

# Journeying on the Roads Not Taken: The Possessive Individual, the Commons and Marx

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*To think of these stars that you see overhead at night,  
these vast worlds which we can never reach.  
I would annex the planets if I could; I often think of that.  
It makes me sad to see them so clear and yet so far.*  
(Cecil Rhodes)

*Even a whole society, a nation, or even all  
simultaneously existing societies taken together,  
are not the owners of the globe.  
They are only its possessors, its usufructuaries*  
(Karl Marx)

**Abstract:** I want to analyze three dimensions that characterize the process of accumulation: the intervention of the extra-economic violence of the State; the new property relations; and the new anthropology of the possessive individual. I will investigate these three temporalities, which constitute the preconditions on which the capitalist mode of production is based in Europe, from the point of view of the long war against the commons, of the origin of private property relations, and of the possibility of reorienting the trajectory of modernity in a different direction with respect to that configured by the capitalist mode of production.

**Keywords:** Marx, Commons, Private Property, Possessive Individualism, Accumulation.

The capitalist era presents itself as a centuries-long war against the commons. In the course of this long war, attacks have been made on the ancient collective right of the guilds in the name of individual liberty, and the modern collective right of associations of workers in the name of the sovereignty of the individual. Where and how every collective form “has been re-translated and transformed into a problem related to a sum of individuals.”<sup>1</sup> The individual has become the fundamental category of politics and of economics. But this individual is the product of a gigantic inversion with respect to so-called traditional societies, in which instead priority is given to the group and community over the individual.

This essay deals with how this *inversion* imposed themselves and seek continually to impose themselves through colonial violence exercised both within and outside of the West. Colonial violence, in fact, as thinkers from Fanon and Gandhi through postcolonial studies have taught us, is not just the sacking of resources and the exploitation of labor-power, but is also the reconfiguration of the relations of law and

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1 .....  
de Certau 1986, p. 795.

property and the construction of an individuality that conforms to modern capitalism. Decolonialization remains blocked halfway if it is not also the de-colonization of the possessive individualist produced by the colonial devices of capitalist modernity.

I will follow the vicissitudes of the war against the commons, rethinking and re-assembling some texts by Marx. The definition of capitalist production that opens *Capital* is well-known: “The wealth of societies in which the capitalist mode of production prevails presents itself as an ‘immense collection of commodities’; the individual commodity appears as its elementary form.”<sup>2</sup> Wealth, understood as use value that satisfies particular needs, is a constant of the various modes of production. Wealth appears as “an immense collection of commodities” only in a determinate configuration of the relations of property and of production, i.e., in the capitalist one. Marx describes its history and its protohistory in terms of the “so-called original accumulation,” that is not only the accumulation of capital, but of the conditions of its production and reproduction. It is the accumulation of political power that guarantees the consolidation of the new relations of private property and intensive accumulation of the new type of human that corresponds to these. The separation of the producers from property in their own working conditions requires the internalization of new behaviors that conform to possessive individualism on the one hand,<sup>3</sup> and the disciplining of new forms of work of the expropriated on the other.

I will analyze the three dimensions that characterize the process of accumulation: the intervention of the extra-economic violence of the State; the new property relations; and the new anthropology of the possessive individual. I will investigate these three temporalities, which constitute the preconditions on which the capitalist mode of production is based in Europe, from the point of view of the long war against the commons and of the possibility of reorienting the trajectory of modernity in a different direction with respect to that configured by the capitalist mode of production.

### Many Accumulations and Other Trajectories

“The land belongs to nobody. It is not a commodity, protests Lola. It must be in the hands of those who work them. We use it in order to take care of our families and live with dignity.”<sup>4</sup> In the south of Spain the workers at a farm in March 2012 decided to occupy 400 hectares of land of the agricultural company Somonte before it was sold by the government

2 Marx 1977, p. 125.

3 McPherson 2011.

4 <http://www.bastamag.net/Andalousie-des-centaines-d>. On this episode, see Dardot and Laval 2014. See also: <http://www.somonteeldocu.org/es/>

to speculators. The workers did not demand *ownership* of the farm, but the *use* of the land: “Human beings belong to land. We should respect it and watch over it,” said another occupier. A project of organic farming was started on land where twenty years before nothing was grown.

I began with the experiment at Somonte because it allows me to define the perspective from which I intend to watch the tension between property and commons and the different possible configurations of this relationship. Indeed, we need to begin from a historical consideration, and therefore, if we want to rethink Marx, by re-reading him starting from the chapter on original accumulation. In this way we can show how different temporalities of protomodernity met in a determined constellation, leaving more or less unexplored alternative trajectories. These, however, are not totally abandoned, but are continually reactivated by the numerous insurgencies that have sought to redirect the course of modernity.

It is well-known that the capitalist mode of production could not take form as such without workers deprived of the means of production. These are not necessarily formally free waged workers. The capitalist mode of production is in fact compatible with various unfree forms of work.<sup>5</sup> If capital makes use of formally free workers it is because it meets them as a result of a different temporality: as a result of the struggle against feudal servitude and slavery. The freedom of the “newly freed men”<sup>6</sup> was and is open to diverse possibilities: on the side of subjectivity, it is the result of numerous struggles by the serfs and slaves to free themselves from servitude and to withdraw themselves from the dominion of masters and the guilds. On the side of the nascent capitalist mode of production, that freedom is then subsumed in a new apparatus of dominion and control: the “newly freed men” are stripped of the means of production, deprived also of the guarantees offered by the feudal system, and, finally forced to sell their own labor power. However, the freedom obtained by the newly freed at the cost of hard struggles could have taken another trajectory and reconfigured the material of the feudal order into another form. Indeed, the “transformation of feudal exploitation into capitalist exploitation”<sup>7</sup> is not a necessary historical outcome.

We could say that there is not only one original accumulation, but diverse accumulative processes of capital and political power combined together in an intensive process of anthropological construction: the modern possessive individual. Even in this case the Calvinist ethic, if on the one hand it prefigured the true character of the type of human

5 van der Linden 2007.

6 Marx 1977, p. 875.

7 Ibid., p.875.

adapted to capitalism<sup>8</sup>, on the other it also gave rise to a demand for local control against absolutist reign, demonstrating possible communitarian forms not based on a monopoly of force.<sup>9</sup> The original constellation of so-called capitalist accumulation, without reading history teleologically, shows not a linear path from feudalism to capitalist modernity, but a co-axis of temporality open to diverse outcomes. Indeed, diverse historical trajectories intertwine themselves and join themselves together: the expropriation of the rural producers,<sup>10</sup> the dissolving of the feudal obligations<sup>11</sup>, the enclosures<sup>12</sup>, the Protestant Reformation and the theft of the ecclesiastical estates<sup>13</sup>, the restoration of the Stuarts and the “abolition of the feudal constitution of the soil” with the birth of private property on these foundations<sup>14</sup>. Different events joined together in constellations, through the systematic use of extra-economic violence, in a war of private property against “communal property (*Gemeindeeigentum*)”<sup>15</sup>. Regarding the latter, Marx is extremely interested in the modifications of communal property in the Russian and extra-European context that he studies through the works and from his dialogue with Maksim Kovaleskij.<sup>16</sup> Common property is not identifiable with the public property of the state, but regards a form of communitarian possession regulated by custom and tradition. An example of it, in the European context, is the manifesto of the German peasants in 1525, called the “Twelve Articles” that demanded the use of and the restitution to the community of the woods, the pastures, and the common lands unjustly appropriated by the lords.<sup>17</sup> Or, in England, the conflict that arose around “common rights” and “common grazing”, defended by the Diggers, and against the enclosures.<sup>18</sup> If Thomas Hobbes is celebrated in the official canon of political thought among the theorists of the state and of modern possessive individualism, Thomas Müntzer and Gerard Winstanley are the representatives of an alternative canon of

8 Weber 2012.

9 Wolin 1957, pp. 42-53.

10 Marx 1977, p.883.

11 Ibid., p.883

12 Ibid., p.885

13 Ibid., p.884

14 Ibid, p.884.

15 Ibid., p.885.

16 While we await the critical publication of MEGA, the notes on Kovaleskij are found in Harstick 1977.

17 Blick 2004, pp. 321-327.

18 Thirsk 1967, p. 200.

the innumerable practical and theoretical insurgencies against private property. Müntzer evoked the community of goods created by God relinking agrarian communism and common property of the *Markgenossenschaften*, which in Germany managed to survive until the 19<sup>th</sup> Century<sup>19</sup>; Winstanley reactivated the Christianity of the original community and of the communism of goods, the right of the commons against the enclosures. Christopher Hill recalls, Winstanley “had grasped a crucial point in modern political thinking: that state power is related to the property system and to the body of ideas which supports that system.”<sup>20</sup> Marx, as we have said, follows this transformation through the research of Kovaleskij who describes them in terms of the passage from common possession on the part of the community to its dissolution and to “individualization” in individual private property.<sup>21</sup> The process of “individualization” is dual: on the one hand it regards the transformation of common property from being “inalienable” into private property and object of exchange, on the other hand the transformation of the relations between the members of the community in relations between competitive individuals.

If we want to continue to think with Marx, it is worthwhile making a distinction between this Marxian reflection on individuality/individualization and the one in the *Grundrisse*, where we read that “man individuates himself only through the historical process”<sup>22</sup>. In the exposition of historical forms in the *Grundrisse*, we find that the gradualism of the individualization of the human being can be assisted through the progressive dissolution of the community. The exposition is teleologically oriented and often does not avoid dancing the waltz of the Hegelian triad:

Relations of personal dependence (entirely spontaneous at the outset) are the first social forms, in which human productive capacity develops only to a slight extent and at isolated points. Personal independence founded on *objective* dependence is the second great form, in which a system of general social metabolism, of universal relations, of all-round needs and universal capacities is formed for the first time. Free individuality, based on the universal development of individuals and on their subordination of their communal, social productivity as their social wealth, is the third stage. The second stage creates the conditions for the third.<sup>23</sup>

19 Rudolph 1975, p. 562.

20 Hill 1983, p. 9.

21 Marx, *Exzerpte aus M.M. Kovalevskij*, in Harstick 1977, pp. 57-8.

22 Marx 1973, p. 84.

23 Marx 1973, p. 158.

There is a progressive logic to history that orders the development of individuality into three stages: personal dependence, material dependence, free individuality.<sup>24</sup> Twenty years later, after the failure of the Paris Commune, the studies on the competition of capitals on the world market, and the historical and anthropological reading on non-capitalist communities, Marx redefines the coordinates of his own analysis. In his comment on Kovaleskij, as well as in the ethnological writings,<sup>25</sup> Marx presents a history with more levels and possible trajectories:<sup>26</sup> the dissolution of communitarian property has had different outcomes in different social-political-economic contexts, such that European development ceases to be normative and instead can be better included in the extra-European perspective. Marx, for example, criticizes Kovaleskij for having found “Western-European feudalism” in the relations of the Indian community.<sup>27</sup> The later Marx took leave of the metahistorical use that he himself had made of the category “feudalism” in the *Grundrisse*, as well as of much later Marxism that has continued to interpret the “pre-capitalist” societies through the category of “feudalism.”<sup>28</sup> The question is not only historiographical. Looking at Europe from an extra-European perspective it is now possible to demonstrate how the same elements that are involved in Western capitalist modernity, could have taken different form and therefore, how they can be configured in a non-capitalist structure. In other words, the process of individualization was open to different social, property and anthropological configurations from those of modern proprietary individualism.

The modern individual is not born from a linear process of dissolution of the ancient communitarian relations, but is forged in the centuries-long war against the commons and every form of collective. The individualization of the property relations are not the result of a spontaneous economic development, but have required a multitude of forms of violence, including colonialism that, as in India, destroyed the social relations founded on family relations.<sup>29</sup> The war against the commons that has required the constant intervention of the extra-economic violence of the state, of

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I have developed this critique in Tomba 2013.

25 Marx 1972.

26 I agree with Kevin Anderson, one of the editors of a critical edition on Marx, when he notes that the theoretical kernel of the *Ethnological Notebooks* consists of a “multilineal model of historical development” as opposed to a unilinear one. Anderson 2002, p. 90. See also Krader, *Introduction*, in Marx 1972, pp. 1-85.

27 Marx, *Exzerpte aus M.M. Kovalevskij*, in Harstick 1977, p. 76.

28 Anderson 2010, pp. 210-1.

29 Marx, *Exzerpte aus M.M. Kovalevskij*, in Harstick 1977, p. 88.

innumerable “Bills for the Inclosures of the Common”<sup>30</sup> and that continues still to this day. The new individuals are products of the “converting the little farmers into a body of men who must work for others” by enclosing the commons.<sup>31</sup> The term chosen by the defender of the enclosures, John Arbuthnot, who Marx cites in the chapter on Accumulation, could not be more fitting. The expropriation of the small farmers would not be complete without the “converting” to a new faith: private property and possessive individualism. This converting to the “free will” individual of *homo proprietarius*, even if the owner of only one’s own labor power, comes up also against the will of the subject, who must accept the new faith through a painful mental and orthopedic treatment. The small farmers expelled from the countryside and transforming themselves into vagabonds were punished, reduced to slavery, and in some cases, hanged, as if their miserable condition were an act of voluntary delinquency.<sup>32</sup> There is nothing new in the so-called neoliberal doctrine that treats the poor as responsible for their poverty in order to push them to accept any kind of work and of pay. It is by means of extra-economic violence by the state that the bodies and minds of the expropriated rural population were disciplined and were forced, even if recalcitrant, to sell their labor power; and so also the systematic hangings were necessary to impose the rules of modern private property and to destroy any memory of customary right that permitted the workers to take part of the wood chopped or of the goods unloaded from a ship.<sup>33</sup>

At the dawn of the capitalist epoch in Europe, and then again and again in the colonial history of so-called European civilization, the individuals were disciplined and individualized through a bloody legislation that contemplated even putting them into slavery. Marx recounts the story, clothing himself in the persona of an ancient chronicler:

- Henry VIII. 1530: Beggars old and unable to work receive a beggar’s licence. On the other hand, whipping and imprisonment for sturdy vagabonds. They are to be tied to the cart-tail and whipped until the blood streams from their bodies, then to swear an oath to go back to their birthplace or to where they have lived the last three years and to “put themselves to labour.” What grim irony! In 27 Henry VIII. the former statute is repeated, but strengthened with new clauses. For the second arrest for vagabondage the whipping is to be repeated and half the ear sliced off; but for the third relapse the offender is to be executed as a hardened criminal and enemy of the common weal.<sup>34</sup>

30 .....  
Marx 1977, p. 885.

31 Marx 1977, p. 888.

32 Ibid., p.896.

33 Linebaugh, Peter 2003.

34 Marx 1977, pp.896-8.

- Edward VI.: A statute of the first year of his reign, 1547, ordains that if anyone refuses to work, he shall be condemned as a slave to the person who has denounced him as an idler. The master shall feed his slave on bread and water, weak broth and such refuse meat as he thinks fit. He has the right to force him to do any work, no matter how disgusting, with whip and chains. If the slave is absent a fortnight, he is condemned to slavery for life and is to be branded on forehead or back with the letter S; if he runs away thrice, he is to be executed as a felon. The master can sell him, bequeath him, let him out on hire as a slave, just as any other personal chattel or cattle. If the slaves attempt anything against the masters, they are also to be executed. Justices of the peace, on information, are to hunt the rascals down. If it happens that a vagabond has been idling about for three days, he is to be taken to his birthplace, branded with a red-hot iron with the letter V on the breast and be set to work, in chains, in the streets or at some other labour. If the vagabond gives a false birthplace, he is then to become the slave for life of this place, of its inhabitants, or its corporation, and to be branded with an S. All persons have the right to take away the children of the vagabonds and to keep them as apprentices, the young men until the 24th year, the girls until the 20th. If they run away, they are to become up to this age the slaves of their masters, who can put them in irons, whip them, &c., if they like. Every master may put an iron ring round the neck, arms or legs of his slave, by which to know him more easily and to be more certain of him. The last part of this statute provides, that certain poor people may be employed by a place or by persons, who are willing to give them food and drink and to find them work. This kind of parish slaves was kept up in England until far into the 19th century under the name of "roundsmen."<sup>35</sup>

- Elizabeth, 1572: Unlicensed beggars above 14 years of age are to be severely flogged and branded on the left ear unless some one will take them into service for two years; in case of a repetition of the offence, if they are over 18, they are to be executed, unless some one will take them into service for two years; but for the third offence they are to be executed without mercy as felons. Similar statutes: 18 Elizabeth, c. 13, and another of 1597. [2]<sup>36</sup>

- James 1: Any one wandering about and begging is declared a rogue and a vagabond. Justices of the peace in petty sessions are authorised to have them publicly whipped and for the first offence to imprison them for 6 months, for the second for 2 years. Whilst in prison they are to be whipped as much and as often as the justices of the peace

35 Marx 1977, p. 897.

36 Ibid., p. 898.

think fit... Incurable and dangerous rogues are to be branded with an R on the left shoulder and set to hard labour, and if they are caught begging again, to be executed without mercy.<sup>37</sup>

The capitalist mode of production operates, since its birth, through devices that produce a new anthropology, that is "a working class, which by education, tradition and habit, looks upon the requirements of that mode of production as self-evident natural laws."<sup>38</sup> The new mode of production molds, through its own institutional processes, the human type that conforms to it, indispensable for the reproduction of the system. Violence can quiet down when the laws of the new mode of production rise to the rank of natural laws and the individuals *convert*, that is they accept them as such, having lost even the "the very memory of the connection between the agricultural labourer and communal property."<sup>39</sup> But just as that same violence reappears at every trace of insubordination, that memory re-emerges ever new in the thousands of struggles against the new enclosures. As is the case in the numerous insurgencies inside and outside of Europe. As is the case in the indigenous insurgency for the land. There is nothing exotic in these struggles. There is instead the possibility and the memory of another trajectory of modernity. Indeed, alongside the trajectory of private property and the modern state, on which course we encounter the names of Luther and Cromwell up to the Le Chapelier Law against the corporations, there are other trajectories, along which are articulated commons and associations. The names of the winners of that war are consecrated in the canon of the history of Western political thought and that have contributed to narrating the history of capitalist modernity in terms of progress and civilization. The names that represent the other trajectory are less well known, as in general are the names of the defeated: Gerard Winstanley instead of Cromwell, Thomas Müntzer instead of Luther and Jacques Roux instead of Robespierre.

### The Rise of Homo Proprietarius

The individualization of the common property that has given rise to modern private property and given birth to the proprietary individual, has also converted the small farmer of the village community to the religion of private property and of money. This conversion has required, first of all, a different relationship to the earth: no longer collective possession on the part of the "incessant concatenation of the generations" but exclusive property of an individual who disposes of it according to his

37 Ibid., p.899.

38 Ibid., p. 899.

39 Ibid., p. 899.

own will.<sup>40</sup>This is a genuine conversion/inversion: from a rei-centric relationship, in which the primacy of the thing (*res*), gives way to the primacy of the individual who exercises an unlimited and illimitable right over nature.<sup>41</sup>The first posed the primacy of the real: it was based on the connective fabric and on the groups that an individual was part of; the modern outlook sees instead the primacy of the sovereign subject over things. In the former, property was not modeled on the individual will, but corresponded to the complexity of the real order and to the multiplicity of *dominia utilia*.<sup>42</sup>The modern outlook instead absolutizes individual will and reconfigures the juridical framework recuperating or even inventing the old Roman law, as is the case of the *ius utendi et abutendi*, a category all but non-existent in Roman law.<sup>43</sup>

Hegel defined and justified the modern property right, writing that “Mankind has the absolute right to appropriate all that is a thing.”<sup>44</sup> Hegel basically translated in philosophical language the modern property relations to the extent that they were codified in the article 544 of the Napoleonic Code Civil of 1804: “Ownership is the right to enjoy and dispose of things in the most absolute manner.” Obviously this absolute right does not fall from the sky of abstractions. Theoretically it is the expression of a determinate way of understanding rationality and the will of the individual. Historically it is the result of the long war against the commons, whose dynamics extend to the colonial system. This history goes back to John Locke who denounced as an anachronism of un-civility and confined to the margins of the colonies the common possession of the land: “the wild Indian” wrote Locke, “who knows no inclosure, and is still a tenant in common.”<sup>45</sup> Establishing a dual dichotomy, spatial and temporal, Locke provides ideological instruments to colonialism and to the war against the commons: the enclosures represent civilization, while the common possession becomes temporally an anachronism and spatially something that regards the far “wild Indian.” The so-called Western civilization divides the world synchronically and diachronically in barbarians and modernity imposing a mentality oriented toward modern Western relations of property and values.<sup>46</sup> This mentality, i.e. the mentality of the *homo proprietarius*, is based on a new kind of relationships between individuals and between individuals and nature or,

40 Schwab 1992, pp. 75-6; Grossi 1988, pp. 226-254; Grossi 2006.

41 Grossi 2006, pp. 84-6.

42 Grossi 1980.

43 Scialoja 1928, pp. 262 ss.

44 Hegel 1991, § 44.

45 Locke 1980, p. 19.

46 Bowden 2009, pp. 211-4.

in other words, a new epistemic subject-object relationship.

In order to justify the right of appropriation of the land, Locke devalues the land, transferring to human activity the valorizing potential. Everyone, argues Locke, has property in their own person and from this derives the fact that the labor of their bodies and the work of their hands, “are properly his”, and therefore the exclusive right to appropriate to themselves all that which they have removed from nature by means of their own labor.<sup>47</sup>The object is removed from the common natural condition through labor, which adds something that “excludes the common right of other men.”<sup>48</sup> It is here that lay the frontal attack on the right of the commons: “if we will rightly estimate things as they come to our use, and cast up the several expences about them, what in them is purely owing to nature, and what to labour, we shall find, that in most of them ninety-nine hundredths are wholly to be put on the account of labour.”<sup>49</sup> Human labor constitutes the title for appropriating nature, that in itself, in the Lockean view, is worth one-percent or less. In this new relationship, which constitutes the basis of modern private property, human activity becomes the source of value and nature is reduced to appropriable and exploitable material through labor. Hegel condensed the foundation of this modern juridical anthropology in the definition of the person as infinite free will, form which he developed the concept of private property.<sup>50</sup> He shows that the modern relationship of private property descends from the same principle of freedom that has unhinged the relations of lordship and serfdom between human beings. The individual, argues Hegel, “relates itself to a nature which it encounters before it” which, from the point of view of infinite will, is a limit that removes inasmuch as that limitation contradicts the very concept itself of infinite will.<sup>51</sup> In other words, free will finds a limit in the external thing and removes this limit by appropriating it. The person, inasmuch as he “has the right to place his will in any thing,” removes from that thing its exteriority imposing on it his will, his ends and his soul.<sup>52</sup> And so follows “the absolute *right of appropriation* that which human beings have over all things,”<sup>53</sup> a right that makes the human being the “lord over all of nature.”<sup>54</sup>

47 Locke 1980, p.19.

48 Locke 1980, p. 19.

49 Locke 1980, p.25.

50 Hegel 1991, §§ 34-35.

51 Ibid , § 52 A.

52 Ibid., § 44.

53 Ibid., § 44..

54 Ibid., § 37 Z.

Nature, which in “reference therefore to the will and property... has no truth.”<sup>55</sup> is transformed into something dead, worthless, and exploitable by infinite free will. Simultaneously, the human being emancipates himself from relations of lordship and serfdom and becomes a formally free individual.

With this move, Hegel linked the modern concept of freedom to that of private property and of state coercion. In fact, Hegel argues, free will encounters another free will and from this meeting comes the necessity of not harming the freedom of others: from this point of view, concludes Hegel, the true foundation of law is “juridical prohibition” and the right of coercion.<sup>56</sup> Interpersonal relationships become contractual relationships between owners, such that in place of the immediate relations of domination<sup>57</sup> arise symmetrical juridical relations mediated by a third party, the state. In other words, taking the idea of abstract freedom understood as the freedom to do whatever one wants without harming the freedom of others, means to pose limits to freedom, and therefore juridical prohibitions and the state, as the true foundations of freedom. This abstract notion of freedom, to which the conceptions of liberals and the naïve anarchists often turn, presuppose the coercive power of the state even when they oppose it.

Hegel showed how free will, modern private property relations and state belong to a unique constellation. If the will is free, it is in fact then also possible that the will of the individual violates the established contracts and so damages the person and the property of others. For this reason, Hegel inserts in the section about law both the offense and the penalty as restorations of law. In the legal machine delineated by Hegel, the offense is even not an anomaly, but springs from the same source as law: the free will that, being abstract, is also always free to violate the law. But violating the law, the bad citizen also paradoxically confirms it in its most intimate nature, which that of being a “coercive right.”<sup>58</sup> The bad citizen acting in a way contrary to the norm does none other than confirm his own will as infinite free will, confirming in this way at the same time the very foundation of modern law. What matters is that this opposition to law remains within the context of law. Here we find substantially what Althusser demonstrated for the functioning of the ideological state apparatuses: to the interpellation of the police officer – “Hey, you there” – we can respond as a good citizen or we can also not respond at all or turn away and ignore it. The citizens are, that is, “free to obey or disobey

55 Ibid., § 52 A.

56 Ibid., § 38 and § 94.

57 Ibid., § 57 A.

58 Ibid., § 94.

the appeal,”<sup>59</sup> but what is important here is the fact that the citizens can represent themselves as free of a certain kind of freedom. They remain in the ideology of the law even if they disobey it: in this case they become subject to the coercive power of the state. The juridical sphere, in fact, for Althusser as well, comprises both the repressive apparatus of the state and the ideological apparatus.<sup>60</sup> The question, which brings us far from Althusser, regards the construction of the *homo proprietarius* starting from a conception of freedom that comes to constitute the self-representation of the subject and the law.

It is once again Hegel who brings us face to face with the real problem. The modern concept of free will, which gives rise to the formal equality of human beings founded on the universal-legal conception of individual freedom, also gives rise to the right of appropriation by human beings of everything. If we accept that the subject of law is free and equal, we must assume the presupposition – infinite free will – from which property and the appropriation of nature are derived. Showing the nexus between free will and property, Hegel formulates the most refined defense of modern private property, a defense that allows him to define as rational the modern-European property relations, and to de-classify as irrational forms the prior communitarian systems based on common property.<sup>61</sup>

Conforming to his philosophy of history, Hegel rereads teleologically the Roman agrarian laws understanding them as the struggle between the communitarian system and the “more rational” system of private property in land. The stages that led to modern relations of property are thereby defined as more rational than the defeated forms of right and so the latter have had to give way to modern right. This teleological vision, which is not only Hegel’s, works both geographically and historically. Different political and juridical relations than the Western-European ones are inventoried among the backward or a yet undeveloped phenomena: infantile stages of Western history.

### A Desert Planet Without Time

“It is far too easy to be ‘liberal’ at the expense of the Middle Ages” noted Karl Marx.<sup>62</sup> Materialist historiography shows us the relationship between the birth of the *formally* free proprietary individual and the exploitation of labor and of nature. The new proprietary anthropology takes form on the basis of a social formation in which the exchange between things takes priority over human relations. It is this that Marx

59 Althusser 1971, p.178.

60 Ibid., p.149.

61 Hegel 1991, § 46 A.

62 Marx 1977, p. 878 n.3.

sought to analyze in his notes of 1844 commenting on the *Elements of Political Economy* of James Mill.<sup>63</sup> The key category to denote the difference between capitalist and non-capitalist social formations is that of *inversion*. Capitalist modernity presents itself *prima facie* as an inversion of the personal relationship between individuals into relations mediated by money between individuals and things. But there is something more. This inversion introduces a new element, often missing in critiques: *the absence of limits*. The latter is a characteristic of the capitalist mode of production that Marx also emphasized in his mature writings in *Capital*. “For man himself - in a savage, barbaric condition – therefore, the amount of his production is determined by the extent of his immediate need, the content of which is directly the object produced. Under these conditions, therefore, man produces no more than he immediately requires. The limit of his need forms the limit of his production...The extent of his production is measured by his need.”<sup>64</sup> Marx does not elude here the Eurocentric prejudices of his times when he defines subsistence economies as barbaric. That notwithstanding, the distinctions enable him to pose an important question: exchange for the sake of exchange, that is the indifference to use value that Marx will describe in the circuit of buying in order to sell, breaks the equilibrium between production and needs and the measure of production. It is at this point that human relations are reduced to relations between things and the human being becomes a means for other humans: in other words, is “dehumanized.”<sup>65</sup> The expression chosen by Marx, “dehumanized man” (*entmenschter Mensch*), is certainly a loan from Feuerbach. The reference is to an original human essence integrated into nature and successively alienated because of religion in Feuerbach, by economic relations for Marx. From this perspective, the reference to dehumanization is teleologically oriented toward de-alienation and the recovery of an original organic relationship with nature and the human race. But there is a different way of seeing the question. The expression *entmenschter Mensch*, instead of referring to an original human essence to which we need to return, expresses the anthropological configuration of the inversion of capitalist modernity. When exchange between human beings becomes exchange between things, “abstract relations of private property with private property”, the thing loses its meaning of human property and it becomes a universal mediator of the relations between human beings, that “do not present to one another as men.”<sup>66</sup> All,

63 Marx 1986, p. 31

64 Karl Marx, *Comments on James Mill*, p.31.

65 Ibid., p.33.

66 Ibid.

including morality and individuality, become an article of commerce.

The modern individual is exiled from the community with other humans because by now he or she enters into relations with other humans through the medium of property and has relations with others only if they are useful to him or her. In these pages, as likewise in the *Manuscripts of 1844* and *The Jewish Question*, Marx does not hypothesize human nature but forcing the semantics of the term community (*Gemeinwesen*) defines the separation of the human being from the community (*Gemein-wesen*) in terms of a separation of the self from one's common essence (*gemeines Wesen*). In the conclusion to *The Jewish Question* Marx cites a long excerpt from Rousseau that is worth reproducing:

Whoever dares undertake to establish a people's institutions must feel himself capable of changing, as it were, human nature, of transforming each individual, who by himself is a complete and solitary whole, into a part of a larger whole, from which, in a sense, the individual receives his life and his being, of substituting a limited and mental existence for the physical and independent existence. He has to take from man his own powers, and give him in exchange alien powers which he cannot employ without the help of other men.<sup>67</sup>

Marx comments: “All emancipation is a reduction of the human world and relationships to man himself.” The true emancipation is possible only by combining the transformation of external circumstances with the “changing of human nature” and “transforming every individual” such that they can recognize their own strength as the strength of the human community. In this way Marx sought to bring together human and social emancipation, not homogenizing them, but imagining them as two sides of the same emancipatory process. There is a term that Marx uses and that can be useful for holding together these two sides of emancipation. This term is “practical (*praktische*) emancipation.”<sup>68</sup> In the preface of 1841 to his *Essence of Christianity*, Feuerbach utilized this same term affirming that the scope of his book was substantially “therapeutic and practical.”<sup>69</sup> The meaning of therapy is not, either for Marx or for Feuerbach, that of turning the individual into an atheist, but rather that of reconciling man with himself and with others. This change, *therapy*, does not take off from the hypothesis of some human nature, but presents itself as the superseding of reified relations between proprietary

67 Marx 1975, p.167-168.

68 Ibid., p.155.

69 Feuerbach 1841. p. viii

subjects and the end of the absolute right of the subject over nature.

What is relevant in this young reflection by Marx is its attempt to hold together the transformation of external circumstances with the self-transformation of the subject and the changing of "human nature." These pages have been much too hurriedly relegated under the rubric of the humanist and prescientific Marx.<sup>70</sup> Historically that distinction between a scientific Marx and a humanist Marx can make sense, but now, in a different historical conjuncture, problems also change. If we pay attention to the lack of limits of the capitalist mode of production, we find in *Capital* not a rupture, but a deeper analysis on a new terrain. Marx describes the movement of capital as "without measure" and "limitless" (*Maßlos*)<sup>71</sup>. The difference is that Marx does not explain further this lack of limits starting from money and exchange, but rather from production, oriented no longer toward use value, but to the valorization of value: "Use-values must therefore never be treated as the immediate aim of the capitalist."<sup>72</sup> If the capitalists produce use values, the most diverse kinds, it is only because they need a sellable support for his value. This dynamic, that is limitless, produces ever new use values, ever new needs and a new type of human with immeasurable needs. But it produces new use values as always identical barer of exchange value: a phantasmagoria of indifferent differences.

Everything is upside down. The proprietary individual celebrated by Hegel as infinite free will, is for Marx a simple function of capital: "it is only in so far as the appropriation of ever more wealth in the abstract is the sole driving force behind his operations that he functions as a capitalist, i.e. as capital personified and endowed with consciousness and a will."<sup>73</sup> If capital cannot be moralized, it is not because of any intrinsic evil on the part of the capitalist, but because the capitalist is a mere function of a limitless process. In this way, Marx shows the emptiness of the exaltation of the individual will of possessive individualism, transferring individual will to the process. In other words, the passions of the proprietary individual have become the passions of capital.

Capitalist modernity is characterized by the lack of limits that denote both production and a mentality: modern property as a limitless right of appropriation on the part of the subject. This mentality found its poetry in the words of the English magnate and Prime Minister of Cape Colony Cecil Rhodes: "To think of these stars that you see overhead at night, these vast worlds which we can never reach. I would annex the planets if I could; I often think of that. It makes me sad to see them so

70 Althusser 1969, p.11-12.

71 Marx 1977, p.253.

72 Ibid., p. 254.

73 Ibid., p.254.

clear and yet so far."<sup>74</sup> The lack of limits is not only the characteristic of a mode of production, but structures the relation between the human and the world. A relation that, as today seems evident from all sides, has destructive and self-destructive footprints.

Certainly, as we have continually recalled, the modern outlook is born when the individuals free themselves from the authoritative restrictions of the old feudal order. This is a new concept of freedom that tends to identify itself with dominion over oneself and one's own acts. At the same time the articulated story of traditions and consuetudes are leveled and the real becomes a zone of expansion of the will of the subject: the new proprietary subject stands on a deserted planet and outside of time. *Deserted*, because it is the subject that creates *ex nihilo* the order of an Earth declared appropriable because *res nullius*. *Outside of time*, because the link between generations is broken, memory has vanished, and the proprietary subject stands as sovereign of the present.

### Alternative Trajectories: The Reactivation of the Commons

The exit from the capitalist mode of production is not found at the end of a course of stages that oblige humanity to follow the path taken by Western Europe. As happened for so-called original accumulation described by Marx, so as well the origin of private property does not follow a teleological path predisposed to the dissolution of the Medieval order. Medieval legal material contained diverse possibilities from those developed from the order of modern property. If this was the European historical outcome, there is an immense mass of extra-European material, and therefore of historical temporalities, that has followed different paths and in which the property relations differ radically from those of the modern West. Relations that are incompatible with those of European law and that allow us to relativize further the historical episode of the modernity narrated to us by the dominant Western historiography. The freeing of the serfs and of the land from the feudal bonds contained different historical possibilities. There are futures that remain encapsulated in those pasts. The late Marx offers us the opportunity to rethink these alternatives in the immense mass of ethnographic and anthropological notes on which he worked in the last years of his life.

It is as Marx wrote to Vera Zasulich who asked him for insights for interpreting the stages of accumulation in vogue among Russian "Marxists": "Nowadays, we often hear it said that the rural commune is an archaic form condemned to perish by history, scientific socialism and, in short, everything above debate. Those who preach such a view call themselves your disciples par excellence: 'Marxists'... So you will understand, Citizen, how interested we are in Your opinion. You would be doing us a very great favour if you were to set forth Your ideas on the

74 Stead 1902, p. 190.

possible fate of our rural commune, and on the theory that it is historically necessary for every country in the world to pass through all the phases of capitalist production.”<sup>75</sup> Marx replied that Russia is not constrained to pass through the “the fatal dissolution of the Russian peasants’ commune”<sup>76</sup>, but could instead become “an element of collective production on a nationwide scale.”<sup>77</sup> In the drafts edited by Marx for the letter to Zasulich<sup>78</sup>, strata of historical time are made to grind against one another. There is the future blocked in the past that can be freed by the contemporaneity of the archaic: “The history of the decline of primitive communities (it would be a mistake to place them all on the same level; as in geological formations, these historical forms contain a whole series of primary, secondary, tertiary types, etc.) has still to be written.”<sup>79</sup> The type of historiography that the late Marx refers to serves him not as a linear image of historical time, but as a geological stratigraphy; strata of time are superimposed upon one another and are co-present to the view of the geologist. The rupture is in the combination of these strata and not in any necessary outcome of the capitalist mode of production. The co-presence of strata gives rise to tensions among various temporal trajectories.<sup>80</sup> Marx does not counsel the Russian populists to embalm the agricultural commune with its patriarchal structures, but neither to follow the so-called “Marxists” and to destroy it in the name of a historical development that would have to pass through capitalism in order to arrive in the end at socialism. Marx counsels instead to take the rural commune’s possible trajectory of collective possession that could enable it to avoid the path of modern European private property.

In one of the rare passages in which Marx tried to sketch the image of postcapitalist relations, he wrote that from the point of view of communist society “the private property of particular individuals in the earth will appear just as absurd as the private property of one man in other men. Even an entire society, a nation, or all simultaneously existing societies taken together, are not the owners of the earth. They are simply its possessors, its usufructuaries (*Nutznießer*), and have to bequeath it in an improved state to succeeding generations, as *boni patres familias*.”<sup>81</sup> Marx redefines the terms of the constellation of proprietary relationships. In the first place no subject, individual or collective, that is “of one’s own

75 Vera Zasulich to Karl Marx, February 16, 1881 in Shanin 1983, p.98-99.

76 Ibid., p. 121.

77 Ibid.,p. 121.

78 Marx wrote four drafts of the letter. Shanin 1983, pp. 3-39.

79 Shanin 1983, p. 121.

80 Harootunian 2015.

81 Marx 1981, p. 911.

epoch” is owner of the earth. To attribute property to a collective subject, be it the State or the nation, does not change anything in the relationship. The Marxian image transcends the temporality that links property to the present. The concept of property is redefined as possession and usufruct, the *ius utendi et abutendi* becomes only *ius utendi* on the part of the human generations linked by the duty to relate to the earth as “boni patres familias.” The trans-temporal dimension produces a double semantic slippage: property becomes benefit, and law becomes the “duty” to pass the earth onto successive generations in an improved condition. The term “usufructuary” employed by Marx has the advantage of referring to a right to enjoy the thing according to the use to which it is destined, without alienating or destroying it. A right that supersedes the provincial conception of the time and that is conceded to generations past and to come. It is therefore a right that is anything but limitless and in which nature is that which is owed. The temporal provincialism that leads us to think of ourselves as the lords of the present is superseded, together with the proprietary individualism that makes of us the lords of nature.

The challenge thrown down by Marx to modern relations of property opens possible bridges to other traditions. With that reactivated by Müntzer and Winstanley. But also with the indigenous temporality of the Navajo people: “we don’t inherit the earth from our ancestors, we borrow it from our children.” It is not a matter of adopting their cosmology, but of redefining the story of property relations in which a determinate anthropology and representation of the cosmos takes form. This seems to me the path to undertake for putting into contact with each other the traditions interrupted by European modernity with extra-European ones. Think just of how the question of property relations was put into question by Gandhi in relation to a non-possessive conception (*aparigraha*) of property,<sup>82</sup> and continues to be central to indigenous rights. If we only abandon the arrogant Eurocentric vision of the philosophy of Western history, different property traditions can enter into contact with alternative trajectories of Western modernity. These alternative trajectories re-emerge in the current crisis, which is not only an economic or financial one, but is the expression of atomized relationships and of environmental devastation in the name of privatization. All this today pushes us to cut the Gordian knot of private property that affirms the absolute dominium of the proprietary subject over material goods. The relations of property show their obsolescence not only in the immaterial production of ideas, knowledge and communications, but above all in the unsustainability of the current mode of production and of the relations of private property in relation to the environment.

82 Patel 2014.

The centuries-long war against the commons could have gone differently. However, it is not a matter of doing history over as a “what if”. Those blocked possibilities await being reactivated in alternative strata of time and traditions that can put the Diggers and radical Puritans in communication with the associations of the Paris Commune, the Russian *obščina* and the Indian communities. We have to work inside these alternative traditions and their excess with respect to the present. This excess reemerges ever new every time the dissatisfaction with the present grows stronger. When the emotional temperature of a society rises, so do communitarian and traditional nostalgias that the more reactionary tendencies of the present can use to their advantage. The emancipatory forces have nearly always remained deaf to the needs of strata of the population that express romantically their sense of dissatisfaction with an alienated life. And doing so they leave that liberatory potential to flow toward the most reactionary right.

But there is another way to see the archaic. It consists in thinking and reactivating the provisionally defeated forms and showing in the “archaic”, in the missed possibilities, the new trajectories for the present. The “archaic” allows us, first of all, to re-dimension the universalizing pretensions of capitalist modernity. “The *time which has passed away since civilization began* – quotes Marx from Morgan – is but a fragment (u. *zwar sehr kleines* – adds Marx in German) of the past duration of man’s existence; and *but a fragment of the ages yet to come.*”<sup>83</sup> Capitalist modernity is delimited to a miniscule episode in the story of humanity. The existence of non-capitalist forms, such as for example the Indian communities, in which “most of the products are destined for direct use by the community itself, and are not commodities”<sup>84</sup> shows temporal strata in which alternative possibilities to those of capitalist modernity remain open.

The question returns to proprietary relations. In *Ancient Society*, which was one of the readings of the late Marx, Morgan observes that property had become an “unmanageable power” and “the human mind stands bewildered in the presence of its own creation”, and he hoped for a time in which “human intelligence will rise to the mastery over property.”<sup>85</sup> If, in the inverted relationships of modernity, property dominates humans, we must revive a social and anthropological form capable of dominating property. Morgan writes regarding this: “It will be a revival, in a higher form, of the liberty, equality and fraternity of the ancient gentes.” Marx sees this revival as the possibility of “a

83 Marx 1972, p. 139.

84 Marx 1977, p.478.

85 Morgan 1963, p.561. These passages are requoted in Marx 1972, p.139.

higher plan of society.”<sup>86</sup> He imagines a society in which “socialized man, the associated producers, govern the human metabolism with nature in a rational way, bringing it under their collective control instead of being dominated by it as a blind power.”<sup>87</sup> The possibility of this alternative is anything but simple. It is not the outcome of mechanistic historical tendencies to transcend the capitalist mode of production. It requires a triple transformation. An anthropological transformation: “socialized man” in place of the proprietary individual; a social and economic transformation of the relations of production and property; and a different conception of history that allows us to see in what-has-been possible trajectories, which are still open. To abandon the possessive individualism of *homo proprietarius* different social relations are necessary, but also different relations with past and present. A relationship starting from which the human being is not self-represented as the lord of nature and of the present.

I want to conclude returning to the land of Somonte. The occupants demand not property, but the right of use. This was the meaning of the statement: “the land is not anyone’s.” It is not a question of expropriating the land, because you don’t expropriate what cannot be appropriated. The expropriation discourse is still inside the logic of modern property law, and all it does is change the owner. Instead we need to reimagine a different relationship with property, which reactivates in a complete new configuration the archaic conception of *dominium utile*.<sup>88</sup> This notion contained in fact a different anthropology, non-individualistic, that first of all made reference to a different and shared property, according to the different degrees of utility and use. Second, the reference to *utilitas* meant a limit and a content to the property relation, that could not understood as an abstract one. The modern conception of private property made a very selective use of Roman law and even re-invented it. Indeed, there are further archaic strata of Roman law that would have allowed for going in the opposite direction to that of the dissolution of collective property. Instead of considering the earth *res nullius*, appropriable to the first occupant, a category that has justified European colonialism, Roman law contemplated in fact also the category of *res nullius in bonis*; un-appropriable things and places outside of time.<sup>89</sup> A strata that re-emerges in the tradition of the defence of the commons: “the earth is not anyone’s.” To this a-temporal dimension of un-appropriability corresponds in fact a determinate mode of use that can never become abuse.

86 Morgan 1963, p.561. Marx 1972, p.139.

87 Marx 1981 p.959.

88 Grossi 2006, pp. 70-74.

89 Thomas 2002.

It is the merit of Dardot and Laval to have paid attention to the instituting praxis of the common.<sup>90</sup> But it is worthwhile to consider a problem. In their just critique of every abstract universal, the instituting praxis that establishes rule relative to use in common remains indeterminate in a form of universality that regards only those who expect to take part in governing the common. The rules that discipline the use in common of the earth can be founded on co-decision, but nothing authorizes thinking that in the absence of trans-temporal links between generations, that those decisions, inasmuch as established in common, would not lead to a new type of intensive exploitation of the earth. In other words, in the absence of qualitative criteria of orientation of praxis, use is always on the verge of transforming itself into abuse or extractivism. The risk is that of formalism: un-appropriability is defined by Dardot and Laval as “that which must not be appropriated;” so that there can be things subtracted from appropriation, we must renounce “becoming the owners” and “prevent ourselves from appropriating them.”<sup>91</sup> But this possibility, appropriation, we have seen, is linked to the modern conception of free will. The theoretical and practical difficulty lies in the transcendence of the outlook of possessive individualism together with the anthropology that lay at its base. Certainly the practice of commoners can be understood at the same time as the practice of changing property relations and that of re-subjectification or self-transformation. But their combination requires the activation of an anticipatory, prefigurative temporality, withdrawn from the domination of the relations between means and ends. It is here that ethics falls together with politics. The notion of commons, their un-appropriability, as happened in the archaic relations of consuetudinary, has the advantage of reclaiming to itself a temporal dimension that exceeds the historical present and that binds the present generations to those of the past and future. Marx sought to reconfigure this outlook through the category of “usufructuaries” of the earth, which did not belong to any present subject, neither the state, nor the community, nor the multitude. With this it is not only the modern concept of property that is put into question, but also the temporal monopoly over the present. Property is not put into question by negating it abstractly, or entrusting ownership to some collective subject. Rather, we must redefine the property relations through stratifications of use of property and of the quality of use. It is that which the Communards did in Paris in 1871. The fact that they refused measures of exploitation or of the abolition of private property was not a limit; they redefined the property relations starting from the different modes of use through the cooperative associations. Today this experiment can be reactivated

90 Dardot and Laval 2014.

91 Ibid., p. 529-532.

through dialogue with indigenous peoples' land rights. For the indigenous Mesoamericans, for example, it is not the land that belongs to people, but the people that belong to the land. For this reason, the land is not saleable, it cannot be bought or sold, and as far as regards Western conceptions, it cannot even be worked. Seeding the earth is not work, but a loving relation, understandable only in a cosmology of Mother Earth (*Pachamama*).<sup>92</sup> If the present ecological crisis induces the West to look to these other relationships with the environment to the end of reactivating a loving relation between the earth and her children, unfortunately you cannot choose a cosmology the way you choose a film to see on Saturday evening. If romanticism see the past with nostalgia, the New Age, which is its other face, sees the exotic as if it were a commodity that is available in the supermarket of superstitions. You don't choose a cosmology: it is rooted in the individual and collective consciousness of a society, in the constantly repeated practices of everyday life and in the conceptions of individual liberty. There exist privileged points in which to put into practice the gap between different conceptions of life in common. These points include, for example, that between the Western conception of property and the relations of indigenous people to the soil. This gap is a gap between temporalities. But not in the sense that one is advanced, while the other is arrested. Rather as in the differences between temporal trajectories that have had the same time to develop themselves, but whose paths have diverged. Other trajectories can show possible futures. However, the communication between these temporalities is a task that requires the self-criticism of Western categories and of the current relations of property and the conception of individual free will that constitutes its fundament. It requires experiments in which new forms of life are anticipated. People have the right to change property relations.

92 Dransart 1992.

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