

Race, Real Estate and Real Abstraction

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The crises and mutations of contemporary capitalism have rendered palpable Marx's observation according to which in bourgeois modernity human beings are 'ruled by abstractions'.ⁱ The processes of financialisation animating the dynamics of the 2007-8 crisis involved the violent irruption into the everyday lives of millions, a panoply of ominous acronyms (ABSs, CDOs, SIVs, HFT, and so on), indices of highly-mathematised strategies of profit-extraction whose mechanics were often opaque to their own beneficiaries. At the same time, this process of financialisation was articulated to the most seemingly 'concrete', 'tangible' and thus desirable use and exchange value available to the citizens of so-called advanced liberal democracies: the home. This is a site, a social relation, that as Ferreira da Silva and Chakravartty have noted encompasses the 'juridical, political and economic', thus serving as a lived material synthesis of the three main axes of modern thought.ⁱⁱ

In the United States it was quickly revealed – indeed, it had been pointed out before the crisis by some critical geographersⁱⁱⁱ – that the devastating socialisation of the costs of accumulation via the housing market took deeply racialised (and gendered) forms, grafting, through a host of complex mediations, the forbiddingly impersonal realities of derivative contracts onto the deep and ongoing racial history of property markets and urban geographies. In this article, we want to think through this articulation of race, property and capitalist abstraction, exploring how attention to the forms of property may permit novel and politically urgent insights into the relationship between capitalism and race, addressing a critical area of social contestation in which processes of racialisation are intensely present, but in which they are also frequently 'disappeared'.^{iv} We revisit the place of property in Marxist theories of abstraction, to consider whether it can provide us with some of the instruments to think the present conjuncture, but also to explore the ways in which a consideration of the racial logics of property may require us to recalibrate our understanding of the violence of abstraction.

Separation, dissolution, abstraction

If we take Marx to have been engaged in the practical, emancipatory critique of capitalism, not just as a class system of exploitation but as a social form of abstract domination, then we can understand that under the misleadingly simple slogan 'the abolition of private property' lies the formidable problem of transcending a social relation, 'bourgeois

property', which serves as the crucial nexus between the state (the object of Marx's earliest critique) and the economy. In what sense is the question of private property a question of abstraction? Above all, perhaps, in the sense that private property (understood not as personal possession but as the legally-sanctioned power to dispose of the means of production, and thus to dispose of labour-power: property as synonymous with capital) depends on a social process of *separation* – abstraction in the etymological sense of pulling out, extracting. In one of Marx's most important mature treatments of the question of property, the section on pre-capitalist formations in the notebooks later collected as the *Grundrisse*, this separation is discussed in terms of a *dissolution*.

In passages that foreshadow his treatment of so-called primitive accumulation in the first volume of *Capital*, Marx depicts capitalism as the first system in which political or communal relations are no longer presupposed by property but are 'posed' by it. Far from being conditioned by a pre-existing community, property *qua* capital becomes the only real community, the one dominated by abstraction, by money. As he writes, 'the relation of labour to capital ... presupposes a process of history which dissolves the various forms in which the worker is a proprietor, or in which the proprietor works'.^v He is alluding to the dissolution of the relation to the earth, in which there is 'direct common property'^{vi}; the dissolution of proprietorship of the instrument (in craft production); the dissolution of the means of subsistence; and the dissolution of serfdom and slavery. These are the 'historic presuppositions' 'needed before the worker can be found as a free worker, as objectless, purely subjective labour capacity confronting the objective conditions of production as his *not-property*, as *alien property*, as *value for-itself*, as capital'.^{vii} This process, which Marx strikingly terms that of 'dissolution into capital', is one in which: 'The objective conditions of labour now confront these unbound, propertyless individuals only in the form of values, self-sufficient values'.^{viii} 'Private property' is thus understood as a double movement of abstraction, one which is conditioned by historical processes of separation but which in its real subsumption of social life continues to serve as a potent agent of dissolution.

This theme of dissolution was already present in Marx's thinking about the political and economic functions of *landed* property back in the *Economic and Philosophical Manuscripts*, where he wrote: 'It is necessary that this appearance be abolished - that landed property, the root of private property, be dragged completely into the movement of private property and that it become a commodity; that the rule of the proprietor appear as the undisguised rule of private property, of capital, freed of all political tincture'.^{ix} For the purposes of our argument, we should be sensitive to the different accents given in Marx's early and later work to this theme of property as the dissolution (which is to say the

abstraction) of social bonds. Roughly, property is presented in the early Marx's work as an agent of abstraction whose real subsumption of social life (and destruction of concrete community) serves as a kind of tragic but necessary prelude to emancipation, to the emergence of a universality antagonistic to that of capital. In the *Grundrisse* we can instead discern a way of thinking both the rupture represented by the emergence of capitalist property and the persistence (albeit over-determined by capitalist forms) of so-called pre-capitalist relations. This is what the Hegelian formulation – property now posing its own presuppositions – entails. (It is also, as we shall discuss below, what Stuart Hall was trying to capture in his deployment of the Althusserian notion of *articulation*.)

In his *Intellectual and Manual Labour*, elaborating on Marx's insights into the commodity form, the German philosopher Alfred Sohn-Rethel argued that the origins of the abstract concepts of ancient philosophy were to be located what he called 'the exchange-abstraction', the activity of generalised commodity-exchange and monetisation that served as the unconscious practical 'social synthesis' of Ancient Greek society. It was the existence of a *really abstract social practice* which stood as the presupposition of mental or intellectual abstraction. It was because the ancient Greeks acted abstractly, so to speak, that they could think abstractly. Marx's uniqueness for Sohn-Rethel lay in being able to provide the means for fully historical, practical explanations of the emergence of seemingly ahistorical forms. Applying Marx's understanding of the commodity to the study of the social unconscious of philosophy allowed one to see how the practice of exchange served as the concrete spatio-temporal basis for a thinking that could powerfully abstract from both space and time. As Sohn-Rethel writes:

Abstraction is therefore the effect of the action of men, and not of their thought. In reality, it takes place 'behind their backs', at the blind spot, so to speak, of human consciousness, that is there where the thinking and efforts of men are absorbed by their acts of exchange.^x

Now, in what sense can we treat property (more accurately: the legal forms of private property) as a 'real abstraction'? However we may frame or interpret it, there is a *prima facie* force to the notion that the imposition and generalisation of private property did (and continue to) play a formidable role in dissolving social and communal relations, or at the very least in 'positing' them as internal to a property logic. Private property's role as an agent of separation from means of production and subsistence is also not in doubt, and lies at the centre of a vibrant contemporary debate on the 'commons' and 'common

goods'.^{xi} Yet a key feature of the account of real abstraction in Sohn-Rethel, arguably present in certain formulations of Marx also, is troubled by greater attention to the *legal* forms of property. That feature is the *unconscious* character ascribed to commodity-exchange as a form of practical abstraction. Any account of the pre-capitalist presuppositions of capitalist abstract domination cannot rest content, as Sohn-Rethel seems to, with investigating the exchange-abstraction in ancient forms of commodity-based socialisation. It also requires thinking of the specificity of legal abstractions as deliberate devices of social organisation which were in turn necessary but not sufficient presuppositions for the emergence of capitalism.

The legal historian Yan Thomas, writing on Roman law, suggests we should think of abstraction as constitutive of the operations of the law. This is true of the 'formal *dispositif* that isolates in each of us, abstracting from what is irreducibly singular in us, a juridical personality, in which almost nothing appears of our physical, psychic and social reality, because it is reduced to a single function: our capacity to hold and exercise rights'.^{xii} Here we can see how modern law is conceived in terms of a twofold process 'of incarnation and naturalization, on the one hand, and of separation and abstraction, on the other, of the juridical person'.^{xiii} It is also at work, importantly, in what Thomas presents as the 'juridical constitution of things in general',^{xiv} where the *res* stands both for appropriable things of property and commerce, on the one hand, and sacred or public inappropriable things, *res nullius in bonis*, on the other.^{xv} Thomas presents his 'proceduralist' approach as one that can reveal how Roman law 'already had a formalist and abstract idea of the economy' (by contrast with what has been argued by the historical anthropology of the ancient world); for him, 'the history of law partakes of a history of the techniques and instruments through which the putting into abstract form of our societies has taken place'. If that is not properly grasped, he warns, 'the singularity of that history and the specificity of its object' will be totally missed. Thomas shows how the reduction of a thing (*res*) to its price (*pretium*) – the identity of being and value, in other words – was itself a product of juridical procedure, or legal judgment, in which the *res* was 'abstracted and reduced to its value',^{xvi} permitting a 'representation of a purely countable substance of goods',^{xvii} in its turn made possible by the circumscription of a sacred or public sphere of unappropriable goods. In Michele Spanò's gloss, 'law – the most efficacious speech – has a power of transformation without equals: it is a machine for abstraction which, through the medium of language, translates the real and produces it otherwise'.^{xviii}

In light of the Marxist debate surveyed here, the question arises: what is the relation between the social practices of abstraction (grounded in abstract labour and the

commodity form) that Marx and Marxists have posited as somehow 'beneath' or 'before' the juridical, though articulated with it, and even requiring it as an 'indispensable moment', and what Thomas calls 'the political construction of the commodity'^{xix} by law, which would appear to present the operation of abstraction as a deliberate juridical procedure, conditioning economic valorisation and accumulation, rather than the other way around? Answering such questions might also require at least posing the problem of the extent to which private property as a moment of capital and private property in property law are superimposable without remainder.

Property between law and capital

In 1865 Marx wrote this about Proudhon:

Thus history itself had expressed its criticism upon past *property relations*. What Proudhon was actually dealing with was *modern bourgeois property* as it exists today. The question of what this is could have only been answered by a critical analysis of '*political economy*', embracing the totality of these *property relations*, considering not their *legal* aspect as *relations of volition* but their real form, that is, as *relations of production*.^{xx}

In this passage is encapsulated what would become, especially in the 1960s and 1970s, a vexed question within Marxist debates about law, debates which were in many ways motivated by the now largely forgotten debates about the forms of property and the transition to socialism, but which were perhaps most memorably encapsulated in E.P. Thompson's much-quoted acerbic retort to Althusser that in the history of English capitalism law was to be found 'at every bloody level'. Without trying to summarise these debates we can note that Marx himself stayed true to his observation, made as early as 1847 in 'Moralising Criticism and Critical Morality' that 'private property is not an abstract concept or a simple relation but the totality of bourgeois relations of production'^{xxi} and thus that treating private property as synonymous with its purely legal form or that form's conceptual and ahistorical hypostasis was insufficient.

Whence the various attempts to distinguish, in ways which at times seem to re-propose the old distinction between (real) possession and (legal) property, between property as legally-inscribed and property as a social relation that may exceed its legal form.^{xxii} Thus Nicos Poulantzas would write of how he and Charles Bettelheim had 'noted that it is necessary to distinguish, in the term 'property' used by Marx, formal legal

property, which may not belong to the 'individual' capitalist, and economic property or real appropriation, which is the only genuine economic power.^{xxiii} In *Reading Capital*, Étienne Balibar notes that for Marx juridical forms are supremely ambivalent, as they 'express' and 'codify' at the same time as they mask economic reality. More importantly for our purposes, though he recognises the need to keep the space between law, politics and economy open, he also observes how in the specific case of property this is rendered terminologically and conceptually arduous:

Hence a difficult terminological problem as well, since the concepts in which the relations of production are expressed are precisely concepts in which the economic and the legal are indistinct, starting with the concept of property. What is 'property' insofar as it forms a system within the relatively autonomous structure of production, and logically precedes the law of property peculiar to the society considered? Such is the problem which must be initiated for capitalism too.^{xxiv}

Every element in the mode of production under capitalism is said by Balibar then to receive a 'juridical qualification'; it is inscribed in a legal system marked by its abstract universality, a universality which is a reflection of the commodity system – such that the commodity would serve as the cell-form for social abstraction under capitalism.^{xxv} Criticising Bettelheim's notion of 'economic property' in a later text, Balibar would go further and note that the risk in such a notion (aside from introducing the law of property into a concept whose purpose was to keep it at a distance) was that while rightly not wishing to confuse relations of production and juridical forms of property, it neglected the practical historical role of juridical forms of property, the fact that juridical form was an indispensable moment in capital accumulation; that the accumulation and concentration of capital 'cannot take place without a systematic use of the resources of property law'.^{xxvi}

This bears some relation to the critique rendered by Paul Hirst of the place of property in the Marxist legal theories of Evgeny Pashukanis and Karl Renner. Hirst criticises Marxist theories of the law that reduce legal subjectivity down to the archetypical capitalist, the subject of property right, who engages in economic calculation.^{xxvii} The joint-stock company and the shareholder, Hirst argued, represents a type of ownership that is not confined by the 'triple coincidence of property, possession and calculation [in exchange]' that lies at the heart of Marxist considerations of property law. Moreover, the problem of what 'capital' is cannot be separated from questions of the legal definition of its

form of organisation. As the emergence of the joint-stock company illustrates, 'there is no given form of this organisation'.^{xxviii} In other words, inventiveness, and a certain amount of flexibility in legal forms, enabling the emergence of new configurations of ownership and market relations, may be as central to our understanding of property as a juridical, economic and social relation as are laws which are taken to directly express the commodity form in its fundamental coordinates.

Articulating race and property

In light of the aforementioned discussions, we can say that to understand the *abstractive powers* of property law – and their articulation with and use of racial difference in processes of propertisation and profit – we cannot simply treat property forms as reflections or adjuncts of commodity forms, which is also to say that we cannot treat the question of the practical reality of abstraction as one which is simply adjudicated at the (very abstract) level of the formal analysis of capital. What we would seem to require is a way of thinking the *articulation* between distinct and sometimes independent modalities of abstraction. We would need to be able to think the articulation between *events* and *processes* of abstraction/dissolution (the moments of primitive accumulation or accumulation by dispossession); the 'unconscious' abstracting social *practices* (as grasped, for instance, in Sohn-Rethel's account of the exchange-abstraction); the high-level *logic* of abstraction intrinsic to value as a social form of capitalism; and the relatively autonomous and deliberate *practices* and *devices* of abstraction (scientific, mathematical, linguistic, but also political and *juridical*) that are either articulated with real abstraction or posed by it as its 'presuppositions'. The problem of the creation and use of racial difference within practices of accumulation and dispossession, and its link to financialised abstraction and property law, in the case under consideration, would thus require not a reduction or integration, but an articulation of different modalities of abstraction, including race itself as an abstraction. 'Racism', writes Ruth Wilson Gilmore, 'is a practice of abstraction, a death-dealing displacement of difference into hierarchies that organize relations within and between the planet's sovereign political territories'. Processes of abstraction, Gilmore notes, figure humans in relation to inhuman persons in a hierarchy that produces the totalising category of the 'human being'.^{xxix}

We take this notion of articulation from the work of Stuart Hall in the late 1970s and early 1980s, in particular from his theoretical and political interventions into contemporary debates about Marxist method, interventions which centred on the question of race. Besides testaments to Hall's capacious scope and the generous engagement with a

welter of different positions, these texts are unique in taking the different formations of race within capitalism as the impetus to rethink Marx's method of abstraction, and vice versa. In this regard, they can be said not only to address the varieties of racialised capitalism – in a way which can hopefully elucidate the place of property within them – they also offer vital perspectives through which to revisit those problems of abstraction and concreteness most memorably outlined in Marx's '1857 Introduction', a text to which Hall returned to time and again.^{xxx}

Though it is not possible to do much justice to Hall's insights here, we can note that his return to Marx's dialectic of the abstract and the concrete via Althusser's theory of over-determination was aimed at generating a Marxist theory capable of truly thinking difference. Against an ultra-Hegelian reading of Marx that would view his mature work through the lens of the self-movement of capital's categories, Hall stressed that Marx's were concepts 'which *differentiate* in the very moment that they reveal hidden connections'^{xxxi}; though capitalism 'tends to reproduce itself in expanded form *as if* it were a self-equilibrating and self-sustaining system',^{xxxii} it constantly relies on precarious social and political mediations, including racisms themselves, none of which are guaranteed by an ineluctable logic. Though Hall, unlike many of his peers, does not jettison the notion of totality, he repeatedly asserts that capitalist social formations are complexly structured differentiated totalities, unities that require differentiation, in which, to use Neil Smith's formulation, the production of sameness or equivalence is always accompanied by a production of difference. From the Althusser of *For Marx* (which Hall plays off against what he perceived as the overly rigid structuralism of *Reading Capital*), he draws 'the recognition that there are different social contradictions with different origins; that the contradictions which drive the historical process forward do not always appear in the same place, and will not always have the same historical effects'.^{xxxiii} Hall's counter-intuitive avowal that Althusser 'enabled me to live in and with *difference*'^{xxxiv} is brought home by his autobiographical analysis of the contrasting over-determinations of class by race in the UK and Jamaica, and of the ways in which these different structurations-in-dominance – one in which the immigrant 'black' was starkly opposed to the native 'white', the other in which 'black' sat at one end of a spectrum in which 'white' was the absent apex – shaped everyday life and discourse.^{xxxv} Hall's insistence that in certain societies race can be the way 'the modality in which class is "lived", the medium through which class relations are experienced, the form in which it is appropriated and "fought through"'^{xxxvi} is here compounded by the account, bolstered by a Marxism of difference, of how the abstract categories or systems of representations attached to race are experienced. The abstractions

of race are in this regard not just real, but lived. This is among the reasons why 'there is nothing simple about the dynamics of racism'.^{xxxvii}

Applied to the problem of race in capitalism, Althusser's concepts of articulation, over-determination, and of societies structured-in-dominance, permitted Hall, by his own account, to undermine the teleological reductivism and economism of a certain Marxism – which would see race inevitably dissolved by class contradiction – as well as culturalist or ethnocentric accounts which treated race and racism as purely autonomous variables.^{xxxviii} Both of these positions elide the historical specificity, which is also to say the political cognisability, of social formations in which race plays a structuring role. They helped Hall to think, especially in the collaborative project *Policing the Crisis*, how

the structures through which black labour is reproduced ... are not simply 'coloured' by race: they work through race. The relations of capitalism can be thought of as articulating classes in distinct ways at each of the levels of instances of the social formation – economic, political, ideological. These levels are the “effects” of the structures of modern capitalist production, with the necessary displacement of relative autonomy operating between them.^{xxxix}

We would like to propose that contemporary debates on race and property could also be thought according to this model, to detail the ways in which property law also *works through race*,^{xl} and to investigate how, to use Hall's terms, the absence of any necessary correspondence between race and class, or race and property, by no means entails 'necessarily no correspondence' between them.^{xli}

At stake in thinking about legal forms as both *articulated with* and an *articulation of* economic and social relations, is continuing the excavation of how capitalist property relations preserve and rely upon 'other relations that are not ascribable within the “social relations of production”. These include distinctions at the level of culture and values' – maintained by institutional structures, particular forms of political power, and of course, histories of colonisation and slavery. For example, in commenting the work of sociologists such as John Rex writing in the 1970s about South Africa, Hall notes that specifically colonial modes of labour were foundational to the establishment of a capitalist market economy:

The 'origin' of the capitalist mode in conditions of conquest, coupled with the 'peculiar institutions' of unfree labour thus preserve, at the economic level, and secure its continuing racially ascriptive features. This is a capitalism of a very specific and distinctive kind: “there are a number of different relationships to the means of production *more subtle than can be*

comprehended in terms of distinction between owners and non-owners' each of which 'gives rise to specific class situations... a whole range of class situations.'^{xlii}

Both before and after Hall's writing, the articulation of different strategies of accumulation, embedded in colonial modes of land appropriation, feudal social relations, and free and unfree labour, conceived of as constituting the mode through which legal forms of property and relations of ownership take root, has been undertaken by many scholars writing in the black radical tradition and indigenous studies. It is to them that we now turn.

Race, dispossession and the subject of property

At the turn of the 20th century, Peruvian socialist Jose Mariátegui wrote incisively of the dispossession of Indian communities in Peru as the ground upon which the *latifundistas* built an agrarian economy that largely failed, in his view, to escape feudal social relations. Nonetheless, this was a feudalism that contained within it an 'incipient capitalism'.^{xliii} Mariátegui posited the 'Indian land question' as one that was inherently economic, while also identifying those social and cultural aspects of 'indigenous communism' that were so severely diminished by the gradual imposition of colonial capitalist land ownership. Roxanne Dunbar-Ortiz has also identified the dispossession of indigenous lands as the central motor force of primitive accumulation in the United States.^{xliv}

Dunbar-Ortiz maps the conquest of New Mexico through an exploration of three different but interlocking modes of ongoing capitalist expropriation: primitive accumulation based on the appropriation of native land, the appropriation of key resources, namely water, and the exploitation of native labour on the large estates, which was facilitated by successive imposition of non-native property law and land tenure and military occupation. Dunbar-Ortiz reveals how contrary to orthodox Marxist understandings of the development of capitalism, the 'expropriation of the land, the means of production, and the resources' of the indigenous population, including their labour, are each coterminous with the development of agrarian capitalism in the U.S., and continue into the present. We could also mention here the work of Silvia Federici,^{xlv} Glen Coulthard,^{xlvi} and Ruth Wilson Gilmore, as demonstrating how contemporary capitalist accumulation relies on an amalgam of older and newer inventive mechanisms that preserve racial and gendered logics established during colonial settlement and slavery. In her landmark book, *The Golden Gulag*, Ruth Wilson Gilmore explores the many different economies involved in the intensification of incarceration in California. She examines how

chronic unemployment and deindustrialisation, planning laws, the use of financial instruments by public authorities to generate revenue, and of course, a racial moral panic about crime, provided the fertile ground for prison expansion in California. Crucially, Wilson Gilmore illuminates the human cost of the forms of expropriation detailed in the book, emphasising that entire ways of life are unmoored by capital flight.^{xlvii}

Employing the framework of articulation as a way of understanding contemporary forms of dispossession also offers one way of addressing the very salient question of legal subjectivity. As noted above, Hall endorses John Rex's observation whereby the distinction between owner and non-owner is no longer adequate, if it ever was, fully to understand racialised capitalist social formations, and we could say by extension, contemporary forms of property and relations of ownership. This is not only because legal forms of property have proliferated so intensely in late modernity, rendering the function of ownership somewhat ambiguous in relation to key functions traditionally ascribed by Marxist theorists to ownership, namely, exclusive control over the means of production. Hall seconds this observation because when we examine the specificities of how historically embedded forms of racism and patriarchy overlapped with particular economic structures, the attributes normally ascribed to the 'owner' are much more complex. For instance, the individual self-interest of black property owners and their involvement in race-based land expropriation in the 1960s and 1970s can only be explained, as N.D.B. Connolly does in his book *A World More Concrete: Real Estate and the Remaking of Jim Crow South Florida*, because of the long history of slavery and legalised racism that made property ownership the most prized path to full citizenship. In other words, merely seeing black property owners as driven by the same profit motive as white landlords, or employing an economically reductive analytical framework, truly fails to grasp what the meaning of ownership is for black landlords, given the social relations and histories of race and racism that have shaped the US real estate market.

Connolly argues that immigrants, black land- and property-owners, and even indigenous people 'made tremendous investments in racial apartheid, largely in an effort to govern growing cities and to unleash the value of land as real estate'.^{xlviii} Exploitative landlord and tenant relations between black landlords and black tenants were triangulated through that 'white apex' we have already encountered in Hall, embodied concretely in the real property that signified full citizenship and political power. The ideology of ownership embraced by these particular groups of people and individual landowners was mediated through histories of dispossession and displacement. The concept of the self-possessive individual that is variously assumed and critiqued by Marxist scholars also requires a

deconstruction that takes into account the persistence of racism configured through relations of ownership. Scholars such as Saidiya Hartman have foregrounded C.B. Macpherson's failure to account for the history of slavery and subsequent to that, Jim Crow laws that formed the conditions in which the ideal-typical possessive individual came into being. Hartmann has argued that freedom from slavery, which granted former slaves entry into the framework of possessive individualism as free subjects, entailed a cruel contradiction. Self-possession was characterised, for instance, by the taking of a surname, often that of the ex-master, that 'conferred... the paradox of emancipation and the dispossession that acquires the status of a legacy'.^{xlix} Moving from the status of an object to that of a labouring subject was marked by debt peonage and labour conditions so brutal that they could hardly be said to reflect the alienation of one's labour through free choice.^l As Hartman writes, '[t]he propertied person remained vulnerable to the dispossession exacted by violation, domination, and exploitation' that existed during slavery.^{li} This is the recent history that informs present ideologies of ownership and the cultural and social significance of ownership for people of colour in the US, and particularly within black and indigenous communities.

The notion of 'articulation' also opens up the figure of the self-possessive individual to considering the colonially-inscribed concepts of race in the fashioning of the modern legal subject. Balibar's *Identity and Difference* has begun to bridge the long-standing gap between Locke's theory of consciousness in the *Essay on Human Understanding* and his theory of property elaborated in the *Two Treatises of Government*. How might Balibar's reflections on Locke assist us in accounting for the place of race and patriarchy in the identity-property nexus, or the contact point between propriety and property? In drawing out and emphasising the temporal dimension of Locke's concept of self-consciousness, the concept of the self in the *Essay* not only moves closer to the political philosophy of property in the *Two Treatises of Government*, but bears traits or qualities that mirror Lockean concepts of property and ownership. Balibar argues here that the connection between identity and property ownership is relational, encompassing both an interiority of the self and the exteriority of the world (and social relations) outside of it. This relational aspect of the self in Locke's thought mirrors the relational nature of property itself, an ideational concept that travels between an ontological plane and the exterior world of relations of ownership.

In this expansive reading of Locke, Balibar outlines a theory of *constituent* property; an 'originary property' that is not 'measured' by pre-existing institutions because it is 'individuality itself'. With constituent property, 'property as such is the exercise of liberty'

in the sense that 'every free man must always be considered *somehow a proprietor, or an "owner" of something*' which is individuality itself. Individuality, as noted above, is constituted through the self-recognition of one's memory of past and present thoughts. The idea that every man has property in himself brings propriety back into contact with property; or, to put it another way, Balibar presents a theory of a relation between constituted property and constituent property. The proper subject is not only he who actually owns property, or is able to 'freely' alienate his labour, but is, fundamentally, he who has the capacity to engage in the conscious reflection that marks out or defines the internal stage, 'an indefinitely open field in which [self-consciousness] is both actor and spectator'.^{lii}

Here we can attempt to identify the ways in which a racial anthropology of the human is smuggled into the ontological grounding of the possessive individual. The primary place of interiority in the conceptualisation of this subject – one version of Spivak's 'transparent "I"' – sets the scene for an analytic of raciality that emerges in the 19th century. By locating the sovereign source of the self in Reason, Ferreira da Silva finds 'the negation, the declaration of the onto-epistemological inexistence of, exterior things, that is, the affirmation that, as objects of knowledge, phenomena, they constitute but effects of the interior tools of "pure reason".'^{liii} Racial subjects – the black slave, the Native, the savage – are located in an exterior realm of Nature by scientific and philosophical discourses that give primacy to the subject of interiority. Ferreira da Silva intervenes in our understanding of how the relationship between interiority and exteriority – as a defining characteristic of the modern subject – is mapped onto the globe and world history, so as to render most inhabitants of the non-European world as mere effects of the powers of Reason, which lie in the sole custody of their European superiors.

Taking the self-possessive individual back to the somewhat more specific scene of American real estate, it becomes evident that this articulation of specific histories of race and modes of possession, or to be more specific, the social relations of race and class that are reflected in practices of redlining and the changes in lending practices can quite easily become disarticulated from the crisis caused by the financialisation of mortgage-backed securities, making the confluence of race and financialisation seem more coincidental than a structurally-integrated form of articulation, one critical to the reproduction of the US capitalist social order. For instance, in Gary Dymksi's article 'Racial Exclusion and the Political Economy of the Subprime Crisis', the author analyses how redlining practices led to the 'creation of a multi-racial community-based movement' that advocated for an increase in mortgage financing for low-income 'minority' households.^{liv} This would allow

for wealth-accumulation through homeownership. Dymski poses the question, from a 'capital-accumulation perspective... why would profit-seeking firms not set aside racial bias and make profitable loans' to minority households? He then states the following:

Two responses suggest plausible explanations of this paradox. First, while lenders seek profits, most lending institutions and lending officers are non-minority, and thus susceptible to perceptual racial bias (despite their commitment to profit-maximisation). Second, the perceived risks associated with lending in minority-areas and to minorities are sufficiently great to deter lending.^{lv}

We want to suggest that these 'plausible explanations' actually disarticulate the racial foundations of property ownership in the US real estate market. Long histories of racial-economic dispossession are side-lined, and instead, racial prejudice as a generalised, almost transhistorical phenomenon is offered as an explanation for race-based lending practices, alongside the 'rational discrimination' argument. Similarly, the explanation for why racial exclusion was then replaced in part by extortionary racial inclusion in the form of subprime loans is reduced down to a matter of economics. And while greed certainly does explain a lot, it does not adequately account for how these lending practices exploited the social and cultural significance of ownership for communities who had not only been denied the credit facility, but for whom full juridical subjectivity and political inclusion had been denied on the basis of a certain ideal figure of the possessive individual, and practically and historically speaking, had been defined in opposition to the black slave as object of ownership. In other words, how predatory lending targeted communities in which race is lived through property (along with class and gender), and vice versa.

This brings us to the greatest challenge for thinking race and class formations in relation to ownership through Marxian categories of analysis. Ownership, for black people in the US, for indigenous people throughout North America, and for working class immigrants, has always been refracted through the value of life itself, not reducible down to the category or reality of labour, be it free or unfree. If freedom was and remains bound to a debt that can never, it seems, be fully paid off, it seems that justice might require a disarticulation of the fetishes produced by racial and propertied abstractions, a *de-propertisation* of the thinking of racial difference and of the legal form itself.

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- i Karl Marx, *Grundrisse*, trans. Martin Nicolaus, London, Penguin, 1973, p. 164.
- ii Paula Chakravarty and Denise Ferreira da Silva, 'Accumulation, Dispossession, and Debt: The Racial Logic of Global Capitalism – An Introduction', *American Quarterly*, Volume 64, Number 3, September 2012, p. 362.
- iii See, for example, Elvin K. Wyly, Mona Atia, Holly Foxcroft, Daniel J. Hamme and Kelly Phillips-Watts, 'American home: Predatory mortgage capital and neighbourhood spaces of race and class exploitation in the United States', *Geografiska Annaler: Series B, Human Geography*, Volume 88, Issue 1, March 2006, pp. 105-132.
- iv Wyly, Elvin K., and Holloway, Steven R. "Invisible Cities: Geography and the Disappearance of 'Race' from Mortgage-Lending Data in the USA", *Social and Cultural Geography* 3(3), 2002, pp. 247-282.
- v Marx, *Grundrisse*, p. 497.
- vi Ibid.
- vii Marx, *Grundrisse*, p. 498.
- viii Marx, *Grundrisse*, p. 502.
- ix Karl Marx, 'Economic and Philosophical Manuscripts', in *Marx and Engels Collected Works*, London, Lawrence & Wishart, 1986, p. 267.
- x Alfred Sohn-Rethel, *Intellectual and Manual Labour: A Critique of Epistemology*, London, Macmillan, 1978, pp. 44-5.
- xi See, among others, Peter Linebaugh, *Stop, Thief!: The Commons, Enclosure, and Resistance*, Oakland, PM Press, 2014; Hardt and Negri, *Commonwealth*, Cambridge, MA, Harvard University Press, 2011; Pierre Dardot and Christian Laval, *Commun. Essai sur la révolution au XXIe siècle*, Paris, La Découverte, 2015; Ugo Mattei, *Il benecomunismo e i suoi nemici*, Turin, Einaudi, 2015; Stefano Rodotà, *Il terribile diritto. Studi sulla proprietà privata e i beni comuni*, Milano, il Mulino, 2013.
- xii Olivier Cayla and Yan Thomas, *Du droit de ne pas naître. À propos de l'affaire Perruche*, Paris, Gallimard, 2002, quoted by Giorgio Agamben in 'Tra il diritto e la vita', preface to Yan Thomas, *Il valore delle cose*, ed. Michele Spanò, Macerata: Quodlibet, 2015, p. 11. This Italian volume is built around the translation of Yan Thomas, 'La valeur des choses. Le droit romain hors la religion', *Annales HSS*, November-December 2002, pp. 1431-1462.
- xiii Thomas cited by Agamben, p. 13.
- xiv *Il valore delle cose*, p. 24
- xv The latter are to be distinguished in turn from *res nullius*, 'awaiting' appropriation.
- xvi *Il valore delle cose*, p. 66.
- xvii *Il valore delle cose*, p. 79.
- xviii Michele Spanò, afterword to *Il valore delle cose*, p. 89.
- xix *Il valore delle cose*, p. 56.
- xx Karl Marx, 'On Proudhon' [Letter to J.B. Schweitzer], *Marx and Engels Collected Works, Volume 20*, London, Lawrence & Wishart, 1985, pp. 27-8.
- xxi Karl Marx, 'Moralising Criticism and Critical Morality', *Marx and Engels Collected Works, Volume 6*, London, Lawrence & Wishart, 1976, p. 337.
- xxii This lag between 'real' property or property as a power, and legal property, was thought crucial to think the problems of transition, whether from feudalism to capitalism, or capitalism to socialism.
- xxiii Nicos Poulantzas, 'The Problem of the Capitalist State', in *The Poulantzas Reader*, ed. James Martin, London, Verso, 2008, p. 177.
- xxiv Balibar, 'The Basic Concepts of Historical Materialism', p. 230.
- xxv Here the Balibar of *Reading Capital* also seems to be leaning towards a view of law as real abstraction not miles away from Pashukanis's *General Theory of Law and Marxism*.
- xxvi Étienne Balibar, 'Plus-value et classes sociales: Contribution à la critique de l'économie politique', in *Cinq études de matérialisme historique*, Paris, François Maspéro, 1974, p. 163 note 65.
- xxvii Paul Hirst, 'The Law of Property and Marxism', in *On Law and Ideology*, London, Macmillan, 1979, p. 98.
- xxviii Hirst, 'The Law of Property and Marxism', p. 137.
- xxix Ruth Wilson Gilmore, 'Fatal Couplings of Power and Difference: Notes on Racism and Geography', *The Professional Geographer*, 54(1) 2002 15-24 at 16
- xxx See especially Stuart Hall, 'Marx's Notes on Method: A "Reading" of the "1857 Introduction"', *Cultural Studies* 17.2, 2003, pp. 113-149. This text was originally published in 1974 in *Working Papers in Cultural Studies*, the journal of the Birmingham Centre for Contemporary Cultural Studies in Birmingham.
- xxxi Hall, 'Marx's Notes on Method', p. 118.
- xxxii Hall, 'Marx's Notes on Method', p. 125.
- xxxiii Stuart Hall, 'Signification, Representation, Ideology: Althusser and the Post-Structuralist Debates', *Critical Studies in Mass Communication*, Volume 2, Number 2, June 1985, p. 92.
- xxxiv Ibid.
- xxxv In 'Signification, Representation, Ideology', Hall employs this Althusserian framework to shed light on two painful family stories, two 'interpellations' of sorts, the first having to do with his Jamaican mother's exclamation 'I hope they don't mistake you over there [in Britain] for one of those immigrants, the second with the family tale that his sister had looked into his crib and asked 'Where did you get this Coolie baby from?' Hall writes: 'From that moment onwards, my place within this system of reference has been problematic. It may help to explain why and

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- how I eventually became what I was first nominated: the “Coolie” of the family, the one who did not fit, the outsider, the one who hung around the street with all the wrong people, and grew up with all those funny ideas. The Other one.' (p. 110). John Akomfrah's *The Stuart Hall Project* (2013) also touches on these experiences.
- xxxvi Stuart Hall, 'Race, Articulation and Societies Structured in Dominance', in *Sociological Theories: Race and Colonialism*, Paris, UNESCO, 1980, p. 341. Earlier, Hall had observed that 'racial oppression was the specific mediation through which this class experienced its material and cultural conditions of life, and hence race formed the central mode through which the self-consciousness of the class stratum could be constructed'. Stuart Hall, Chas Critcher, Tony Jefferson, John Clarke and Brian Roberts, London, Macmillan, 1978, p. 387.
- xxxvii Stuart Hall, 'Race, Culture, and Communications: Looking Backward and Forward at Cultural Studies', *Rethinking Marxism*, 5.1, 1992, p. 15.
- xxxviii '[O]ne cannot explain racism in abstraction from other social relations – even if, alternatively, one cannot explain it by reducing it to those relations'. Hall, 'Race, Articulation and Societies Structured in Dominance', p. 337.
- xxxix Hall, 'Race, Articulation and Societies Structured in Dominance', p. 340.
- xl Though Hall does not elaborate upon the property-race relationship, he does comment on 'juridical racism' and on the 'ideological work' required for plantation slavery to persist as a kind of enclave in societies predicated on other legal and property forms. Hall, 'Race, Articulation and Societies Structured in Dominance', p. 338.
- xli Hall defines articulation as 'a connection or link which is not necessarily given in all cases, as a law or fact of life, but which requires particular conditions of existence to appear at all, which has to be positively sustained by specific processes, which is not “eternal” but has constantly to be renewed, which can under some circumstances disappear or be overthrown, leading to the old linkages being dissolved and new connections – re-articulations – being forged. It is also important that an articulation between different practices does not mean that they become identical or that the one is dissolved into the other. Each retains its distinct determinations and conditions of existence, the two practices can function together, not as an “immediate identity” (in the language of Marx's “1857 Introduction”) but as “distinctions within a unity”.' (pp. 113-14) See also 'Race, Articulation and Societies Structured in Dominance', pp. 326-30.
- xlii Hall, 'Race, Articulation and Societies Structured in Dominance', p. 311 (our emphasis).
- xliii José Carlos Mariátegui, 'The Land Problem' (1928), in *An Anthology*, ed. Harry E. Vanden and Marc Becker, New York, Monthly Review, 2011, p. 72.
- xliv Roxanne Dunbar-Ortiz, *An Indigenous Peoples' History of the United States*, Boston, Beacon Press, 2015; see also her *Roots of Resistance: A History of Land Tenure in Mexico*, Norman, University of Oklahoma Press, 2007.
- xlv Silvia Federici, *Caliban and the Witch: Women, the Body and Primitive Accumulation*, New York, Autonomedia, 2004; see also 'Women, Land Struggles, and Globalization: An International Perspective', in *Revolution at Point Zero: Housework, Reproduction, and Feminist Struggle*, Oakland, PM Press, 2012.
- xlvi Glen Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition*, Minneapolis, University of Minnesota Press, 2014.
- xlvii Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California*, Berkeley, University of California Press, 2007, p. 179.
- xlviii N.D.B. Connolly, *A World More Concrete: Real Estate and the Remaking of Jim Crow South Florida*, Chicago, University of Chicago Press, 2014, p. 3.
- xlix Saidiya Hartman, *Scenes of Subjection: Terror, Slavery, and Self-Making in Nineteenth-Century America*, Oxford: Oxford University Press, 1997, p. 155.
- l Hartman, *Scenes of Subjection*, p. 135.
- li Hartman, *Scenes of Subjection*, p. 134.
- lii Étienne Balibar, *Identity and Difference: John Locke & the Invention of Consciousness*, London, Verso, 2013, pp. 14-15.
- liii Denise Ferreira da Silva, *Toward a Global Idea of Race*, Minneapolis, University of Minnesota Press, 2007, pp. 60-1.
- liv Gary Dymksi, 'Racial Exclusion and the Political Economy of the Subprime Crisis', *Historical Materialism* 17.2, 2009, p. 153.
- lv Dymksi, 'Racial Exclusion and the Political Economy of the Subprime Crisis', p. 154.