stop – becomes a commodity, then the individuals (and classes) that own and/ or desire access to that land (that property) need to behave in a different way. With property wholly owned (by one subject), ownership becomes a matter of all-or-nothing. Either I own this piece of land – and thus do all the rights of access (and denial of access) concerning it accrue to me – or I do not.¹⁵ There is no halfway position (as there was with a feudal logic). The language of inalienable property rights consists of claims such as “This is wholly mine” and “I have the sole right to restrict your access

to that which is mine”. These are speech acts; they contribute to a discourse that bids for a particular vein of economic subjectivity to be taken seriously. Importantly, moreover, these claims point back to the speaker as much as they do the property concerned. The claims remind the listener not only that there is an item which is owned, and that there are property rights pertaining to that item, but that, crucially, both item and property rights themselves belong to a particular subject. Thus, while suchlike claims may serve either as a warning or, equally, a provisional concession of access – that is, either “No trespassing!” or “OK, you may enter my abode” – they also inculcate an agency that is ostensibly sovereign. “No trespassing!” in this line of thinking may thus be cashed out as “My *will* both immediately and ultimately governs access to this property!” And if we push this logic back another step – to include a subtext relating to a potential trespasser – we get something like the following: “Your will (to gain access) bends to my will on this particular occasion”. Fleshed out in this manner, of course, it may be seen that the property (whatever it may be) simply plays piggy-in-the-middle to a contest of wits, to a battle of desires to be obeyed, to be recognized as master. Property – and property law – may thus be understood, in this reading, as contingently *shaping* a clash of wills that would otherwise have existed, but which took advantage of prevailing economical structures to give this particular form to what is, in essence, a timeless human struggle.

But there is another reading of the contested agency involved in this dramatization of property rights. To attest to there being a sovereign will disclosed by, as it were, the deep grammar of each and every property claim is perhaps to grant the subject too majestic a narrative position. We must permit that the will of subjects is prone *itself* to being shaped and refracted by conditions of political economy. Evgeny Pashukanis usefully educes such an interpretation:

Historically ... it was precisely the exchange transaction which generated the idea of the subject as the bearer of every imaginable legal claim. Only in commodity production does the abstract legal form see the light: in other words, only there does the general capacity to possess a right become distinguished from concrete legal claims. Only the continual reshuffling of values in the market create the idea of a fixed bearer of such rights.¹⁶

What primarily interests me at this point is Pashukanis’ exposition of the relationship between economic modality and social fact. Both the value of market commodities and the legal status of rights-bearing subjects constitute social forms in which “the [capitalist] production relationship simultaneously appea[r]”.¹⁷ Furthermore, it is “only in commodity production” that these two mutually abstract features of social life – *viz.*, commodity value and legal subject – come fully into being.¹⁸ It is not the individual subject – nor, likewise, the *will* of the individual subject – that is in charge here; it is, rather, the subject being compelled to stand in a particular relationship to the market and to the commodity. The subject has very clear obligations in this context, as Karl Marx pointed out:

Commodities cannot themselves go to market and perform exchanges in their own right. We must, therefore, have recourse to their guardians, who are the possessors of commodities. Commodities are things, and therefore lack the power to resist man. If they are unwilling, he can use force; in other words, he can take possession of them. In

order that these objects may enter into relations with each other as commodities, their guardians must place themselves in relation to one another as persons whose will resides in those objects, and must behave in such a way that each does not appropriate the commodity of the other, and alienate his own, except through an act to which both parties consent. The guardians must therefore recognize each other as owners of private property.¹⁹

To perform the role of commodity's guardian lawfully, the subject must constrain his will such that it fully respect the rights of another commodity's guardian. The sovereignty of each guardian is, in this sense, domesticated; the two parties must forsake violence and blatant cozenage; they must also acknowledge that the logic of commodity requires they face each other as equals.

This formal equality becomes most salient in contexts where the question of the alienation of property is at stake. Where I face you as property owner, I must assume that you recognize me as a property owner – for otherwise our relationship is, strictly speaking, illegitimate. You must understand and respect my rights either to consent to exchange my property or to refrain from doing so. However, these assumptions depend on your being a property owner (or potential property owner) yourself. Unless we face each other in a situation where exchange is at least potentially on the cards, then our meeting really makes no sense. The commodity guardians are the most formally equal, therefore, when they are at market – for it is a market logic that indeed conditions that equality. The market is a site of probation – to repeat, it is the place where ownership rights are constantly reappraised and where subjects are obliged to rehearse a “permanent speculative posture”.²⁰ The market tests as much for how the economic subject speaks as much as anything else – he is obliged to make claims concerning his property, for instance, that remind others (and he himself) how attuned he is to the logic of commodity exchange.

This obligation, repeated over time, produces a subjectivity that has a number of interesting features in terms of how it respects – and acts as a true guardian to – the commodity. One paradoxical feature of the context itself relates to the subject's need to exercise property rights. We have canvassed a range of situations where this need is evident. A landlord is compelled to supervise access to his property – and he will achieve satisfaction by courtesy merely of exercising that right. In the classic public enunciation of that property right – as we have noted – he may nail his “No Trespassing!” sign to his starkest yet healthiest tree. However, on closer examination, it must be said that this enunciation does not belong to the language of the market at all. The true guardian of the commodity ought not to approach the market with the coarse and inflexible language of universal restriction foremost in his mind. One does not take the land to market unless the land is potentially (formally) up for sale. “No Trespassing” needs to take a back seat if a balance is to be found here between asserting one's sole property rights and performing a willingness always to have something to trade. Ultimately, *everything* is vendible in this logic of market-shaped law. The commodity must *flow*.²¹ “The merchant must”, as Douglas Bruster remarks, “... accustom himself to allowing wealth ... to pass through his hands into that of another”.²² This paramount need for the ceaseless trafficking of goods must

nonetheless square with the requirement that property rights contain a provision for non-consent to sale, together with an expression of restriction of access *until* sale.

How might these apparently contradictory requirements match up? That is, how may I keep hold of my rights not to sell – and not to yield access – in the face of the market? How may I do so even *formally*? Furthermore, where might any hypothesized *pleasure* of restriction come in here? There is a sense, I believe, in which the market regulates logically for conditions where property itself evaporates – grows diffuse and wholly fungible – and what the market-going subject really owns is solely the right to exchange. Even with a commodity as apparently concrete and idiosyncratic as a piece of land – whether it be two hectares or five thousand – it is arguably not that property itself that the owner may be said to control. For, as I have said, under optimal market conditions the owner does not have the right *in principle* to keep that piece of land back from the market, to shore it off from potential purchase. The landowner may, of course, in practice choose (for so long as he shall live) not to sell the land – that is true; but he is precluded from adopting this *I will not sell* as a principle. Were he to adopt such a principle – that is, *I will not sell not matter what* – the landowner would cease to be a capitalist; and become, instead, a hoarder.²³ The property owner is forbidden from approaching the market too defensively; he needs to open his property up – he needs to distance himself from it; in order for that land to be a commodity, it must (again, in principle) flow away from him, and keep going.

What the property owner does arguably retain throughout the process of the ceaseless trafficking of commodities is, as I have suggested, the property *right*. The property is no longer owned *per se*, it might be claimed, but the abstract legal right to it – it is *that* which is retained; it is that which is stable and sacrosanct. Perhaps, therefore, we might find pleasure resonating with property owners at market who are able to restrict access to that right. But does this notion even make sense? I am not sure that it does. The abstract, formal right to property can, by definition, neither be rescinded, nor traded away – it provides, as it were, the metaphysical ground upon which the commodity traffic is carried out. Not only does everybody in this system have the right univocally and inalienably to own and exchange commodities, they have the positive obligation to do so. Given this point, it is problematic suggesting that this formal right ought to be celebrated too grandly. My agency is being forcibly directed and shaped, after all, by a market logic that insists that I exchange – in a sense, that I hold nothing back and, equally, that I allow all commodities (from elsewhere) to come to (and pass through) me on their circulatory odyssey. Were I able to forsake that right (that obligation), then my role in this economy would perforce come to an end. Short of completely going off grid, and leaving the world of commodities behind, however, I do not have the right to forsake that right. I cannot exchange that right; I cannot even give it away. Equally, I cannot restrict another's access to my rights to property – for, logically, there is no such access to supervise, to restrict.

The property owner intent on finding true, market-consistent pleasure in his denials of access to property right is left with two possibilities, it seems to me. First, he may seek consolation in assaying a *globally uneven* field of property ownership and take consolation thereby in the knowledge that there are many millions of subjects around the world who lack

even the formal freedom to own property. That is, there exist societies where the capitalist market is either not sanctioned or where the rights of market-goers are not reliably protected by the law. Arguably, these states and regions existing in this manner – and standing on the periphery of the capitalist world market – perform a useful function.²⁴ From orthodoxy's point of view, they serve as examples of what not to do. Their ostensibly stricken or backward status may be highlighted by media and state functionaries in order to discipline those who are governed by the market logic. This discipline could take the form of a warning – along the lines of, “There is no alternative to the system we have in place; these basket-case economies demonstrate that” – or a series of calls for comparison which might conceivably have a tonic effect: “*They* do not have the right to own and upon consent to alienate property – *you do!*” News items that draw our attention to the predicament of those who live in such peripheral economies plausibly carry such messages as a part of their subtext. The right to property can be treasured when it is plainly not shared by all *because* it is plainly not so shared. This is not to say that property owners of a particular ilk thereby disavow the dream of extending property rights further into the darkest reaches, simply that *some* pleasure (pathological or not) seems likely to accrue to those who reflect upon this kind of disparity.

This line of thinking needs to be pushed further in order that the relationship between property right holders and (if you will) property right *non*-holders (in the periphery) be more closely interrogated. After all, it is not as if my property rights themselves have any direct influence on those in the periphery. My ownership of land in, say, Surinam, does nothing to restrict the rights of an individual in, let us imagine, Chechnya, whose legal relationship to any plot of land is rendered precarious by the lack of a stable, rights-enforcing authority. I may enjoy, in (hopefully) some modest and sheepish manner, the disparity that here appears to lie at present in my favor, I cannot in any way take the credit for it. While there may be arguments that suggest that the capitalist core – complete with its rights-defended subjects – in some way depends upon there *being* a periphery where property rights are not reliably protected, it is by no means clear how my particular property rights participate in this dependence. Whatever satisfaction (or, alternatively, feelings of shame) I receive from reflecting upon certain of the relative global economic advantages I possess, I would suggest that these satisfactions are independent of the structural causes of the disparities in question.

The logical links activated by (respectively) my exerting my property rights and someone else not doing so are less obviously independent of each other when it comes to speaking of my fellow citizens. Here the possibly causal connections between restriction and pleasure are more suggestive. Where the capitalist market logic prevails – and is constantly reinforced legally and ideologically – there, as we have indicated, all parties will possess the formal right to own and exchange property. These parties will also have the right in practice – but not in principle – wholly to restrict market access to that property. There formal, legal capacities will be shared; possession of these rights, and practice in exercising them, will, indeed, form a good deal of the public subjectivity of the citizenry entire. Ideally, everybody of sound mind will be able to *own* property – it will be a skill; practicing that skill, and being steeped in the knowledge of that kind of owning, will be something prized and respected – fluency in performing that skill, moreover,

will normally be rewarded.²⁵ However, this business of a shared knowledge – almost an inheritance – remains at the level of the law (not simply the ideology); that is, it remains abstract and only potentially accessible to all. There will be, as we know, massive disparities within the society between the haves and the have-nots. Logically parallel to a context in which all retain to formal right to own spa baths and to fill them with hot, bubbling water will run a practical logic which only sees part of the population being able to perform such ablutions willy-nilly. The disparity in practice is concrete: one agent is able to exercise his property right; another is not. The logical connections between property rights and the kind of pleasures of restriction we have been interested in here is less clear.

One point that seems straightforward is economic agent Y's being able to enjoy his exercise of a property right in part *because* economic agent X is not able to enjoy the same in a particular case. Enjoyment here pertains to the *deprivation* of others. And the force of this deprivation is undeniably powerful in terms of its yield of pleasure. We see this point clearly when we reflect upon the case, given in anecdote by Slavoj Žižek, of the "Slovene peasant who is given a choice by a good witch: she will either give him one cow, and to his neighbor two cows, or take from him one cow, and from his neighbor two cows – [with] the peasant immediately choos[ing] the second option".²⁶ The peasant consulted here is extremely sensitive to the possibilities involved in a kind of negative emulation: he is prepared to *lose* something if only his neighbor lose more. What matters is not some incremental personal benefit of possession (simply having another head of livestock in the herd, say) – for such a consideration is easily trumped by being able to gauge the *disadvantage* imposed on someone else – on someone whose disadvantage, importantly, means something to you. Undoubtedly, there is vindictiveness instantiated in such a calculus – but there is also a kind of obstinate beauty – a perverse, intuitive genius that draws in a sacrificial logic ("*I lose; you lose again*"). We must note, of course, that in this case property rights have been suspended. But of this the peasant has made no complaint, provided those rights were also suspended (doubly, as it were) for the rival. Indeed, property rights had to be suspended for this particular yield of pleasure to be secured. Translating the process into the register of property claims, we might proffer that the peasant's "This [cow] is wholly mine" has well and truly been drowned out by the sly (yet triumphant) observation that thanks to the witch "His [cows] are no longer his".

The Slovene peasant case study provides us with a useful resource when attempting to unravel some of the paradoxes of property rights and the pleasures of restriction that they, by hypothesis, disclose. I have argued, after all, that within the commodity logic, all property is *in principle* constantly on the verge of slipping away from its owner's clutches toward the world of market *trafike*. That always-being-on-the-verge-of-losing-one's-property is, after all, what constitutes practicing ownership in this world of never-ending exchange. We are not a million miles away from a "good witch" overseeing the commodity market such that the express flimsiness of a property owner's relationship to his commodities be realized again and again when property is owned (and then "released" unto the market). The modality of that ownership, to repeat, need be as diffuse, as abstract, and as flexible as possible to fully respect the logic of the commodity form. And at the same time, of course, the *formal right* to express that diffuse,

abstract ownership relationship need be articulated as something impregnable and unimpeachably sovereign. The formal, legal right to own property ought to never enter the fray – although the right is as abstract as the commodity, therefore, it is nowhere near as slippery; it never leaves the owner.

Both the commodity and the ownership modality (especially, the *strength* with which something is owned, or possessed) therefore share, in the market logic, much the same kind of frictionless impalpability. The commodity is owned weakly, or softly; it is not craved; so long as it is a commodity, the owner must not cling to it, as he might to his pound of flesh. If his commodity is a cow, then, ideally, he must freely and lightly be able to imagine that cow being whisked away (not necessarily by a witch, but perhaps by an invisible hand). He must be perfectly comfortable with the prospect of his never being able to see that cow again – indeed, he must (in terms of his desire) welcome its departure – its vanishing. Equally – to be fair – the economic agent must welcome the sudden, mysterious *appearance* of a commodity on the potential purchase/ investment horizon. If that commodity is a cow, then so be it; if a government bond, likewise. Fleeting, inevitably, in many ways irresistibly, the commodity form will come, and it will go. Given this point, the *commodity wave* may be understood, from the owner's point of view, to constitute a source of pleasure and fear. Granting that the fear may correspond to the commodity's departure – its slipping away from the owner's grasp; equally, that fear may be triggered by the headlong rush of commodities toward the potential owner. What ought one to do faced with this onslaught – purchase everything in sight? There is clearly an excess here that may be registered as a threat. Conversely, the commodity's departure beyond the sunset – its leaving the owner behind yet again – likely produces mixed feelings: disappointment, perhaps, that a more intimate relationship could not have been established before the commodity was swept back into the market swirl; excitement, also, that what was had, briefly, has been caught up in the stampede of *trafike*.

The argument that the commodity flow produces fears and pleasures in *all* property owners has suggestive implications when it comes to analyzing the logic of property rights and the potential *restrictions* they promise between agents. With all subjects faced with the emotionally fraught predicament of the commodity sweeping past oneself – to be replaced by yet another constellation of items – the temptation to apply restrictions on others *holding on* to property (or, alternatively, being able to keep the commodity form at bay) is plausibly strong. Given my anxieties concerning the stability of my ownership relationship with the commodity, I may attempt to displace some of that anxiety by somehow exacerbating the precariousness of other's relationships to property. Were I able to limit the ownership capacity of others such that their capacity become (or remain) less than my own, then this limitation may compensate for my own vexed feelings when faced with market pressures. But how might I do that? There are great restrictions on what I can restrict in this context, after all. I cannot restrict another economic agent's right to property – that is sacrosanct, inviolable. Equally, I can no more restrict their access to the market – to the helter-skelter of commodity exchange – any more than I can, in a sense, restrict my own. Where do my options for property restriction lie?

To answer this question convincingly we need first restate our understanding of the paradoxical situation in which the economic agent is placed. The most resounding clarion call of the market is, as we have noted, “Exchange your goods! Do not hold your property back from the market! Exchange! Exchange! Exchange!” But running beneath that particular tune – which may be conceived as forceful, allegro, and high-pitched – is the stolid hum of individual property rights: “Each of you is sovereign over that which he owns”. The second message here, moreover, is treated as being axiomatic to the first – that is, “Unless you wholly own that which you own, you will not be able to exchange your goods at market”. However, there is clearly a sense in which the impetus to exchange *violates* the principle of full ownership. The lawful apothegm of property rights – “This is yours to do as you will” – commonly thought to have inaugurated modern political economy – may actually be read as inconsistent with the commodity logic. The market’s claim upon my goods – “Exchange! Exchange!” – constitutes a weird recurrence of the old feudal logic of multiple and overlapping claims falling upon the same piece of property. Faced with these mutually contradictory injunctions, the property owner may be tempted to revert to feudal type himself – to repeat, he may strongly desire to hold something (perhaps a great deal) back from market. “No Trespassing!” for this property owner may cash thus out as referring not to another individual agent, but to the market itself. But this “No Trespassing” is strictly forbidden – and the property owner exists in a double bind. What is he to do?

One option is a rhetorical, or, weakly, an ideological one. The property owner – or more likely a certain class of property owners – may wish, in the face of the omnivorous market, to assert that the abstract, formal right of property qualifies as the most important right of all. This assertion – versions of, say, “Individual property rights are the basis of our liberty” – would, in this reading of is, therefore function as a displacement weapon – that is, it would masquerade as a injunction of liberty when confronted with the truth that it is the market itself which threatens the very meaning of that injunction. Instead of directing their injunction at the market proper, however, this kind of stress on the inviolability of property rights, would be directed horizontally, on to other property owners, and inevitably downwards, on to those unlikely to have enough property to justify giving the claim (to property) much centrality in their lives. In the first case – of horizontal attribution – the rhetorical stress may well produce a kind of solidarity. One basic variation here might be, “We (property owners) all have our property rights to cling on to; it is those rights that make us what we are”. This claim speaks against a market logic that insists the commodity *pass through* the owners’ hands and *not* be held. Faced with such market pressures, the claim that the property right is held may bring consolation – “At least we have *this!*” – but it is nonetheless empty. In fact, the market logic effectively mocks the claim, for the obligation ceaselessly to exchange the commodity rebukes, as we have discussed, any principled right not to exchange. Of all the rights that may be apportioned in the market context the right not to exchange one’s goods is precisely that which must be rendered (and formulated as) otiose. The injunction “Exchange! Exchange! Exchange” is thus logically grounded upon a negative axiom, namely “You may not not exchange” – and that will be the proper translation of each owner’s property right. The consolation of denying this with talk of *having* inalienable rights to property is derived entirely spuriously (although this is not necessarily to disparage its force).

The position of the economic agent holding to his property rights in this fashion clearly discloses a tension within the cultural logic. With the expression of the property right accompanying its principled denial (in and with the market), there is a sense in which a whole range of signature claims concerning property ownership will betray their precariousness. While the subject may stridently claim that his property is his to exchange or not, I have suggested that this actuality is very precisely contradicted by his market position. Strictly speaking, the commodity owner is never in a position to hold back his goods – no more than he is able to stop commodities on the market horizon rearing up and approaching him at legion points of sale. His cries of “No Trespassing” thus ring false throughout. He may be safe in the assumption that *particular* others may not be able to access his goods – for the contingent reason that they (at that juncture) are too poor to afford them – but he cannot in principle restrict the trespassing of the market entire. *In whole*, he is, moreover, forbidden from wanting so to restrict. The obligation is to welcome market access and to decry any resistance to such market encroachments. “No Trespassing” will be thought to be a speech act of the worst possible taste in this context. It is to be shunned. Whatever pleasures the holder of property rights may glean from holding those properties will not, ultimately, concern his sovereign control of access to that which he owns for the simple reason that he cannot appease the encroachments of the market.

Endnotes

¹ Lacan, 229.

² Certain rights-focused perspectives on social justice would have us exclude precisely this kind of *satisfaction* as pathological from the outset – hence, John Rawls’ note that “an individual who finds that he enjoys leaving others in positions of lesser liberty understands that he has no claim whatsoever to this enjoyment. The pleasure he takes in other’s deprivations is wrong in itself” (Rawls, 31).

³ Banner, 45.

⁴ Mencken, 273.

⁵ Indeed – as Gerard Casey elucidates – where I am too lenient when it comes to supervising access to my property, the law may punish me according to “the common law doctrine of adverse possession” such that “[i]f someone without legal title to a piece of land treats it in such a way as to asset ownership of it (say, for example, by building on it or fencing it off from surrounding land) and if the holder of the title takes no action to assert his rights to the land, then the adverse possessor will, after a certain time, be able to assert a title superior to that of the original owner. The failure of the original title holder to exclude the adverse possessor is taken to be tantamount to an abandonment of his claim to title” (Casey, 69).

⁶ Overton, 147.

⁷ Howell, 39.

⁸ Bloch, 116.

⁹ “The feudal mode of production was”, as Perry Anderson remarks, “precisely defined by juridical principles of ‘scalar’ or conditional property” (25).

¹⁰ “It is very rare, during the whole of the feudal era, for anyone to speak of ownership, either of an estate or an office; much rarer still ... for a law-suit to turn on such ownership. What the parties claim is almost invariably ‘seisin’ ... What then was this famous ‘seisin’? It was not exactly possession, which the mere seizure of the land or the right would have sufficed to create. It was possession made venerable by the lapse of time. Two litigants go law about a field or the right to administer justice. No matter which of them is the present holder, that one will succeed who is able to prove that he ploughed the land or administered justice during previous years or, better still, that his ancestors before him did so” (Bloch, 115).

¹¹ Holstun, 121; 115.

¹²Halpern, 71.

¹³Brenner, 49.

¹⁴Milbank, 224.

¹⁵D. K. Yonai notes the useful distinction in law between “the *in personam* approach to property [in which] property exists as merely a right to a particular facet of [an] object[, which] rights usually include an ownership right, a right of possession, a right to distribute [etc.], and “the *in rem* approach to property [which] treats property as a “particular right to some things and confer[s] on those persons the right to exclude a large and indefinite class of other persons ... from the thing”” (163).

¹⁶Pashukanis, 118.

¹⁷Simmonds, 140.

¹⁸Miéville, 93.

¹⁹Marx, 178.

²⁰Agnew, 46.

²¹Consider Sir Francis Bacon’s paradigmatic injunction in this context – disdaining the universal solvent (that is, the perfect commodity) unless it undergo radical dissemination – “Money is like muck; not good lest it be spread” (Reeves, 148).

²²Bruster, 205.

²³Or, alternatively, guilty “of the (Keynesian) preference for liquidity, that is, abstention from investment” (Marrazzi, 125).

²⁴Granting that some wish to finesse this distinction between core and periphery in contemporary political economy by arguing that, effectively, “one might say that the sovereignty of Empire itself is realized at the margins, where bodies are flexible and identities are hybrid and fluid. It would be difficult to say which is more important to Empire, the center or the margins. In fact, center and margin seem continually to be shifting positions, fleeing any determinate locations” (Hardt and Negri, 39).

²⁵“Ownership is not a simple and instinctive notion that is naïvely included under the notion of productive effort on the one hand, nor under that of habitual use on the other. It is not something given to begin with, as an item of the isolated individual’s mental furniture; something which has to be unlearned in part when men come to co-operate in production and make working arrangements and mutual renunciations under the stress of associated life ... It is a conventional

fact and has to be learned; it is a cultural fact which has grown into an institution in the past through a long course of habituation, and which is transmitted from generation to generation as all cultural facts are” (Veblen, 42).

²⁶ Žižek, 351.

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