

UTOPIA AND COMMONS: ENCLOSURE AND BLANK SLATE IN THE AMERICAS

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## UTOPIA AND COMMONS: ENCLOSURE AND BLANK SLATE IN THE AMERICAS

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How can utopia, as a concept and a project, have as its goal the exposure and defense of the commons while its very articulation must posit a *tabula rasa* to be enclosed, improved, and defended?

This question lies at the heart of my own project. I investigate and critique a series of moments that mobilize the twin concepts of utopia and commons: More's original 1516 text and the conquest of the Americas that lies behind it; several agrarian and communal projects in the Americas situated at the intersection of modernity, imperialism, land, and history; post-apocalyptic narratives that find their logic in the revelation of a primal utopian moment turned dystopian; and contemporary debates over the enclosure of immaterial property and labor that, in turn, posit cyberspace as a new utopia and decry new enclosures of that immaterial realm.

Chapter 1 pairs two contemporary dystopian post-apocalyptic novels from Argentina—*Plop* and *El año del desierto*—with Sarmiento's classic liberal text *Facundo: Civilization and Barbarism* in order to open up a new critical space to consider the curious relationship between liberalism, catastrophe, and the end of the world as we know it.

Chapter 2 investigates the implications of the historical coincidence of the sixteenth-century Spanish conquest of the Americas and Thomas More's 1516 publication of *Utopia*.

Chapter 3 continues to develop the problematic relationship between conquest, colonialism, utopia, and commons, but in the context of the Andes; specifically, by tracing a constellation of Andean utopians that runs from Inca Garcilaso through José Carlos Mariátegui, Manuel Scorza, and José María Arguedas.

Chapter 4 studies the paired notions of commons and enclosure in the realm of

contemporary cultural production in Latin America through a focus on literary phenomena such as plagiarism, recycling, and community activism, with particular attention paid to *Cartonera* publishing houses.

Chapter 5 attempts to extract a theory of the practice of *copyleft* capable of both recognizing the entirely novel elements of contemporary cultural production (the digital horizons of intellectual property) *and* exposing the hidden line of past struggle that traverses the very concept of the commons.

## BIOGRAPHICAL SKETCH

Zac Zimmer was born February 16, 1981 in Grosse Pointe, Michigan. He spent his childhood in the California Bay Area, and in 1999, moved to New York City to pursue his studies. In 2003, he graduated with honors from the B.A. program in Comparative Literature and Society at Columbia University. In 2011, he completed his Ph.D. dissertation, directed by Bruno Bosteels, in the Department of Romance Studies at Cornell University. In addition to his scholarly work, he has written for various other publications, including *Revista Otra Parte* (Buenos Aires), and has also taught an art-based literacy curriculum in District 75 of the New York City Public Schools.

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As fits a project about utopia and commons, the writing of this dissertation was a shared experience of both the good and the impossible. Yet one more impossibility would be to name every single person who influenced this project; yet one more utopian folly would be to attempt just that.

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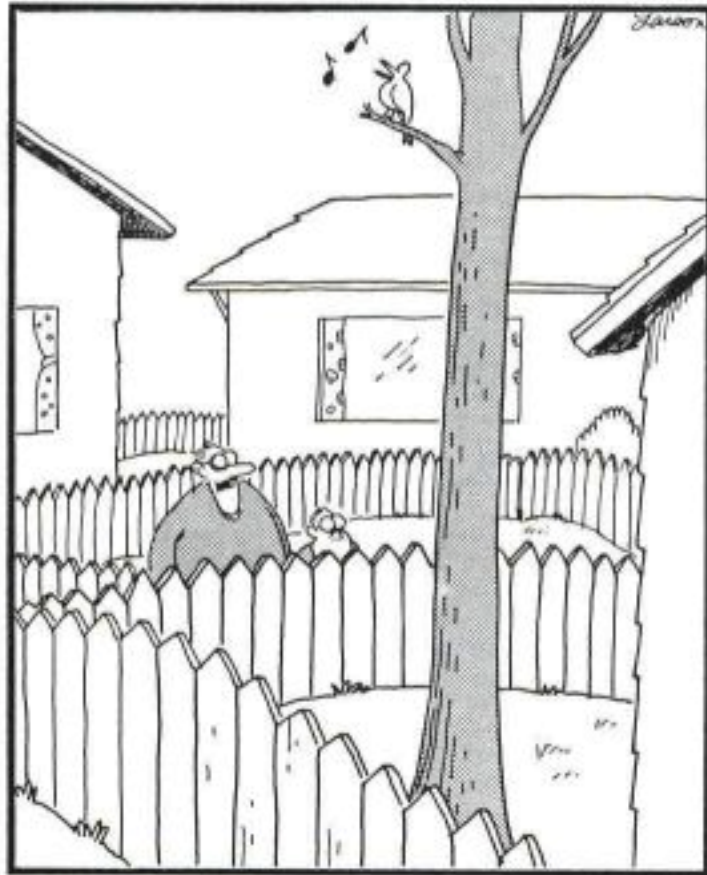
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## INTRODUCTION



"And now, Randy, by use of song, the male sparrow will stake out his territory... an instinct common in the lower animals."

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### **I On White Picket Fences**

A fence erected to protect a suburban family home. A gated community insulated from urban poverty. Inside: a post-War dreamland of appliances and convenience, or a little homogenous utopia. Outside: chaos, or simply the opposite of that internal utopia.

The concept of utopia has, ever since Thomas More coined the term in 1516, dealt at once with the design of a perfect, harmonious community as well as with the borders and exclusions that create and/or disrupt that community. The "white picket fence," that illusory dream-

imaginary *sina qua non* of mid-twentieth century suburban life, is the best example of utopia's physical manifestation. Within its borders grows the fantasy of a well-ordered world aligned with reason and human flourishing; outside of those borders lies everything that must be excluded in order for the fantasy to function. Perhaps a concrete wall topped with shards of glass and broken bottles is a more 'transparent' expression of the enclosure connected to every utopia.

But yet, no fence, no wall can truly contain the utopian impulse. For if we understand utopia as a *demand*—and not as a *place*—we see that it will never be satisfied with anything other than a *better, other, possible* world. The world not as it is, but as it could be, if only... Hence the concept is fundamentally unstable: each and every utopia eventually specifies the necessary conditions for converting that possible world into reality. *The world as it could be...*: that phrase extends the horizon of the possible, it opens politics and culture to the force of imagination. *If only...*: upon completing the second half of the phrase—upon specifying, determining, *enacting* utopia—part of utopia's pure potentiality vanishes. Or rather: part of utopia's pure potentiality becomes enclosed. Our most advanced and progressive political impulse—the impulse to *imagine another possible world*—relies on a most primitive defense of territory and enforcement of borders.

This problem recapitulates the two-part division within Thomas More's original text. In the first part of *Utopia*, More responds to the growing wool trade that was sweeping through his native land in the early sixteenth century. Part I stands as a witty and damning satire of the contemporary process of English land enclosure, and in it, More crafts some of his most memorable images. Timid-seeming sheep that actually devour men and entire towns due to the nascent capitalist wool trade's insatiable appetite for expansion. A penal system created to punish those able-bodied peasants cast into unemployment and destitution by the enclosure of their

traditional, subsistence-based cultivation of common fields. Indeed, there are few problems in Part I of *Utopia* that don't have their root, according to More, in the enclosure movement. Not that More has much hope, for when he isn't condemning enclosure, he is bemoaning the deafness of kings to good council and warning of the certain ruin that any gentleman or scholar faces in the prospect of a political life.

Luckily, More cedes his satirical and pessimistic word to Raphael Hythloday, a traveler who has just returned from five years on the island of Utopia. Utopia is a perfect society located somewhere in the New World; and it is Part II of More's text that lays the foundation for the entire genre of speculative fiction, art, and politics that operate under the name 'utopian.' The Utopia of Part II is the polar opposite of the England of Part I. All property is held in common, society functions smoothly, with neither political nor social unrest, equality reigns, and reason prevails.

Raphael's tale is a tale of the New World. As I will argue in Chapter Two, it is no coincidence that More stages utopia-the-island in the newly 'discovered' American continent. The promise of a new world offered More a philosophical and literary opportunity to image a new society, a perfect society that differed in every way from his contemporary world. As opposed to enclosure and poverty, More paints a picture of commons and abundance; as opposed to the fever for gold (which, ironically, was motivating Spanish conquistadores to begin mounting exploratory expeditions into the Mesoamerican interior the very decade that More publishes his satire), the Utopian use gold to fashion shackles and chamber pots.

Yet the astute reader may ask: where is America itself in More's text? Where are the Americans? If they do exist, they are either avoided completely, enslaved, bribed to remain at a safe distance, or contracted as mercenaries. The island of Utopia itself was once an isthmus; the historic King Utopos' heroic project to construct a trench and change the isthmus into an island is

the foundational myth of the Utopians. Utopia itself—that beacon of hope for a true commons—is actually enclosed. Furthermore, it is America against which the trench is directed. America is left beyond the trench, beyond the utopian enclosure. And thus, More's defense of the commons in one place—England—is based upon the invisible enclosure of another—the New World.

## II Blank Slates

We can name this logic that takes enclosure and erasure as its primary constitutive act: the logic of the blank slate. The need to posit a *tabula rasa* from which to begin seems to have deep roots in many diverse traditions of human thought, yet there also seems to be something fascinatingly *modern* about the myth of a clean break with the past, with starting anew, whether it be in the revolutionary gesture of abolishing a calendar, the myth of a virgin frontier, the hubris of imposing democracy, or the dream of extraterrestrial exploration.

Perhaps this is why the appearance of the New World in European consciousness was such a momentous event: it seems to be the emergence of something new, clean, uncorrupted, and full of promise. When else could have More make the bold move of describing a contemporary society that succeeded in everything where Europe was failing? And where else could he have located it but in the hazy, indeterminate zone of the still-unexplored American continent?

Of course, Raphael Hythloday was a character in the service of More's satire, and the Island of Utopia was a figment of the author's imagination. More did not know any Americans when he composed *Utopia*, even if he was familiar with some of the earliest European accounts of the New World. It can be understood that from the subject position of an indigenous American, the European arrival and subsequent conquest of the continent might appear to be more of a dystopian (or even apocalyptic) event. Indeed, this may be the very definition of a dystopian

subject: he who serves as raw material for another's utopian construction. This is the hidden logic of *Utopia*: one of enclosure and improvement that finds its motor in the erasure of conquest.

The task, then, is to expose the utopian impulse as a split impulse to at once defend a commons and to sustain that commons through enclosure. This mode of thinking implies turning utopia against its blank slate tendencies; it exposes that *tabula rasa* as a palimpsest that bears the traces of what had been erased in 'wiping the slate clean.' Through the confrontation between utopia and enclosure, utopia itself becomes politicized and historicized. At that point, we will see the 'common, lower instinct'—for which Gary Larson's cartoon couch potatoes censure the whistling male sparrow—operating even in the loftiest utopian ambitions.

In that spirit, the reader can understand the guiding question of the current project: Is there a Latin American utopia that accounts for, rather than erases, history and place? A utopia that doesn't fall into the trap of the 'blank slate'? Is it possible, in thinking literature, history, and technology, to imagine some form of utopia that is not based on a prior act of erasure or enclosure?

The material connection between those questions and the sixteenth century conquest of the American continent should be clear enough. Even today, we live through a new, immaterial wave of primitive accumulation. Cyberspace and the Internet, it would appear, are the next great frontiers for the expansion of democracy, the betterment of humanity, and the spread of the good life. Yet if the Internet is indeed a frontier, we must proceed with caution, as every frontier—and the frontier logic it spawns—simultaneously appears as a site of conquest and enclosure.

What, then, of all the enthusiasm for the digital and the utopian projections of online life? Where are the enclosures that lie behind the *digital* commons? What gets erased or fenced off in

contemporary celebrations of the immaterial realm? Addressing these questions, I hope to show, implies a return to the historical origins of the concept of utopia, and a pairing of that concept with the concept of the commons.

### **III The Chapters**

How can utopia, as a concept and a project, have as its goal the exposure and defense of the commons while its very articulation must posit a *tabula rasa* to be enclosed, improved, and defended? The following five chapters investigate and critique a series of moments that mobilize the twin concepts of utopia and commons: More's original 1516 text and the conquest of the Americas that lies behind it; several agrarian and communal projects in the Americas situated at the intersection of modernity, imperialism, land, and history; post-apocalyptic narratives that find their logic in the revelation of a primal utopian moment turned dystopian; and contemporary debates over the enclosure of immaterial property and labor that, in turn, posit cyberspace as a new utopia and decry new enclosures of that immaterial realm.

Chapter 1, "Dystopia and the Post-apocalyptic: Barbarism amongst the Muck of the Present," pairs two contemporary dystopian post-apocalyptic novels from Argentina—Rafael Pinedo's *Plop* and Pedro Mairal's *El año del desierto*—with Sarmiento's classic liberal text *Facundo: Civilization and Barbarism* in order to open up a new critical space to consider the curious relationship between liberalism, catastrophe, and the end of the world as we know it. Strangely enough, these two post-Apocalyptic textual nightmares gesture towards a coincidence of the historical conquest of the Americas and the post-apocalyptic wastelands they depict. The conquest, for these novelists, becomes something much closer to a dystopian moment. With this inverted horizon as my guide, I work through a series of other "utopian" historical moments to

unmask their dystopian sides. This unorthodox critical coupling of post-apocalypse and conquest allows me to develop an understanding of utopian projects based on the logic of the blank, benevolent non-place superimposed upon actual American referents.

Chapter 2, "Utopian Emergence and the Myth of an American Blank Slate," returns directly to many of the ideas outlined in this brief introduction. Namely, investigating the implications of the historical coincidence of the sixteenth-century Spanish conquest of the Americas and Thomas More's 1516 publication of *Utopia*. I read More's *Utopia* from the perspective of the American continent, for it is the European "discovery" of the New World in 1492 that structures More's very idea of the perfect island "over there" off the coast of Brazil. Again, the question that emerges after the exposure of the 'blank slate logic' is: can there be a utopian concept of the commons that is not already based on some kind of enclosure?

This is the guiding question of the third chapter, "Appropriation and Enclosure in the New World," and to answer it I return to a tradition of Andean thinkers who maintain the *tension* between conquest and utopia, between appropriation and the commons. This constellation of Andean utopians that runs from Inca Garcilaso through José Carlos Mariátegui, Manuel Scorza, and José María Arguedas; all of whom think the problematic relationships between conquest, colonialism, utopia, and commons. What these thinkers and writers all share is that they are incapable of beginning from a blank slate, as that blank slate's very possibility would lie in their own erasure as American subjects. Furthermore, this Andean line of thought attacks any affirmation of an American "non-place," an attack most forcefully articulated by Mariátegui who famously formulated that Latin America's problems all arise from the problem of *land*. The insistence on America's *place*—and this includes the thinkers of "coloniality" and the "invention of America"—has provoked an ambivalent reaction amongst readers: some criticize it for



representing an antimodern "archaic utopia" that is incompatible with the general flow of history; others view this tradition as the point at which "blank slate" utopianism reveals its fundamental contradictions. What is certain is that this constellation of Andean thinkers compel us to think through the concept of Fence, and the enclosure that the erection of any fence metaphorical or material entails, as intimately connected to utopia: Fence as the border that allows for utopia to develop *within*. Against a tradition of thinking the American continent as the non-place upon which fences are erected—a tradition that runs through Carl Schmitt and John Locke—this Andean utopian counters non-place with land itself. The vision of that land is not enclosed private property, but rather a *commons*.

*Commons*, of course, is a term that came to prominence during the anti-enclosure struggles surrounding the long aftermath of the English Revolution. How, then, does the idea of a commons appear today? This question guides the final two chapters of the dissertation. To answer it, we must—without losing the materiality of enclosure—move to the metaphorical register: from *property* to *intellectual property*. This task—accounting for the shift from land to metaphor—requires a reassessment of the contemporary debates over the meaning and status of intellectual property. I ground my critique in both the concept of the *land* (as developed in the third chapter) and in the historical specificity of Latin American literary production. Latin American literature has a history of directly engaging assumptions about authorship. The stakes of these engagements have always been high: in play are questions of literary community, artistic production, tradition and influence, even the very question of the division between *intellectual production* and *production in general*. More and more, the idea of the commons appears as the orienting concept, the horizon of these engagements; and recent technological developments have forced these

issues into new relief.

Yet the commons as the horizon of intellectual production is itself a contested concept. I explore these tensions in the fourth chapter, "The Commons, Between Literature and the City," through the study of two distinct models of aesthetic production, each of which works to expose the commons. The first elevates plagiarism as practice (a line that runs through Jorge Luis Borges and Ricardo Piglia, yet reaches back to Cervantes and forward to cases such as Di Nucci's 2006 *Bolivia construcciones*). The second model, less confrontational but no less vocal, rallies around the notion of *copyleft* (a rethinking of copyright with an eye towards progressive global politics and an aesthetically-informed community-based activism).

My investigation of this second strand—the practice of copyleft—leads me to alternative circuits of literary/intellectual production, distribution and consumption. In the final chapter, "Copyleft as Training Ground: The Digital Horizons of Intellectual Property," I attempt to extract a theory of the practice of copyleft capable of both recognizing the entirely novel elements of contemporary cultural production (the digital horizons of intellectual property) and exposing the hidden line of past struggle that traverses the very concept of the commons. This utopian vision of an intellectual commons extends beyond the literary to include problems such as biodiversity, alternative knowledge traditions and the land itself. In its contemporary articulation, the demand for a commons can be said to move beyond "the world turned upside down," and toward a demand that the world be turned *inside-out*.



## CHAPTER 1

### DYSTOPIA AND THE POST-APOCALYPTIC: BARBARISM AMONGST THE MUCK OF THE PRESENT

In this chapter, I read two recent post-apocalyptic Argentine novels, and consider the temporality, generally, of post-apocalyptic narrative. That temporality is a familiar one for literary critics: such novels are the germs and seeds of future catastrophes—the end of the world as we know it—and those catastrophes will only be fully recognized in retrospect. As readers and critics, we exist in a pre-post moment: the narrative itself tells the story of a catastrophe-to-come as if it has already happened. As a sub-genre of science fiction, post-apocalyptic narratives reside at the peculiar crossroads of sci-fi and sacred literature, between utopia and the definitive end of civilization. In the following pages, I will give an account of the genre itself, and then move to two concrete examples of post-apocalyptic novels that arose from a specific moment of crisis: the political and economic turmoil in Argentina in late 2001 and early 2002. Rafael Pinedo's *Plop* (2004) creates a dystopian post-apocalyptic universe that recapitulates and rehearses the classic binary of nineteenth century Argentine political and cultural theory: the civilization/barbarism debate. Pinedo updates that debate for a neoliberal moment through a reconsideration of language and history in the wake of catastrophe. Pedro Mairal's *El año del desierto* (2005) also uses catastrophe as a point of departure, in this case for a historical rewind of five centuries of Argentine and Latin American history.

#### **I After the *Post***

Post-apocalyptic literature is situated at the intersection of two distinct genres: the

apocalyptic narrative and utopia. The apocalypse—and its synonym, revelation—is a narrative mode supremely preoccupied with the end. Although it is not the original, John of Patmos' text—alternatively called the Book of Revelations or the Apocalypse of John—occupies a central position of reference in the Western tradition of apocalyptic literature. Lois Parkinson Zamora has synthesized the general elements that make up an apocalyptic narrative:

In both the canonic Hebrew apocalyptic texts (Ezekiel, Daniel, Zachariah) and the Christian apocalypses (the thirteenth chapter of Mark, the twenty-fourth chapter of Matthew, the Second Epistle of Peter, the Revelation of John), the end of the world is described from the point of view of a narrator who is radically opposed to existing spiritual and political practices. Whether Jew or early Christian, his narrative reflects not only his opposition to existing practices but also his political powerlessness to change them. His is a subversive vision: He is outside the cultural and political mainstream (in John's case, literally in exile on the Greek island of Patmos), awaiting God's intervention in human history, when the corrupt world of the present will be supplanted by a new and transcendent realm. From a point ostensibly beyond the end of time, the apocalypticist surveys the whole of human history, focusing on its cataclysmic end. For him, the future is past: He states God's plan for the completion of history, alternately in the prophetic future, then as accomplished fact (L. P. Zamaora 2).

For Zamora, as for the majority of critics who study the apocalypse, the apocalyptic narrative is a genre that operates in a sacred register, but one that maintains strong links with its contemporary historical context. Zamora proposes that current day renewed interest in the apocalypse is a predictable reaction to the social rupture and the temporal uncertainty of our time (L. P. Zamora

11). In other words: the *register* must be sacred, but the apocalypse is still able to respond to the problems of more modern and secular societies.

Zamora, again in following with the majority of her colleagues, makes an effort to give a detailed account of the limits of the genre. And rightfully so: without a coherent theorization, the apocalypse becomes an empty form, without content, to be applied to any narrative with a definitive ending. Thus, for Zamora, an apocalyptic narrative must go beyond a mere vision of destruction; according to her, the apocalypse works in a mythic register, and the revelation it announces exists in a state of tension with the historical reality that operates as the starting point and the motor of the narrative.<sup>1</sup> The price that this demarcation carries is the loss of any non-sacred (in the Western sense) conceptualization of the apocalypse. It also proscribes (and this is a corollary of the previous loss) the conceptualization of a collision of cosmovisions beyond any interaction that does not recapitulate the confrontation between the early Christians and the Roman Empire. In other words, readings of the apocalypse that limit themselves to Judeo-Christian eschatology in a mythic register fall victim to a significant blind spot: narrative accounts of the actual, historical destruction—the cataclysmic end—of non-Judeo-Christian civilizations. I am specifically referring to indigenous accounts of the conquest of the American continent. Both *La visión de los vencidos* and Guaman Poma's *Nueva crónica y buen gobierno*— to name just two examples—coincide with the majority of Zamora's generic definition. Furthermore, Rolena

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<sup>1</sup> "The myth of apocalypse is, then, both a model of the conflictual nature of human history and a model of historical desire. This tension between transformation and completion, desire and satisfaction, has as much to do with fictional form as it does with historical vision. Though a given work of literature may emphasize one side of the myth or the other, when the tension disappears, when the vision is merely optimistic *or* pessimistic, we do not have apocalyptic literature but fantasy. Hence my distinction between mere visions of doom, to which the word apocalypse is commonly misapplied, and the more complex history envisioned in the myth itself. Apocalyptic literature is fundamentally concerned with our human relation to the changing forms of temporal reality, not with static simplifications" (L. P. Zamora 12-13).

Adorno's celebrated reading of *Nueva crónica y buen gobierno* itself operates in an apocalyptic register, even if the author does not use the standard vocabulary of that tradition.<sup>2</sup>

It is possible that the American Conquest is not the most appropriate moment for the formulation of a universal theory of apocalyptic literature, but this historical moment—or, more clearly, the conjunction of the so-called "Discovery" of the New World and the subsequent Conquest—is *fundamental* for utopic fiction.<sup>3</sup>

Even if Thomas More's 1516 *Utopia* did not give birth to the genre of utopic fiction he did name it and marked it definitively; the enduring trace of More's mark was the act of locating his island *at once* in the New World and in a no-place. More published *Utopia* in 1516, an in-between moment during the pause between the so-called 1492 "Discovery" and the subsequent Conquest of the New World. More knew of the Spanish presence on several Caribbean Islands; he did not, however, know any details of the ongoing mainland Conquest when he published the first edition of *Utopia*. More had read Amerigo Vespucci and Pedro Mártir, but not Bartolomé de las

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<sup>2</sup> Adorno says: "[Guaman Poma's] interpretation of the past supports his claims about the present; these, in turn, are articulated in ways to ensure the redress of grievances in the future. The moral and political implications of the past for the present are written into every line of the text, and the consistency of his effort makes it possible to argue that a coherence of intention underlies the entire work" (Adorno 33). She concludes her book about Guaman Poma in the following way: "Yet it is not merely a sense of the foreigners' smugness and superiority that Guaman Poma rejects in responding to this discourse. It is, more profoundly, the European concepts of history, religion, and justice that he finds wanting. The histories that he knew were created to justify and celebrate colonial domination; the religious tracts that simply augmented the extirpation of idolatrous campaigns aimed at controlling native society; the debate over the just war that took place well after the conquests, when the institutional machinery of colonization was already in place—Guaman Poma tested each of these means in succession and together to help make sense of the world around him. His failure to find in any an acceptable explanation of events, a possible resolution of the colonial situation, reflects the failure of European discourse itself to lay the foundations on which to build a just society in that brave, New World. Guaman Poma's book stands as a testimony of the real response of Americans to the utopian reality of America dreamed by others" (Adorno, *Guaman Poma* 143).

<sup>3</sup> What follows is a brief preview of the central argument of the second chapter, "Utopian Emergence and the Myth of an American Blank Slate."

Casas. From here springs utopia.<sup>4</sup>

The genre that More named has since experienced a process of displacement. If More's precursors located their imaginary and perfect societies in an abstract-philosophical space (Plato's *Republic*) or in a sacred-eschatological time (Augustine's *City of God*), More himself gave it a concrete no-place: over there in the New World. More's successors, for their part, gradually lost the uncertainty implicit in the name, and, with greater and greater specificity, began to locate the good-place within a temporal horizon. Thus, Charles Fourier's four historical movements that ultimately give rise to the phalanxes; the Boston Year 2000 that Edward Bellamy describes in 1887: all oriented towards the *future*. It is from this affinity with future society that the link between utopia and science fiction arises, which is in fact nothing more than a return to utopia's foundational moments, but now an intergalactic spacecraft replaces the Niña, the Pinta and the Santa María.

Perhaps as a reaction to the failed attempts to construct a utopia in the present moment, the late-nineteenth century witnessed the birth of dystopia as a literary genre. Dystopias, on the whole, narrate the construction of a planned, total society, yet they present that society not as a harmonious organism attuned to human perfection, but rather as a stifling, oppressive encroachment erected as a barrier to human flourishing. The root source of that oppression varied in the earliest historical manifestations, ranging from capitalism (H.G. Wells' early fiction), to gender inequality (Charlotte Perkins Gilman's *Herland*), to oligarchy (Jack London's *The Iron Heel*), to Soviet communism (Zamyatin's *We*); later dystopias developed towards highlighting the

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<sup>4</sup> To further complicate the story, one Vasco de Quiroga, a Spanish *oidor* sent by the Crown to the New World, landed in New Spain (México) in 1531. Soon after his arrival, Bishop of Mexico Juan de Zumárraga's copy of More's 1518 Basle edition of *Utopia* found its way into Quiroga's library. Six years later, Quiroga founded a utopic community populated by the indigenous peoples of Michoacán. See Zavala's *Sir Thomas More in New Spain* and Quiroga's *La utopía en América*.



utopian impulse itself as the source of oppression (as in Orwell's *Nineteen Eighty-four*).<sup>5</sup>

Somewhere, sometime, the nightmare-vision of a *total* future society crossed with the idea of the world's imminent end, and the post-apocalyptic vision thus arose. A society's ruin, the remains after the Revelation, the most powerful nightmare of all: that the end will not be a singular moment of terror, but rather an unending continuity of nothing, a never-ceasing 'after' that signifies the impossibility of civilization.

When Argentina found itself once again immersed in an economic and political crisis in December 2001/January 2002, consumers of Western culture already had a developed imaginary of post-apocalyptic society based in large part on the Cold War and the constant threat of global nuclear annihilation.<sup>6</sup> The scenes of the *Crisis*—the dissolution of civil society, the betrayal of economic promises, the *corralito*, the *cacerolazos*, State repression—were described and presented in apocalyptic terms.<sup>7</sup> It is not surprising, then, that in the search for how to best narrate the 'after' of the *Crisis*, some authors felt the attraction of the post-apocalyptic tradition.

The *post* subgenre takes what is generally considered one of science fiction's weak points—its "incapacity to sever itself from the present" as Daniel Link puts it<sup>8</sup>—and converts it

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<sup>5</sup> In our contemporary moment the dystopia, especially in film, has become consolidated as spectacle; one only need ponder the number of films that attempt to imitate—both at the artistic and the commercial level—the *Matrix*'s success.

<sup>6</sup> The central Argentine reference would be the first two parts of Héctor German Oesterheld's *Eternauta*; this comic book's shadow touches the entire post-apocalyptic tradition in Argentina, even though Pinedo and Mairal confront this inheritance in two distinct ways. See below.

<sup>7</sup> The *corralito* was the derogatory nickname for the banking restrictions that forced citizens to watch idly as their peso-denominated bank accounts were devalued while their assets were frozen—corralled—within a collapsing banking system. The *cacerolazos* were the pot-and-pan banging protests that arose in opposition to the *corralito* policies.

<sup>8</sup> "Una de las paradojas más interesantes de la ciencia ficción es su incapacidad para despegarse del presente: postulada la ficción como un relato del futuro, inscripta la instancia narrativa en un *como si* del futuro absoluto (o de la realidad alternativa, que para el case es lo mismo), la especulación no llega nunca más allá que el conjunto de problemas imaginarios (ideológicos) que constituyen el presente de cada texto. Así, la ciencia ficción americana clásica es un conjunto de relatos alrededor de los terrores más típicos de los adolescentes varones: el éxito o el fracaso, el

into its fundamental referent. During the *after* of the *Crisis*, several authors converted that contemporary *after* into the starting point for their fictional narratives. For James Berger, this is precisely the operation of post-apocalyptic fiction:

"A disaster occurs of overwhelming, disorienting magnitude, and yet the world continues. And so writers imagine another catastrophe that is absolutely conclusive, that will end this world. The initial disaster, which distorts and disorients—which, in a sense, is not an apocalypse in that it does not reveal—requires imagining a second disaster that *is* an apocalypse and thereby gives the first disaster retrospective apocalyptic status" (Berger 6-7).

But in the Argentina of early 2002, the disaster was not complete, and the only thing revealed by that apocalypse was the muck of the Pampa.

## II Barbarism's muck

"Argentina helps cultivate pessimism," states Rafael Pinedo in a 2006 interview about his novel *Plop*. This post-apocalyptic dystopian novel has been classified by some, in a category that evokes one of Borges' encyclopedias, as "impossible to classify." Some bloggers, however, have dared to classify it; among those attempts, "*bildungsroman* in an atomic trash heap" stands out.<sup>9</sup> What is certain is that *Plop*, published in Argentina in 2005 after winning the Premio Casa de las Américas a few years earlier, is a novel of ruins. We don't know the origin of the savage world Pinedo presents, but there are signs of an already forgotten ecological disaster. The anthropological attention to ritual highlights the primitive and savage kernel of a future society; in terms of space and time, this future is disturbingly close.

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estar lejos de casa, encontrar el amor" (Link, *Cómo se lee* 135).

<sup>9</sup> "Acercas de *Plop* de Rafael Pinedo," Juan Marcos Leotta.

Like the vast plains where the novel takes place, the text itself appears to surge forth from the abyss. But as the mounds of plastic and rusted metal that rise from the omnipresent mud evoke an anterior cause, so too does Pinedo's text gesture towards its participation in a discourse that employs post-apocalypse and dystopia to confront the paradoxes of globalization. As in any post-apocalyptic narrative, *Plop* begins with an *after*. Pinedo presents a dual-layered *after*: Plop's personal *after* and the global *after*. The novel focused on the filling-in of the lacuna in Plop's personal after: the text opens with Plop deep inside a hole; soon shovels of dirt begin to fall on his head, and the first scoop—because there will be no madeleines after the Apocalypse—sets the protagonist's memory into motion, and we move to the linear narration of Plop's life until we find ourselves once again in the hole that closes the novel.<sup>10</sup>

But the global *after* is harder to pin down. The novel contains some future, and plenty of the past. There are vague signs that point towards an ecological disaster—this would be a future vision from our present—but the spectacle of savage tribes wandering amongst the Plain suggests a relationship to a particular historical vision: barbarism in the Argentine Pampas. In order to understand this strange novel, we must follow the thread that lies at the intersection of the environment, civilization and barbarism. And we would not be wrong to do so: the Argentine Pampa, as sketched by its most best-known critic, Domingo Faustino Sarmiento, is the perfect background for the *post*. Sarmiento's 1845 book *Facundo: Civilización o barbarie en las pampas argentinas* (*Facundo: Civilization or Barbarism*), which today might be classified as 'creative non-fiction,' is the definitive nineteenth century condemnation of strongman Latin American politics. The text uses the story of one such strongman, the *caudillo* Facundo Quiroga, to describe

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<sup>10</sup> In several interviews Pinedo has described the centrality of the scoops of dirt to the novel's narrative structure: "Plop recuerda su vida con cada palada de tierra que le cae encima, y cada palada es una imagen" (Alonso, *Axxón*).

the struggle between power, modernization, geography, and culture in Argentina.<sup>11</sup> Furthermore, one could even say that *Facundo*, with its civilization-barbarism opposition, is a sort of proto-post-apocalyptic novel; Sarmiento, however, does not locate his vision in time, but rather in space: the opposition of the city and the Pampa.<sup>12</sup>

The spatial referent is central to Sarmiento's dystopia: the few cities that continue resisting the barbarian invasion are, in the well-known formulation, islands within the vast savage sea. The temporal result is the soon-to-be definitive triumph of barbarism. Facundo Quiroga—and the continuation represented by mid-nineteenth century Argentine dictator Juan Manuel de Rosas—is the Apocalypse Now: Sarmiento does not promise to *reveal* anything more than the actual state of Argentine reality. In this sense, the apocalypse has already occurred, and the Argentines find themselves in the midst of the *post*.

Sarmiento's geographic scene is—anachronistically—the perfect backdrop for post-apocalyptic narratives. Sarmiento's readers will be forgiven if they imagine themselves in front of the *Road Warrior* script: the sweeping desert, lacking any sign of civilization,<sup>13</sup> unification only through barbarism or slavery;<sup>14</sup> the stoic resignation to a violent death.<sup>15</sup> At the end of the first

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<sup>11</sup> Sarmiento wrote the enigmatic *Facundo* while exiled in Chile; it was originally serialized in 1845, but quickly found its way into book form. The text is a mixture of biography, proto-ethnography and polemic; its publication clearly installed Sarmiento as a key figure in the struggle to establish a centralized Argentine republic. Sarmiento's main target, the dictator Juan Manuel de Rosas, maintained his power through a series of allegiances with local *caudillos* in the rural agricultural areas of the country; Facundo Quiroga was one such regional strongman. Sarmiento would eventually become President of the Argentine Republic (1868-1874).

<sup>12</sup> I recognize that this binary simplification ignores the richness of the text, but what matters here is that Sarmiento's conception is more spatial than temporal.

<sup>13</sup> "El mal que aqueja a la República Argentina es la extensión: el desierto la rodea por todas partes y se le insinúa en las entrañas; la soledad, el despoblado sin una habitación humana, son por lo general los límites incuestionables entre unas y otras provincias" (Sarmiento 59-60; all translations mine).

<sup>14</sup> "Así es cómo en la vida argentina empieza a establecerse por estas peculiaridades el predominio

part of his description of the barbaric desert, Sarmiento concludes: "This is how, in Argentine daily life, these peculiarities came to dominate: the predominance of brutal force, the rule of the strongest, limitless and unaccountable authority, justice administered without form or debate."<sup>16</sup>

Like the anti-Thomas More, Sarmiento writes from the island of civilization to describe the barbarism that surrounds him. Thomas More, writing from the barbarism of early-sixteenth century Europe, described an island located far away from the continent where a proto-socialist civilization flourished.<sup>17</sup> But the fact that Sarmiento is still able to write opens a temporal ellipsis between the barbarian invasion and the complete and total loss of civilization. This may explain why Sarmiento dedicates part of his text to an ethnographic account supported by the then-current fads of European popular science, phrenology and physiographic description: in a last-ditch effort, Sarmiento composes a preamble to the mock last will and testament of civilized life in the Argentine Republic.

Pinedo has a different project. If Sarmiento, in 1845, writes his version of civilization's *last battle*, Pinedo is interested in taking the failure of that battle as his starting point.<sup>18</sup>

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de la fuerza brutal, la preponderancia del más fuerte, la autoridad sin límites y sin responsabilidad de los que mandan, la justicia administrada sin formas y sin debate" (Sarmiento 65).

<sup>15</sup> "Esta inseguridad de la vida, que es habitual y permanente en las campañas, imprime, a mi parecer, en el carácter argentino cierta resignación estoica para la muerte violenta" (Sarmiento 60).

<sup>16</sup> If we read on, it is hard *not* to think of the iconic images from Gibson's film: "La tropa de carretas lleva, además armamento, un fusil o dos por carreta, y a veces un cañoncito giratorio en la que va a la delantera. Si los bárbaros la asaltan, forma un círculo atando unas carretas con otras, y casi siempre resisten victoriosamente a la codicia de los salvajes ávidos de sangre y de pillaje" (Sarmiento 65).

<sup>17</sup> In an attention-grabbing coincidence, both authors were ignorant of the landscapes they were describing. As we saw above, all of More's knowledge of the New World came to him second-hand; in the Losada edition of *Facundo*, the editors state: "Conviene recordar que Sarmiento no conocía la pampa cuando hace esta descripción ["Aspecto físico de la República Argentina y caracteres, hábitos e ideas que engendra"]. Tiene sí en cuenta la primera hecha por un autor argentino, la de Echeverría en *La cautiva*, que le sirve de antecedente" (nota de pie 2, 60).

<sup>18</sup> At this point, it is worth mentioning that Pinedo's project dialogues with Oesterheld's *Eternauta*. Even if *Plop*'s images appear to be the novelization of the drawings from the second,

Sarmiento's text, thus, cannot be classified as post-apocalyptic in strict terms. As James Berger proposes, "If apocalypse in its most radical form were to actually occur, we would have no way even to recognize it, much less to record it" (Berger 13).<sup>19</sup> Sarmiento uses the language of the end of civilization as a rhetorical strategy to give more weight to his political claims; he is far from putting into doubt language itself as the fundamental medium and the constitutive base of civilization. Sarmiento historicizes the origin of his *Apocalypse Now* through the life of Facundo Quiroga, and he names the event in the present moment: Rosas.

Pinedo, on the other hand, writes *after*. Because of this, we do not find a narration of the apocalyptic event. Pinedo understands that in order to describe the post-apocalypse, the *post* must

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post-apocalyptic part of the *Eternauta*, Pinedo attempts to resolve a tension that is present in the *first* part of Oesterheld's graphic novel. The first part of the comic shifts between a "state of nature"—every man for himself—and a community constituted against the invading forces—Oesterheld as a Schmittean—. Pinedo denies his characters a common enemy, and thus annihilates any concept of a "communal protagonist" that Oesterheld so often celebrated. If the *Eternauta*'s invaders had never materialized, the societal degeneration that preceded the invasion would have increased until it completely erased any trace of communitarian triumph. Pinedo expands and enhances this social disintegration to its ultimate consequences; this is *Plop*'s starting point. We can say the Oesterheld's communitarian concerns no longer seem plausible when the "invading forces" become neoliberal ideology itself: a valorisation of free markets and individualism that undermines the very concept of community and cooperation.

<sup>19</sup> Berger does not theorize the utopian side of the *post*; in his reading, any post-apocalyptic text is, *constitutively*, an apocalyptic text (with the exceptions of Mary Shelley's *The Last Man* and Gore Vidal's *Kalki*, which are both purely and uniquely apocalyptic; see footnote 8 in his second chapter). By affirming this, and thus negating the fundamental difference that underlines his study, Berger undermines his own work, supposedly on *post*-apocalyptic texts. Furthermore, by turning his back on utopia (or, more relevant to the texts he discusses, on dystopia), he forecloses any possibility of a *critical* reading of the remains of a post-catastrophe society. He says: "The apocalypse would replace the moral and epistemological murkiness of life as it is with a post-apocalyptic world in which **all identities and values are clear**" (8, emphasis mine). He confuses the clarity of the *total critique* of society that an **apocalyptic** narrative presents, on the one hand, with the ambiguity and confusion that **post-apocalyptic** narratives, like the two I propose to read, present, on the other. In other words, Berger proposes to read post-apocalyptic texts *as* utopias (he says: "The post-apocalypse in fiction provides an occasion to go 'back to the basics' and to reveal what the writer considers to be truly of value"; 8), but he does so using a theoretical apparatus applicable for apocalyptic narratives. Finally, the supposed equivalence between apocalyptic and post-apocalyptic narratives does not leave any space for the analysis of the *omission* of any narration of the apocalyptic event that forms a central axis of Pinedo's text. I will refer to this omission in more systematic fashion in the following section.

be total. This implies the loss of culture, memory, even language as we know it. It can now be said that *Plop's global after* is the after of the anticipated battle between civilization and barbarism, with the barbarians emerging victorious. This victory is concretized in the omnipresence of mud and muck. It is crucial to read the novel as a restatement of the civilization/barbarism debate, but this reading is not without its contradictions and complications. Pinedo's novel transcends a simple updating of Sarmiento's ideological scheme. As we know, Sarmiento's language rapidly consolidated itself as a model (one model among many, but nonetheless a model that captured the attention of many readers) to speak about the process of modernization. In his anticipation of the dystopian genre that will fascinate twentieth century readers, Sarmiento situates himself on the side of modernity and the city. The spatial dystopia that he creates—the predominance of the rural, the wholesale destruction of culture, the triumph of a Hobbesian state of nature—does not coincide with the typical image of the temporal, urban-futuristic dystopia of the twentieth century. In effect, the triumph of the 'barbarian threat' did not imply a totalitarian state of control and surveillance to the Argentine *letrado*; on the contrary, as we have seen, it represented something much closer to an approximation of a post-apocalyptic state. A brief fragment suffices to demonstrate:

We in America are on the wrong path, and there are deep, traditional causes for this that we must break with if we don't want to be swept away by decomposition, nothingness, I even dare to say barbarism, the inevitable mud into which the remains of dying peoples and races sink, like those hazy primitive creations left in the wake of a changing atmosphere.<sup>20</sup>

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<sup>20</sup> "La idea de que vamos en América en el mal camino, y de que hay causas profundas, tradicionales, que es preciso romper, si no queremos dejarnos arrastrar a la descomposición, a la nada, y me atrevo decir a la barbarie, fango inevitable en que se sumen los restos de pueblos y

In order to untangle *Plop's* reimagining of the civilization-barbarism contradiction, we must begin at the most material level: the mud. Sarmiento describes barbarism as the "inevitable **mud** into which the remains of dying people and races sink." There is no more accurate synthesis of Pinedo's narrative world, with one exception: the author uses the word *barro* instead of *fango*. This becomes obvious when the narrator describes the landscape:

It rains. Always.

Sometimes lightly, like floating water. Other times, more often, it's a liquid wall that pounds against your head.

You can only drink the rainwater. Once it hits the ground, it's impure. The old people say "contaminated".

You walk in the mud, between huge mounds of iron, rubble, plastic, rotting rags and rusted cans. [...]

You can find anything in the trash heaps. Most of it is iron and cement. But there is also a lot of wood. And plastic. Of all kinds. And cloth, always half- rotten.

And apparatuses. Nobody knows what they are for, or what they were for.

All the metal is covered by rust. All the wood, fungus.<sup>21</sup>

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razas que no pueden vivir, como aquellas primitivas cuanto informes creaciones que se han sucedido sobre la tierra, cuando la atmósfera se ha cambiado" (qtd in Ramos, 20).

<sup>21</sup> "Llueve. Siempre.

A veces muy poco, como agua que flotara. Otras, muchas, es una pared líquida que golpea la cabeza.

Sólo esa puede tomarse. Una vez que cayó, está impura. "Contaminada" es la palabra que usan los viejos.

Se camina sobre el barro, entre grandes pilas de hierros, escombros, plástico, trapos podridos y latas oxidadas. [...]

Entre las pilas de basura se encuentra de todo. La mayor parte es hierro y cemento. Pero hay mucha madera también. Y plástico. De todas las formas. Y tela, casi siempre medio podrida.

Y aparatos. Que nadie sabe para qué son, o fueron.

El óxido cubre todo el metal. El hongo, la madera" (Pinedo 20-1).



Mud. The remains of people and races. The coincidence between the two visions cannot be pure chance.

Pinedo's language is startling. The 58 chapters—none of which exceeds four pages—are full of short, declarative sentences. The descriptions never go beyond pure action: there are few adjectives, and not a single interior monologue. Barbarism has won in the linguistic field, and within the Group—Plop's name for his roving band of survivors—language serves only to command. Pinedo's linguistic economy only augments the horror, and the frigid account of violence reaffirms the reader's repulsion. For instance, the process of "recycling" cadavers, presented for the first time when we see the practice applied to Plop's mother: "They brought him to see the operation. The needle in the vertebrae, the flaying, the butchering. As he was her child, he was allowed to ask for a part: he chose a femur, to make a flute. He never made it."<sup>22</sup> The text, like the society it narrates, has no interest in anything not directly linked to survival. In the above fragment, the language does not even try to give a detailed account of the process. We see only three images of the butchering, and then, the frustrated attempt (one supposes) to make a musical instrument. Nothing more: from death to mourning in 32 words (and not one adjective!).

Perhaps due to the impoverished language, the great expanse of post-apocalyptic wasteland—the Plain, as it is called by the Group—also lacks history. Rites and rituals abound, but these have no justification, and there are few moments when the Group's members reflect upon them. It seems as if the Group's strongest taboo has its origin in a Sanchopanzian refrain: "Flies don't enter closed mouths!" screams the Brigade Secretary during Plop's initiation rights.<sup>23</sup> This is the only motivation given for the total prohibition (under penalty of death) against publicly

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<sup>22</sup> "Lo llevó a ver la operación. La aguja entre las cervicales, el despellejamiento, la carneada. Siendo el hijo, le correspondía pedir algo: eligió un fémur, para hacer una flauta. Nunca la hizo" (Pinedo 91).

<sup>23</sup> "¡En boca cerrada no entran moscas!" (Pinedo 30).

showing one's tongue. The vacant transmission and the blind repetition of the taboos lend structure to the societies that inhabit the Plain; these minimal conditions for survival, however, are a far cry from an historical conception of society. When barbarism wins, history loses. But history does not disappear without leaving traces. Plop, in his rise to power, learns how to manage history; as we will see further on, this is a fundamentally *material* management, given that the "history" Plop manages is a fragmentary piece of text (probably from an astronomy or physics textbook) fetishized by an illiterate society. In other words: even though language tries to barbarize itself and erase any link with the pre-post memory, something of the past remains in the present, even in the post-apocalyptic present.

If we compile the clues, the traces, and the signs, we arrive at the inevitable conclusion: the elusive event was an ecological disaster. The description of standing water awakens our suspicion: "as soon as it touched the ground it went bad, black, and when it forms puddles it shined at night, and you had to keep your distance, so that the women wouldn't give birth to deformed children and balls of flesh wouldn't grow in peoples' insides."<sup>24</sup> Any doubt disappears as soon as we read about the instantaneous decomposition of a character who falls into a river.<sup>25</sup>

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<sup>24</sup> "Que apenas tocaba la tierra se pudría, negra, y cuando se acumulaba brillaba en la noche, y había que alejarse, para que las mujeres no empezaran a parir hijos deformes y a la gente no le crecieran bolas de carne desde adentro" (Pinedo 101).

<sup>25</sup> See Pinedo 83-4. In another point of contact with *Facundo*, Pinedo focuses on the toxicity of rivers and lakes. One of Sarmiento's central complaints is the gauchos' misuse of navigable rivers: "El hijo de los aventureros españoles que colonizaron el país detesta la navegación y se considera como aprisionado en los estrechos límites del bote o de la lancha. Cuando un gran río le ataja el paso, se desnuda tranquilamente, apresta su caballo y lo endilga nadando a algún islote que se divisa a lo lejos; arribado a él, descansan caballo y caballero, y de islote en islote se complete al fin la travesía. De este modo, el favor más grande que la Providencia depara a un pueblo, el gaucho argentino lo desdeña, viendo en él más bien un obstáculo opuesta a sus movimientos, que el medio más poderoso de facilitarlos" (Sarmiento 61-2). Pinedo carries this attitude to its ultimate

Nor can we ignore the Group's historical indifference or ignorance: it appears that there is no mythology<sup>26</sup>—only taboos—no history, and almost no written word. The sole sheet of paper, a fragment from a science textbook, mentions the "great extinction" connected with the big bang (Pinedo 47), but without any further comment or explanation.

But what gave rise to that other extinction, the one that brought an end to the civilization that produced the apparatuses that litter the Plain? We know very little. One of the few clues lies in one of the Group's refrains: "Each is the owner of his own death."<sup>27</sup> Beyond the arbitrary aphoristic taboos that rule the Group, this saying is the only sign of an anterior ethics, a remnant of the pre-post life. In it we find expressed the notion of property—*owner*—and a concept of individuality. *Each is the owner of his own death*. It appears to be a translation of the foundational idea of liberalism—possessive individualism—to the post-apocalyptic environment.<sup>28</sup> In a world filled with nothing more than rusted metal and toxic water, life is the only thing of value over which a human being can exercise dominion. The cynicism represented by this saying—the sole attempt to articulate a philosophy of the Plain, based on the annulment of the human organism as an immaterial possession—is frightening, but in it we can read the vestiges of the concept of *personal liberty* drawn out to its ultimate consequences. In other words: Pinedo's post-apocalyptic dystopia has its basis, just like Sarmiento's dystopian Pampa, in the real world. Pinedo's novel, with its fleeting wink to the current-day crisis that lies at the crossroads between the neoliberal order and the global ecological problem, complicates the traditional forms of conceiving the problematic; he does this by creating a vision that looks towards the final social and ecological

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consequences: an Argentina in which, far from enjoying "el favor más grande que la Providencia depara a un pueblo", rivers carry the promise of a quick and painful death.

<sup>26</sup> With the exception of the "tree"; see below.

<sup>27</sup> "Como decía el dicho: 'Cada uno es dueño de su muerte'" (Pinedo 63).

<sup>28</sup> See C.B. Macpherson, *The Political Theory of Possessive Individualism*.

results of an uninhibited neoliberal logic of unlimited property rights and radical market solutions.

It is worth exploring the text's two alternative social visions. The first is the myth of the tree, a kind of minimalist mythology, a skeletal myth based around a tree (an uncommon thing on the Plain), the Guardians who care for it and defend it, and the pilgrims who come to contemplate it. Structurally, the two details we have regarding the mythical tree—the pure mud that surrounds it, "Without piece of wire, nor glass, nor broken bits of wood," and the gallows to the side so that nobody hangs himself from the branches—are excessive; it is one of the richest and most detailed descriptions in the entire novel.<sup>29</sup> It is an almost peaceful moment, until the revelation of the battles where blood soaks the mud. But this detail cannot undermine the tree's inspirational weight to the Group. Plop's companions draw it in the dirt, they describe it: that is to say, it could be the gestation of an art or a literature of the Plain. That said, Plop is incapable of imagining it.

The Messiah's arrival complicates the situation. The key question is, obviously, what can a Messiah offer *after* the Apocalypse? According to Plop, not much. The novel sets up the confrontation as a challenge to Plop's power. The Messiah preaches—as Messiahs tend to do—about the promised land. His followers—who quickly grow in number—totally reject the Group's life. For Plop, the Plain allows no possibility for hope or rejection. The Messiah's message is simply unthinkable: it goes against the Plain consensus.

Plop recognizes that a consensus occupies a weak position when faced with mythology, and that his only option is to destroy the myth. Once resolved in his decision, the leader transposes the imminent confrontation with the Messiah from a metaphorical level to a material level. In a tribute to the literalness that runs throughout the entire text, Plop tricks the Messiah. In

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<sup>29</sup> "Sin pedazos de alambre, ni de vidrio, ni de madera rota" (Pinedo 68).

a supremely rhetorical gesture, the visitor states that he would give his right hand to arrive to the Healthy Land (*tierra sana*).<sup>30</sup> Plop, with an efficiency that would impress a fundamentalist, takes charge: "The following morning, a pole with a right hand stuck on the point appeared in the middle of the Plaza."<sup>31</sup> The Messiah disappears, neither martyr nor guide to the promised land.

The primary reason behind the so-called Messiah's unremarkable departure has to do with the vacuity of the concept of judgment in Pinedo's post-apocalyptic world. Apocalyptic narratives are, of course, thoroughly tied to an act of judgment; Judgment Day and Revelation are nearly synonymous in the contemporary lexicon. Certain popular post-apocalyptic narratives carry this preoccupation with judgment into the world of the *post*. Cormac McCarthy's *The Road* is a perfect example of this tendency (which, it should be clear, Pinedo rejects). *The Road*, McCarthy's 2006 novel, tells the story of a father and child who rather aimlessly navigate an ash-strewn post-apocalyptic wasteland. The other human beings they encounter are either treacherous or simply savage, and the child's constant inquiry into the moral nature of themselves and the others (*Are we the good guys? Are they good guys like us?*) highlights the post-catastrophic reduction of morality to the simplest Manichean binary. Yet even that binary—good guys/bad guys—carries too much of a pre-post connotation for Pinedo. In an apocalypse, judgment both moral and theological distinguishes between the damned and the saved; in Pinedo's world, even *The Road*'s simplistic division is too much. There are neither damned nor saved in *Plop*, only survivors. Amoral, post-ethical...we could name that world many things. Indeed, the Plain's post-ethical landscape may represent one more element of Pinedo's neoliberal *reductio ad absurdum*. After the absolute 'end

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<sup>30</sup> The wordplay is obvious: with the bankruptcy of religion and the spiritual notion of sainthood (*tierra santa*, Holy Land), the Messiah responds to a much more corporeal demand: health (*sanidad*).

<sup>31</sup> "A la mañana siguiente, en medio de la Plaza apareció un palo con una mano derecha clavada en la punta" (Pinedo 103).

of ideology,' where "Each man is the owner of his own death." *survival* itself become the only recognizable criterion for judgment.

Liberal utopia degenerates into post-apocalyptic dystopia. Yet this shift should not be too surprising for readers of nineteenth century utopias and twentieth century dystopias. Between those two modes lies little more than a change of perspective. If we leave aside technology, the reader can ask himself: what are the material differences between a world such as More's *Utopia* or Bellamy's Boston in *Looking Backwards*, on the one hand, and Orwell's Big Brother nightmare, on the other? The majority of utopian texts take Plato's *Republic* as a model: control of the masses, be it by supposedly passive means as proposed by More and Bellamy (although these utopias exert their own violence and coercion), or be it by intrusive means such as brainwashing, propaganda, and total surveillance. No matter how it is presented, these are two sides of the same coin: a social vision directed by a Philosopher-King.

But Pinedo does something different. Pinedo directs himself towards the *post*. Post-apocalyptic narratives, even though they are marginal within the already marginal world of science fiction, have always attracted authors because, in the words of one writer, "It allows us to start from degree zero, to wipe the slate clean and see what the world could have been if we knew then what we know now" (JJ Adams). These words direct us straight back to Plato. In the *Republic*, he states:

The philosopher-kings would take the city and the characters of human beings as their sketching slate, but first they'd wipe it clean—which isn't at all an easy thing to do. And you should know that this is the plain difference between the philosopher-kings and other rulers, namely, that they refuse to take either an

individual or a city in hand or to write laws, unless they receive a clean slate or are allowed to clean it themselves (*Republic* 501a).<sup>32</sup>

Pinedo does not take advantage of the clean slate in the way foreseen by Plato. Pinedo does something much more cryptic: he attempts to wipe clean *language itself*. That is to say: he narrates the *post*. Of course, his task is an impossible one, but he comes remarkably close to achieving this goal. Yet something pulsates through this stripped-down, violently transparent language. That nagging thing behind crisp, frightening descriptions is history itself: that which can never be wiped completely clean. In self-defense, the Plain's history has wrapped itself tightly to protect its truth from the harsh environment. It appears as a fetishized seed, waiting out the toxic muck to once again flourish at some future moment. Only that seed, in this case, happens to be a sheet of paper, the fragment of text which narrates the "great extinction." The old woman who "adopted" Plop after his mother's death carried that sheet of paper with her, but hidden. Old Goro, as she is called, takes out the sheet of paper—the sole remaining trace of a literate culture—only once, at a festival, where she reads it aloud to the illiterate Group. Before her death, she passes on both the fragment itself and the gift of literacy. Plop uses both to consolidate his power; the sheet, which he keeps guarded and out of view, becomes the seal of Plop's ascent.

Literacy and history become Plop's secrets. No truly clean slate, Plop's truth hibernates.

The Group's collective memory is dirty, clouded; in a word: muddied. The final scene of Plop's

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<sup>32</sup> Michel de Certeau also weighs in on the blank page in his reflections on the scriptural economy. After he affirms the blank page as the site where the subject confronts/dominates the object (thus recapitulating Descartes), he continues: "In other terms, on the blank page, an itinerant, progressive, and regulated practice—a 'walk'—composes the artefact of another 'world' that is not received but rather made. The model of a productive reason is written on the nowhere of the paper. In many different forms, this text constructed on a proper space is the fundamental and generalized utopia of the modern West" (134-5). Like many of his contemporaries, de Certeau stops short of definitively linking the "generalized utopia of the modern West" and the Spanish conquest of the Americas.

slow death beneath successive scoops of slop could be read as the entombment of the last remaining scrap of history, but perhaps it is otherwise. Throughout the protagonist's life, he has metaphorically dug his own grave. Now, as he finds himself buried under the successive memories from his brutal life, he may finally escape the contaminated mud. The question becomes: is it possible to get beyond the toxic ahistoricity of the *tabula rasa*? Can the roots of history penetrate the layers of muck of the ages? Or is it rather that history, buried along with Plop's body and the final remaining trace of literary, has simply exhausted itself? Dormancy, rather than extinction: Plop's seed lies fallow in history's sediment.

### III Final consumers

If Pinedo buries his protagonist in the sedimented remains of the aftermath of catastrophe, Pedro Mairal excavates those historical layers with an archeological precision. There is plenty of mud in *El año del desierto*, but Mairal is interested in what Marx called *the muck of the ages*.<sup>33</sup> Mairal doesn't flee that muck; on the contrary, he muddies himself in the most profound way. He sinks both his protagonist and his city into that *fango inevitable* of Argentine history.

Unlike *Plop*, *El año del desierto* (Interzona, 2005) is a massive novel with encyclopedic aspirations. The post-apocalyptic backdrop uses the events of December 19-20, 2001 as concrete references, but these references are mere jumping-off points. And Mairal's jump is a backwards one: throughout the novel, as the narrative advances, history recedes. María, the 23 year-old

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<sup>33</sup> "Both for the production on a mass scale of this communist consciousness, and for the success of the cause itself, the alteration of men on a mass scale is, necessary, an alteration which can only take place in a practical movement, a revolution; this revolution is necessary, therefore, not only because the ruling class cannot be overthrown in any other way, but also because the class overthrowing it can only in a revolution succeed in ridding itself of all the muck of ages and become fitted to found society anew." "Feuerbach: Opposition of the Materialist and Idealist Outlook" (Chapter I of *The German Ideology*), see <<http://www.marxists.org/archive/marx/works/1845/german-ideology/ch01d.htm>>.



protagonist, lives through a sort of "rewind" that condenses five centuries of events in the span of one year. This narrative device does not, however improbably, appear heavy-handed; the rewind is an integral part of the novel and it is intimately connected to María's life and actions. Thus, if the historical rewind is the novel's backdrop, María's personal story—the most pressing aspect of the novel—becomes a *rewound bildungsroman*. This is another point of convergence between *Plop* and *El año del desierto*—two unsentimental educations, two apprenticeships of the *post*—but structurally, each novel has its own orientation, and the two move in opposite directions. *Plop*, as we have seen, is an *after* in which only a fragment of history exists; *El año*, in turn, is an *after ad infinitum*, a regression that implicates *every moment* of Argentine history as always already post-apocalyptic.

If Pinedo works as an ethnographer of a society that lives in the ruins of civilization, Mairal becomes an archeologist who begins his excavation too early, a coroner who starts the autopsy on a still-living body. It is precisely this anticipation—this untimeliness—that allows the author to reanimate the past and bring it to bear on the present.

As one would expect of any attempt to condense over five centuries of history into one single novel, references abound, both historical/social and literary. Many critics have already pointed out—in blogs and reviews—the most obvious: the plagiarism of "Fundación mítica de Buenos Aires" written by a depressed young poet while "everything goes to shit"; the references to Echeverría's "El matadero" (a near-automatic association when one reads the scene of María venturing out to the slaughterhouse to buy meat for her pimp); and the wink to Cortázar during the State's literal take-over of María's family's house.<sup>34</sup>

Some of the references to European literature, however, appear to obey the Rewind Law. For example, as she is working in Buenos Aires' *Bajo*, now the city's emigration center (in a total inversion of Argentina's history of a nation of immigrants, boats now depart to Ireland, Spain, Italy and various Eastern European cities), María meets an Irish sailor about to return to Dublin. After a 24-hour courtship, Frank invites María to go live with him on the banks of the Liffey. As she is boarding the ship, María has second thoughts, and Frank disappears into the horizon screaming "Eveline!" This other name, one that highlights the protagonist's Irish roots, concretizes the reference: it is an inverted story from *Dubliners*; Joyce's characters plan their escape from Dublin to begin their lives anew in "Buenos Ayres", but at the last instant, Eveline changes her mind and leaves Frank alone on the boat, shouting his lover's name from the deck.<sup>35</sup>

Another fundamental presence throughout the entire novel is an Argentine who did in fact manage to exile himself during a difficult historical moment: Julio Cortázar. There are further references beyond the "apartment taken-over" incident. The bridges built by the inhabitants during the "enclosure" (see below) are clear allusions—even if de-eroticized—of the famous

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<sup>34</sup> The references are, respectively, to Jorge Luis Borges' poem "Fundación mítica de Buenos Aires" (in *Fervor de Buenos Aires*, 1923); "El matadero," Esteban Echeverría's staging of the nineteenth century civilization/barbarism debate (written and circulated in manuscript form in 1839 but not published until 1871); and Julio Cortázar's "Casa tomada" (*Bestiario*, 1951).

<sup>35</sup> Mairal translates entire sentences from Joyce's story, but it is not until the last moment, when Frank cries out the name of that *other* lover, the historical one, does the reader become aware of the inversion of the literary relationship between Dublin and Buenos Aires. Compare: "Se empinaba la gorra un poco hacia atrás, y el pelo le caía sobre la cara" (*Desierto* 160) vs. "his peaked cap pushed back on his head and his hair tumbled forward over a face of bronze"; "Frank me contó historias de sus viajes. Había empezado limpiando cubiertas, por una libra al mes, en un barco que iba a Canadá. Había cruzado el Estrecho de Magallanes y el Mar Báltico" (*Desierto* 161) vs. "He had tales of distant countries. He had started as a deck boy at a pound a month on a ship of the Allan Line going out to Canada. He told her the names of the ships he had been on and the names of the different services. He had sailed through the Straits of Magellan and he told her stories of the terrible Patagonians." According to the author himself, this episode must have carried special significance for Mairal; naming the other inspirations—beyond the crisis—that gave rise to the novel, he says: "Quizá la posibilidad que se me presentaba en ese entonces de irme a vivir fuera del país. Como un miedo primario, inconciente, de que si me iba, si me exiliaba, la Argentina dejaría de existir (al menos para mí)" (Mairal, *piedepágina*).

bridge in *Hopscotch*.<sup>36</sup> Beyond these isolated quotations, the novel's entire temporal logic is a homage to "The Southern Throughway." Although Cortázar does not use an inverted chronology in that story, he does construct a singular temporal logic that could have served as one of Mairal's models.<sup>37</sup> Cortázar's story opens with the image of rush-hour traffic as motorists return to Paris from a weekend in the South. Within a few pages, however, the motorists begin to count the days instead of the hours; soon after, the seasons change, snow falls, and we lose all track of time. It is here that Cortázar's artistry shines (and this is what Mairal lifts from the story): the characters never make any kind of observation about the shift from a verisimilar time to a more mythical time, but neither do they ignore it. They simply live it. With respect to Mairal's novel, the subtle movement from one temporal logic to another separates it from other contemporary examples that employ inverted chronology. For Mairal, it is not about an innovative way to organize the telling of certain events that the protagonist lives (as is the case with several filmmakers who have used inverted chronology, principally Christopher Nolan in *Memento*, Gaspar Noé in *Irréversible* and François Ozon in *5x2*), but rather, María lives *the inversion itself*. Because of this, each narrative advance is, *at the same time*, a historical regression: the temporal logic of the *intemperie*.

That said, it is complicate to talk about the "*intemperie's* logic". The narrative is more focused on underlining the official negation of the phenomenon and its usage by various groups of protestors as an empty signifier. Like the untold catastrophe that forms *Plop's* basis, the *intemperie* vaguely points towards an ecological disaster; in this case, however, Mairal is more interested in pointing out the strong links—he does this through a verisimilar representation of the events of 19-20 December—with the 2001 crisis. The beginning chapters never give us a direct

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<sup>36</sup> See *Rayuela (Hopscotch)*, chapter 41.

<sup>37</sup> The best-known literary examples of inverted chronology are Kurt Vonnegut's *Slaughterhouse Five* and Martin Amis' *Time's Arrow*.

view of the *intemperie*; on the contrary, we only see the political and social consequences within the Federal Capital (with the exception of María's quick trip to the suburb of Beccar). The protests, and the subsequent police repression, form the nucleus of the chapter "Suárez & Baitos", and our visions of the wastelands are mediated by flyers and the protestors' chants. At one point, María reads one of those flyers that paper the streets: "'The *intemperie* that the Government doesn't want to see'. It had photos of a block before and after the *intemperie*. *Before*, there were houses lining the street; in the *after*, it was all a wasteland. I threw it away so they wouldn't arrest me for it."<sup>38</sup> On one side, a total absence of concrete information and the steady growth of rumors and accusations; on the other, official negation and the threat of state violence that, negatively, lends credence to the rumors. The reader can thus discern at least two registers in which the temporal logic of the *intemperie* operates: on the surface, a pure historical reenactment of the events of December 2001; but also State repression—without a doubt present during the Crisis—and above all the fear of being swept up by the police that gesture towards the fear inculcated in the population during the 1976-1983 military dictatorship. These, then, are the first steps of the rewind, already mixed with a verisimilar representation of a concrete moment in recent Argentine history. As such, any attempt to read this chapter in strictly historical terms, to search for a 1:1 correspondence between the plot and history, will not produce results *sensu stricto*. It is more appropriate to read history's return in the extension (to its ultimate consequences) of the present moment as an illumination of the past as much as of the present. In this sense, Alejandro's letter (María's boyfriend, army deserter, and mythical hero-in-construction) describing the State's actions is quite revealing: "The don't know how to lie, they use stupid tricks. In Lanús one night,

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<sup>38</sup> "'La *intemperie* que el Gobierno no quiere ver'. Tenían fotos de una cuadra antes y después de la *intemperie*. En el *antes*, había casas una al lado de la otra y, en el *después*, se veían sólo los baldíos. Lo tiré por si me agarraban con eso encima" (*Desierto* 15).

we kicked down the door of an abandoned house to hide there, and when we entered, we saw that there wasn't any house, the whole block was just a wasteland with ruins. In order to hide the *intemperie*, they just put up façades on the block, like a movie set."<sup>39</sup> The passage contains several allusions: not only an exaggeration of the State's denial of the gravity of the Crisis, but also a reference to the Armed Force's hoodwinking of the public during the Malvinas War; furthermore, the fictitious Argentine state reproduces the Allies' World War II strategy, "Operation Fortitude", the disinformation campaign that included the usage of cardboard façades to conceal the invasion of the beach at Normandy.

With that in mind, the reader who focuses only on the historical regression will lose sight of Mairal's contemporary cultural critique, while the reader who ignores the chronological inversion, perhaps due to Mairal's subtlety, omits a key part of the novel. If the reader maintains the two opposite movements in a state of tension, the narrative crystallizes in a devastating version of an American post-apocalypse. To arrive at these conclusions, we must study the novel's structure and follow the various temporal arrows (including the inverted ones) that Mairal sketches.

Using broad strokes, we can divide the novel into five parts: the present moment, civilization versus barbarism, María's flight, barbarism's triumph, and utopia/apocalypse. The novel opens with a fragment from the narrator's present time that installs her in a purely *post* temporality. Her language is already other; her old speech pertains to another epoch and simply no longer serves any purpose. The civilization with which she had identified also no longer exists. María is a survivor, a witness of the catastrophe, and the fragments that begins her narrative are

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<sup>39</sup> "No saben ni disimular, caen en trucos estúpidos. En Lanús, una noche, forzamos la puerta de una casa abandonada para escondernos y, cuando entramos, vimos que no había casa, había un baldío con ruinas que ocupaba toda la manzana. Para ocultar la *intemperie*, levantan sólo las fachadas de la cuadra, como un decorado de cine" (*Desierto* 68).

pure foreshadowing. The narrator will maintain her omniscient position during the first parts of her story, and until she leaves her fortress-apartment building, she will continue to insert splinters of narrative anticipation into her tale. Once she enters the desert, however, the comments that reveal her temporal and spatial location in her present narrative moment definitively disappear.

After this approximation of a prologue, the reader encounters María working at an investment company (and it is significant that the chapter that fictionalizes the Crisis bears the name of a financial services company as its title), and thus begins the second section. This section tells the story of the battle between civilization (which builds office towers as flags raised over conquered lands) and barbarism that the *intemperie* sets into motion, and it is here that the novel's against-the-grain temporal logic is most visible.

As soon as the novel begins, Argentina has already fallen behind. María describes her office on January 2 (the protagonist's birthday and the first day of the "desert year"): "Even though the communication system no longer worked, we had to make it look like we continued to use the latest technology. Whenever a client entered, I would pretend to type something on the keyboard. In reality everything had crashed several months before."<sup>40</sup> The reader does not know if María's corporate ruse is the result of the already-present *intemperie*, or if it is simply an unfortunate coincidence that the *intemperie* is advancing on a city that already has a history of technological fakery. What is true is that from that first day onward, María will be cultivating the wastelands so as to give rise to the novel's iconic penultimate image: an office tower that rises from the vast, depopulation Plain with nothing more on the horizon than the ruins and remains of a defeated civilization.

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<sup>40</sup> "Aunque ya no funcionara el sistema informático, había que aparentar que seguíamos usando la última tecnología. Cuando entraba un cliente, yo simulaba que tipeaba algo en el teclado. En realidad todo estaba muerto hacía varios meses" (*Desierto* 9-10).

The skyscraper inherently elevates itself: it rises to the abstract altitude of the global financial sector and thus escapes from the national mud, as María proposes:

The height of the twenty-fifth floor allowed for that geographical vantage point. It was the view of powerful men. That's why they put the conference rooms on that side. It wasn't a pretty view, but it was perfect for getting business done. Like a place in another country, far away from the national mud, like looking down from an airplane. It was the height of the global economy, the great aerial financiers, with perfect telephonic connectivity with the antipodes. It was as if, up there where the air is clear, on top of the world, New York and Tokyo were at your fingertips [...] The trick was the altitude, far above the third world, the distant horizon...<sup>41</sup>

Back on earth, "hay quilombo." We see scenes of police repression at the anti-*intemperie* demonstrations, the reinstatement of the national military draft, hyperinflation; later: riots, curfews, and the bulldozing of shantytowns. Notwithstanding, business continues while *porteños* complain about "barrios de categoría" being converted into tenements. María's boss most clearly expresses the CEO attitude: "Stay calm. We're not going anywhere. What's the worst that can happen? They'll block the roads? We'll buy ten helicopters. The Earth's temperature rises? Will buy the biggest air conditioner ever seen."<sup>42</sup>

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<sup>41</sup> "La altura del piso veinticinco permitía esa mirada geográfica. Era la vista de los hombres poderosos. Por eso habían puesto las salas de reunión hacia ese lado. No era una linda vista, pero parecía perfecta para hacer negocios. Como si fuera un lugar en otro país, lejos del barro nacional, como visto desde un avión. Era la altura de la economía global, de las grandes financieras del aire, donde se establecían a la perfección los contactos telefónicos con las antípodas. Como si, ahí arriba en el mejor oxígeno, en la cima del mundo, pudieran tocarse la punta de los dedos con New York, con Tokio [...] El truco del lugar era la altura, lejos del tercer mundo, el horizonte lejano..." (*Desierto* 13).

<sup>42</sup> "Quedate tranquilo. De acá no nos movemos. ¿Qué puede pasar? ¿Cortan todas las rutas?: compramos diez helicópteros. ¿Aumenta la temperatura de la tierra?: compramos el aire acondicionado más grosso que exista" (*Desierto* 31).

Given that the suburbs—thanks to the *intemperie*—are being reduced to desert, the bosses and their families see no other option than a wholesale move of their McMansions to the Garray Tower. This parody of the privatization of social life, the proliferation of vertical clubs "where a perimeter fence, two guards and, above all, the vertical distance guarantee security"<sup>43</sup> that signals the absurdity of contemporary enclosures in private neighborhoods, mixes with the first visible signs of torture. The McMansion/shantytown division finds its expression, once again, through a historical reappearance: those locked out of the downtown towers live the palpable risk of being "disappeared".

As María leaves the elaborate closed system of interconnected tunnels and bridges, she steps into a shifted temporal logic. At this point, Mairal focuses less on the extension of the contemporary (although this focus persists in the background), instead centering his attention on an excavation of the urban fabric. Released from her enclosure, María travels along the Capital's surface streets; the many superficial changes—for example, street names that have reverted to earlier incarnations (Cangallo replaces Perón, p. 93; Victoria replaces Hipólito Yrigoyen, p. 105; Calle de la Piedad replaces Mitre, p. 168)—are only a part of an enormous project of urban archeology. Although María never crosses paths with an Avant-garde poets reading his poems, trams replace buses; Shopping Abasto is once again a market; Plaza Las Heras has reverted to its previous incarnation as a penitentiary (*Desierto* 96-8).

The most developed of these reverse displacements is the *Hotel de Emigrantes*. María ends up there as she looks for work in the Bajo (now an export center for frozen meat).<sup>44</sup> What is

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<sup>43</sup> "Donde la seguridad estaba garantizada por una reja perimetral, dos guardias y, sobre todo, por la lejanía de la altura" (*Desierto* 31).

<sup>44</sup> The majority of the novel's specific temporal references appear in this section: the tram car that



shocking is not the reference itself, but rather the way Mairal handles it (and inverts it): the *Hotel de Inmigrantes*, historically a welcoming space, with its promise of a better life in the shape of a bed and government subsidies for new arrivals, is now the *Hotel de Emigrantes*. For María, it is a hopeless workplace and a monument for the total failure of her native country. For Argentina itself, the scene does not only describe a moment from the national past, but it also carries the connotation of the endless lines in front of foreign embassies throughout the summer of 2001-2002: "Thousands of people tried to organize themselves, scared and anxious to board a ship and sail off in search of new opportunities on other continents. Entire families with grandparents, newborn babies. They all left the Hotel and gathered on the docks."<sup>45</sup>

But it is in the details where Mairal shines: the number of beds stays the same (4000 in both cases), but the Hotel's policies do change. Instead of an open invitation to stay until finding a job, the guests at the *Hotel de Emigrantes* are faced with a much less hospitable situation: "This is where they spend their last night before they leave the country. The wake up at five. The ships sail at dawn."<sup>46</sup> Again, the overlapping between the image of the busy port during the immigration-heavy first decades of the twentieth century and its negative, inverted image from the contemporary moment is shocking.

The historical regression continues, and María soon finds herself working as a prostitute in a brothel/cabaret whose client base is mostly English sailors transporting contraband. Here, the novel takes a hard-boiled turn, and María the prostitute kills her pimp. As if María's fate was

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crashes into the Riachuelo (12 July, 1930; p.112); the *Semana Trágica* (p.120); a rare snowy day in the Capital (22 June 1918; p.121); the passing of Halley's comet (1910; p.129); among others.

<sup>45</sup> "Miles de personas trataban de organizarse, asustados y ansiosos por subirse a un barco y partir a buscar nuevas oportunidades en otros continentes. Familias enteras con abuelos, con bebés recién nacidos. Salían del Hotel y se iban ubicando en los muelles" (*Desierto* 107).

<sup>46</sup> "Es donde pasan la última noche los que se van del país. Los despiertan a las cinco. Los barcos salen cuando amanece" (*Desierto* 107).

intertwined with that of her country, her crime and subsequent flight coincide with the barbarians' triumph, and we thus enter the novel's next section.

When María's escape leads her (along with some of her companions in the *mala vida*) to the intersection of Pueyrredón and Córdoba, the barbarian wave finally crashes up against the shores of the city. Beyond that crosswalk, pure desert: "Beyond that zone, it was a dirt road with uneven patches of asphalt jutting up; the cart had to avoid them so as not to split the wooden wheels," María continues, "Seeing the barren countryside like that, and then heading into it, made us all scared. It was like entering the ocean, moving away from the coast without a lifevest."<sup>47</sup> And she continues on; María's first steps into barbarism are as definitive as the border crossing that closes *El gaucho Martín Fierro*: "Faithfully following the path / they entered the desert,"<sup>48</sup>

The gaucho sings:

Y Yo, empujao por las mías,  
quiero salir de este infierno.  
  
Ya no soy pichón muy tierno  
y sé manejar la lanza  
  
y hasta los indios no alcanza  
  
la facultá del gobierno.

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<sup>47</sup> "A partir de esa zona, el camino era de tierra pisada y tenía parches de asfalto que sobresalían en desniveles que había que esquivar porque las ruedas de madera se podían partir"; "Ver el campo abierto así de golpe y empezar a meterse daba miedo. Era como entrar en el mar, como alejarse de la costa sin salvavidas" (*Desierto* 176).

<sup>48</sup> "Y siguiendo el fiel del rumbo / se entraron en el desierto" (2299-2300).

Yo sé que allá los caciques  
amparan a los cristianos,  
y que los tratan de 'hermanos'  
cuando se van por su gusto.  
¿A qué andar pasando susto?

Alcemos el poncho y vamos. (2185-2196)<sup>49</sup>

María also passes over to the other side; she carries a *Tramontina* steak knife instead of a lance, and she too will end up with an indigenous tribe, but not before a stay at an *estancia* and a stint as a captive of a group of *gauchos malos*.

At the Peregrina Estancia—a stopover on her exiled wanderings—María is witness to a frightening social reversion. We hear the Governor Juan Marín Celestes pontificate, "the land didn't belong to he who could buy it nor he who could work it, the land belonged to he who could defend it"<sup>50</sup> while the local priest praises civilization's most recent 'advancements': the prohibition of teaching Darwinian evolution, the annulment of the universal secret vote, the destruction of any and all mechanical apparatuses, justice in the form of severed heads displayed in the central

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<sup>49</sup> José Hernández published his epic poem *Marín Fierro* in 1872 as an attempt to vindicate the figure of the *gaucho*—so savaged by Sarmiento in his *Facundo*—in Argentine literary and cultural history. It tells the story of a knife-fighting *gaucho* who 'goes native,' deserting the military in order to live amongst the Amerindians of the Pampas. In Kate Kavanagh's revised translation ([http://sparrowthorn.com/MartinFierro\\_PART\\_ONE.pdf](http://sparrowthorn.com/MartinFierro_PART_ONE.pdf)):

And it's driven by my sorrows that I want to leave this hell.  
I'm no longer a young fledgling, I know how to handle a spear —  
and the powers of the Government don't reach to the Indians.

I know that the chiefs over there will give shelter to Christians,  
and they treat them as "brothers" when they go of their own accord....

Why keep on going through these alarms? Take our ponchos, and let's go.

<sup>50</sup> "La tierra ya no era ni del que la pudiera comprar ni del que la pudiera sembrar, la tierra era del que la pudiera defender" (*Desierto* 190)

plaza. All of this occurs on an *estancia*—as we find out later—that only a few months prior was a tourist ranch. This little twist strips down the Disneyfication of history, and forces to the forefront the historical underbelly of a past celebrated by the tourism industry. Here, Mairal's excavation reveals the reality hidden beneath images of an idealized past that form the central axis of an economic boom based on *gaucho* tourism.

María doesn't have time to think about these things; the locals find out about her past life as a prostitute and allow her to be carried off by bandits. From this point on, the reader enters a world of linguistic alienation similar to that which dominates Pinedo's novel. The Braucos' (the local bandits) language is a sort of Plain argot, an illiterate interpretation of Hernández's gauchesque verses. María forces us once again to consider Berger's linguistic mandate of the post-apocalypse: "At the beginning it was hard for me to understand them, until I discovered they were speaking a slurred and shortened Spanish. For example: 'Biníguach' meant *Come here, guacho* or *Come here, guacha* (they used *guacho* to address anyone and everyone). 'Bocataí nomá' meant *You stay here, right*. 'Áaaleguach' meant *That's it, guacha*. 'Bajamcá', *We're here*. 'Cate pío laguach', *It's all good, guacho*."<sup>51</sup> This is yet another incomprehensible version of post-apocalyptic language, this time marked by the *history* of gaucho speech. Their language is *other*, their reality *other* as well.<sup>52</sup> The scene of the nineteen leaders each in his own bathtub in the middle of the Plain, attended to by their harem of captives, will quickly become one of the iconic post-apocalyptic images. Again: the Argentine Pampa seems to be a curiously appropriate backdrop for the *post*. But the Braucos are not as 'other' as they seem: as a blogger points out, their cultivation of (and total dedication to) drugs, the former bus drivers among them, their

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<sup>51</sup> "Al principio me costaba entenderles, hasta que descubrí que hablaban un castellano muy cortado y cerrado. Por ejemplo: 'Biníguach' era *Vení, guacho* o *Vení guacha* (usaban el *guacho* para dirigirse a cualquiera). 'Bocataí nomá' era *Vos quedate ahí nomás*. 'Áaaleguach' era *Dale guacha*. 'Bajamcá', *Bajamos acá*. 'Cate pío laguach', *Quedate piola, guacho*" (*Desierto* 222).

<sup>52</sup> Note the inversion, this time at the syllabic level: from *gaucho* to *guacho*.

predilection for flip flops and "chor", and their tattooed bodies together betray these men as the post-apocalyptic remains of a gang of soccer hooligans (*barra brava*).

María's 'boyfriend' plans a valiant rescue that liberates her from the Brauco's misogynistic world and places her in the midst of the Ú, a pre-Columbian society. Rather: an indigenous society contemporary with the Conquest. We can attribute this knowledge to the presence of the stories of Ñuflo and his deceased companion Gonzalo. Even though these characters share the names of two well-known Conquistadores (Ñuflo de Chaves, Conquistador and Cabeza de Vaca's enemy; Gonzalo de Mendoza, founder of Asunción de Paraguay in 1537), I do not see any specific concrete connection between them, but rather a general invocation of a historical moment when men named Ñuflo et. al. wandered the American continent.

The move from the Braucos to the Ú, María's second-to-last, flows into the novel's final section: the confrontation between utopia and apocalypse. The Ú's society is either truly post-apocalyptic or completely utopic. As we have seen, this division is artificial, and instead of insisting on the contradiction, Mairal raises the stakes in a surprise that, in reality, shouldn't shock the reader who has been sketching out the inverted chronology. The Ú have developed a transitory and flexible society that appears to coincide with Marx's celebrated formula of unalienated society: hunting in the morning, fishing in the afternoon, herding cattle at night... María describes her life with them:

I stayed with them, trying to adapt. As soon as I thought I had learned their names, they corrected me. This continued until I learned that what I thought were their names were actually their vocational titles. But as the tasks rotated, each person's named changed every four days. There were no proper names; they were hunters

for four days, boat builders for four days, fisherman for four days, or tent repairers, or labourers, or firewood collectors... Thus each member assumed the name of his task, and they all rotated through every task.<sup>53</sup>

This indigenous community, for as much as they appear to be a mix of the young Marx and the European "noble savage", do not live beyond the *intemperie*. On the contrary, they live *after* the *intemperie*; and like the myth of the Inuit with dozens of names for snow, the Ú have over fifteen words for mud (*Desierto* 260). With María as interpreter, they decide to venture downstream and investigate the ruins of the Capital. It is this journey that gives rise to the novel's second-to-last image (perhaps the one that will remain burned into the reader's memory): the Garray Tower, the only building among the rubble and ruins, inhabited by the now (truly) savage company men from Suárez & Baitos. This scene represents the cumulative moment of the inversion: "All the past and

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<sup>53</sup> "Seguí viviendo con ellos, tratando de adaptarme. Cuando creía haber aprendido sus nombres, me corregían. Hasta que entendí que lo que yo había pensado que eran los nombres resultaron ser los oficios. Pero como los oficios rotaban, cada uno se llamaba de forma distinta cada cuatro días. No había nombres propios; eran cazadores cuatro días, cuatro días constructores de canoas, cuatro días pescadores, o reparadores de toldos, o labradores, o recolectores de leña... Así cada uno practicaba todos los oficios y asumía el nombre del oficio" (*Desierto* 255).

Compare with the following fragment from *The German Ideology*: "And finally, the division of labour offers us the first example of how, as long as man remains in natural society, that is, as long as a cleavage exists between the particular and the common interest, as long, therefore, as activity is not voluntarily, but naturally, divided, man's own deed becomes an alien power opposed to him, which enslaves him instead of being controlled by him. For as soon as the distribution of labour comes into being, each man has a particular, exclusive sphere of activity, which is forced upon him and from which he cannot escape. He is a hunter, a fisherman, a herdsman, or a critical critic, and must remain so if he does not want to lose his means of livelihood; while in communist society, where nobody has one exclusive sphere of activity but each can become accomplished in any branch he wishes, society regulates the general production and thus makes it possible for me to do one thing today and another tomorrow, to hunt in the morning, fish in the afternoon, rear cattle in the evening, criticise after dinner, just as I have a mind, without ever becoming hunter, fisherman, herdsman or critic. This fixation of social activity, this consolidation of what we ourselves produce into an objective power above us, growing out of our control, thwarting our expectations, bringing to naught our calculations, is one of the chief factors in historical development up till now."

all the future / Ruin atop ruin."<sup>54</sup>

The culmination, on the one hand; the continuity, on the other. The novel concludes with the image of María leaving the continent behind aboard a ship headed to Europe, the so-called Conquest in rewind. These two images, the office tower and the ship off the American coast, emphasize the connection between the two objects; the chronological inversion explodes in this juxtaposition. Time's two arrows—one linear, the other inverted—displace each other, and the result is a historical Doppler effect: a compression, on one side, and an extension, on the other, of Argentina's past and that of the American continent. And, like one of those 'thought experiments' that attempts to demonstrate the theory of relativity through images of trains and observers in motion, Mairal's narrative makes clear History's relativity. Mairal does not do this in a postmodern sense; on the contrary, he animates the past, pushes it into the present. Once the narrative is set in motion, the reader can no longer maintain his static illusion. The reader ends up passing through the entirety of Argentine history to arrive at this 'blank slate', only to see that the beginning already carried the seeds of the end. The 'clean slate' is a slate that was *wiped* clean. Tabula rasa must always be imposed from without; in this case, the eraser is a ship off of the American coast.

This is the truly post-apocalyptic content of the novel: if we invert the already inverted chronology, María's ship, this time arriving to the American coast, is the originary apocalyptic moment. The extended narrative of the Crisis ends up at the beginning of the long American history. The climax, which is also a *first moment*, becomes the apocalyptic moment. All that remains is to recognize American history as the history of the *post*. According to this formulation, all post-Discovery American fiction is *implicitly* post-apocalyptic.

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<sup>54</sup> "Todo el pasado y todo el futuro / Ruina sobre ruina." The lyrics are by Charly García; Elsa Drucaroff cites the song in her reading of the novel.

This final picture, that of a ship leaving the Garray Tower behind as it pulls away from the American coast—the only aftertaste of the American Utopia, converted into a living ruin—captures the essence of a dialectical image. The constellation of the American Apocalypse surges forth from this image, an image that has only recently (after the Crisis) become legible.<sup>55</sup> The image lies at the intersection of two axis. The vertical axis (reinforced by the verticality of the tower) moves from the concrete (the mud) to the abstract. The tower, the "altitude of the global economy" (*Desierto* 13) is now grounded in the mud, and at the precise location where we first met, in the opening pages of the novel, the protestors so reminiscent of the 2001 *cacerolazos*. The horizontal axis—the historical axis, of course—finds its expression in the vast expanses of the Pampas that have reclaimed the Capital. In this moment, the novel's localism collapses: the ship not only refers to the middle/upper class flight in the wake of the Crisis, but also the inversion of the nineteenth and twentieth century migratory waves, Buenos Aires as a contraband port and, most importantly, the ur-image of a European ship landing on American soil. Mairal's betrayal of his localism (and the historical infidelity of transporting the site of the so-called Discovery to the River Plate) is significant: it is the advent of the "now of recognizability". This time, it is not the Angel of History blown about by the winds of progress,<sup>56</sup> but rather María the non-virgin who flees from the scene of utopia's immaculate conception in a ship whose course has been inverted, her muddy body the only witness to the muck of the present.

#### **IV Ruin piled atop ruin**

In *Myth and Archive: A Theory of Latin American Narrative*, Roberto González

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<sup>55</sup> See Walter Benjamin's *The Arcades Project*, especially fragments N2a,3 and N3,1. That is not to say this is the *first*, nor the *only* moment in which this constellation has become visible.

<sup>56</sup> See Walter Benjamin's "On the Concept of History."



Echevarría offers the ambiguous concept of the Archive as the key figure for understanding Latin American literature. The Archive, most clearly represented by the scribe Melquiades' room in *One Hundred Years of Solitude*, is metaphorically constructed on top of the clearing left by Alejo Carpentier's *Los pasos perdidos*. For Echevarría, Carpentier's novel is crucial both as a *challenge to the impulse to erase the past/clear the slate*,<sup>57</sup> as well as the *foundation of the space*—precisely a clearing—from which it will be possible to narrative the Archive.<sup>58</sup>

The two post-apocalyptic novels discussed in the current chapter are strongly opposed to the paradoxical tendency to at once erase/clear *and* found, because in their status as *post* novels, they deal with *remains*. They break Echevarría's causal chain: instead of *founding*, they are concerned with continuity.<sup>59</sup> Like Walter Benjamin's angel of history, both novels travel forward with their backs turned: *Plop* moves towards the future while looking back to the past; *El año del desierto* travels back over the accumulated ruins of the past while looking towards the future. But both texts equally resist the foundational command. In fact, each text in its own way highlights

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<sup>57</sup> "Thus *Los pasos perdidos* dismantles the central enabling delusion of Latin American writing: the notion that in the New World a new start can be made, unfettered by history [...] For instead of being relieved of history's freight, the narrator-protagonist discovers that he is burdened by the memory of the repeated attempts to discover or found the newness of the New World" (*Myth and Archive* 4).

<sup>58</sup> "His own story is the only one that he can authenticate, that is, his story about looking for stories, telling past stories, repeating their form [...] But in the writing of the novel a clearing has been reached, a metafictional space, a razing that becomes a starting point for the new Latin American narrative; the clearing for the building of Comala, Macondo, Coronel Vallejos, for the founding of the imaginary city containing all previous forms of Latin American narrative as well as the origins of the novel; a space for the Archive" (*Myth and Archive* 17).

<sup>59</sup> It would be interesting to read *El año del desierto* with/against *One Hundred Years of Solitude*—a task that the similarities between the two titles almost imposes on the careful reader—above all if one takes Roberto González Echevarría's now canonical reading as a starting point. For instance, Mairal's striking localism (a characteristic that confirms his position of Oesterheld/Solano López's heir) contrasts with García Márquez's temporal and spatial ambiguity (Echevarría says: "Set against the global, totalizing thrust of the novel are these historical details which, without being specific, are nonetheless true in a general sense"; *Myth and Archive* 20); the young female protagonist María against the old sage Melquiades, etc.

the destructive possibilities implicit within that clearing impulse. Far from creating a "clearing in the jungle" from which it will be possible to construct a Latin American narrative, both post-apocalyptic novels show us that the clearing itself is a wasteland (and, in Mairal's case, connected explicitly to the 2001 political/economic crisis).

These two post-apocalyptic (and post 2001) novels do not pretend to erase anything; they neither search for nor attempt to make a clearing in the jungle. On the contrary: they pause to contemplate the actual wastelands, and in that space they find nothing more than the accumulated muck of an entire history. They would like break with the present—is there a more decisive break than an Apocalypse?—but that is an absolute impossibility. The ship returns to Europe, but this time María replaces Pedro Mártir, and she will not tell tales of some "good place over there", but rather stories of a failure. That is, if there is any language left with which to narrate anything at all. Are we not already speaking a post-apocalyptic language? In that case, does Rafael Pinedo represent the culmination of the American idiom? And fiction, nothing more than so many words to name the muck of the present.



## CHAPTER 2

### UTOPIAN EMERGENCE AND THE MYTH OF AN AMERICAN BLANK SLATE

"The latter end of his commonwealth forgets the beginning" *The Tempest* Act II scene i

This chapter investigates the relationship between utopia and America on two levels. First, it considers the physical location of the imaginary island in Book II of Thomas More's *Utopia* (1516), and it reviews critical claims about the role the so-called discovery of America played in the genesis of More's text. This includes considerations of Michel de Montaigne, Eziquel Martínez Estrada, and Louis Marin, among others. It then considers the broader implications of the connection between the concept of utopia and the American continent. This includes such issues as America as blank slate and Edmundo O'Gorman's "invention of America." Ultimately, the chapter focuses on the material aspect of utopia, and it poses the question: if we think of utopia not only as a commonwealth but also as a "commons," how do we account for the conquest and colonialism at the very heart of the concept?

#### **I Noble Savages, Forgotten Beginnings**

Where exactly is America in Thomas More's *Utopia*? The continent itself seems to disappear in the text, and that disappearance runs through much of the later critical writing about both *Utopia* and the utopian concept. This vanishing act seems rather strange, given that Book I of *Utopia* is so concerned with the process of English enclosure and of the disappearance of common land in the service of the growing British wool trade. Yet when the reader arrives at Book II—Raphael Hythlodæus' description of the perfect island kingdom called Utopia, so different in every way

from the savage, brutal England portrayed in Book I—we hear very little about the history of the land itself, other than a brief account of King Utopos' trench-building project that separated the island from the mainland and inaugurated the Utopian Commonwealth, and a nebulous reference to Amerigo Vespucci's later American voyages. Could it be, as Shakespeare says of another indeterminate island, that "The latter end of his commonwealth forgets the beginning?"

Shakespeare, too, concealed his sources. *The Tempest* (c. 1610) draws heavily from Michel de Montaigne's essay "On Cannibals" (1580), among other early New World sources. The act of "forgetting the beginning" could be called the foundational utopian gesture. The problem, then, is structural. Thus the question: what is utopia's beginning, its former forgotten end? If we linger a bit over Shakespeare's "American source," we see that Michel de Montaigne's writings on the American continent themselves exhibit a curious utopian conjugation. Montaigne wrote "On Cannibals" and "On Coaches" over fifty years after Thomas More's *Utopia*, and the Frenchman benefited from a richer store of American sources (both Montaigne's acquaintance/informant who lived ten years in Brazil and Gómora's written account of the conquest, for instance).<sup>60</sup> Montaigne adds a complicated temporality—absent in More's *Utopia*—to his use of America. Montaigne indeed takes a page from *Utopia* in holding up the "lately discovered" continent as a mirror that reveals European barbarity: in the much cited passage from "On Cannibals," Montaigne asks what is a victor's snack of human flesh after a ceremonial battle compared to the horrors of Europe's religious wars?<sup>61</sup> Yet Montaigne supplements this critique of European practices with pity for the

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<sup>60</sup> For more on Montaigne's sources, see *The Cambridge Companion to Montaigne*, Ed. Ullrich Langer.

<sup>61</sup> "I am not so anxious that we should note the horrible savagery of these acts as concerned that, whilst judging their faults to correctly, we should be so blind to our own. I consider it more barbarous to eat a man alive than to eat him dead; to tear by rack and torture a body still full of feeling, to roast it by degrees, and then give it to be trampled and eaten by dogs and swine—a practice which we have not only read about but seen within recent memory, not between ancient

Amerindians' plight, and, furthermore, he conjugates this pity with nostalgia for the "Golden Age" of European empire. What if, he asks, Alexander the Great or some just and wise Roman emperor had landed upon American soil?

Why did not so noble a conquest fall to Alexander, or to the ancient Greeks and Romans! Why did not this vast change and transformation of so many empires and peoples fall to the lot of men who would have gently refined and cleared away all that was barbarous, and stimulated and strengthened the good seeds that nature had sown there, not only applying to the cultivation of the land and the adornment of cities the arts of this hemisphere, in so far as they were necessary, but also blending the Greek and Roman virtues with those native to the country? ("On Vehicles" 278-9).

Montaigne's dream of a 'gentle blending' presupposes a prior judgment of the component parts to be blended. His utopian hybrid—if we may call it that—substitutes Alexander the Great for Hernando Cortés; this move does the rhetorical work of replacing the "Black Legend" of sixteenth century Spanish conquest with the celebrated vision of Alexander, the just conqueror of Eurasian antiquity. As for conquest, so for philosophy. Montaigne poses a dream of gentle philosophical blending to complement his dream of gentle imperial blending: What if Plato, instead of his imaginary Republic or his lost Atlantis, had received news of the New World?

They are in such a state of purity that it sometimes saddens me to think we did not learn of them earlier, at a time when there were men who were better able to appreciate them than we. I am sorry that Lycurgus and Plato did not know them,

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enemies, but between neighbours and fellow-citizens and, what is worse, under the cloak of piety and religion—than to roast and eat a man after he is dead" ("On Cannibals" 113). Greenblatt reminds us of the delicate nature of European references to American cannibalism in the light of the status of the Catholic mass in the wake of the Reformation. See *Marvelous Possessions* 136.

for I think that what we have seen of these people with our own eyes surpasses not only the pictures with which poets have illustrated the golden age, and all their attempts to draw mankind in the state of happiness, but the ideas and the very aspirations of philosophers as well. They could not imagine an innocence as pure and simple as we have actually seen; nor could they believe that our society might be maintained with so little artificiality and human organization. ("On Cannibals" 109-110)

Montaigne's utopia thus consists of *two* idealized states: the European past and the American present. The European past has degenerated, both politically and philosophically, so as to represent a cruel mockery of its own tradition. Yet the European degeneration has not actually and contemporarily returned Europe to a *state of nature*, for Europe itself has discovered this actually-existing natural state in the New World. Europe's lost Golden Age thus meets the actually-existing state of nature in sixteenth century America. This may be one of the purest expressions of the two competing utopian impulses: the temporal and the spatial. Most utopias take one approach or the other—Hesiod's Golden Age, so beautifully parodied by Cervantes in *Don Quijote*, exists in a lost temporality; More's island exists, his characters claim, in some spatially distant locale within a moment contemporary with Europe's temporality. Montaigne's originality is that he combines the temporal and the spatial by asking: what if, back then, *those people* (Plato et. al.) had gone over *there* (i.e. to America)?

This complicates the traditional Golden Age myth, for the American present is not presented as the European past ("they *are* as we *were*"); rather, it is the European past itself that has been betrayed by the European present ("we no longer are as we once could have been"). America is *other*, and contemporary Europe is not fit for the encounter, and thus behaves with

barbarous cruelty. We might call this the utopian temporality of the noble savage: if only Europe's Golden Age (of empire and philosophy) had been present to meet the Golden Age of human innocence embodied by the New World. A Golden Age confronting newfound innocence: this was Montaigne's utopia. America does not disappear; instead, he gives us the American noble savage. It is only Europe's golden past that is capable of encountering American innocence; conversely, it is only the Amerindians who resemble Socrates in their comportment during battle. Early in Montaigne's meandering "On Vehicles," the author gives an approving account of Socrates' behavior during a military defeat. In an essay otherwise filled with harsh judgment and liberal condemnation, Montaigne sketches a scene of Amerindian behavior that closely resembles Socrates' noble and praiseworthy performance, and the author acclaims "their noble persistence in withstanding every ordeal and hardship, even death, rather than submit to the domination of the men who had so shamefully deceived them" ("On Vehicles" 278). The essay's final image—the Inca's subjects rushing to replace the fallen litter-bearers so the Inca is not disturbed in his throne during the slaughter—crystallizes the essay's main concerns: just and wise leadership, valor in the face of defeat, spectacle and war, and, strangely enough, vehicles in military campaigns.

Of course, what is missing from Montaigne's account of the "state of nature" is a detailed description of *property relations*. And this is the feature that becomes perhaps *the* defining characteristic—at least for the later European political philosophers of the Enlightenment—of the Golden Age myth. Montaigne *mentions* the lack of private property in his catalogue of this actually-existing American Golden Age, but it is not his concern. His focus is on the juxtaposition of European savagery and "savage" civility; he does not focus on the *origins* of conflict. Here, then, is our paradox. As we will see below, Thomas More, in his critique of enclosure, erases the Amerindian and his land; Michel de Montaigne, in his critique of cruelty and barbarism, paints us



a noble savage yet ignores the question of land and conquest. To ask of utopia the *American question* is to overlay these two blind spots: it is the question of the American continent as material place.

## II Conquering America, Opening the European Mind

To answer that question, we must return to a curious temporal coincidence. Speculation regarding a lost Golden Age preoccupied many thinkers of Greek antiquity. Plato, in his *Republic* (c. 380 BC), elaborated a perfectly ruled society, beginning from what he posited as an unrealistic yet necessary blank slate. In fact, Plato demands such a *tabula rasa* as a necessary condition for political philosophy:

They'd [the philosopher-rulers] take the city and the characters of human beings as their sketching slate, but first they'd wipe it clean—which isn't at all an easy thing to do. And you should know that this is the plain difference between them and others, namely, that they refuse to take either an individual or a city in hand or to write laws, unless they receive a clean slate or are allowed to clean it themselves (*Republic* 501a).

Among the Church Fathers, St. Augustine of Hippo tried to conjugate the infinite divide between the city of God and that of man (c. 420). Yet these imaginings of perfect worlds existed either in lost pasts or eschatological futures. It is only at the beginning of the European sixteenth century that **utopia**—both as a concept and as a place—arrives on the scene. Thomas More publishes the book that lends the genre its name in 1516, *De optimo reipublicae statu deque nova insula Utopia libellus vere aureus, nec minus salutaris quam festivus, clarissimi disertissimique viri Thomae Mori inclytæ civitatis Londinensis civis & Vicecomitis*, better known as *Utopia*. Much has been

made of More's debt to Plato;<sup>62</sup> far less of Amerigo Vespucci's crucial cameo in the text. And thus the temporal coincidence: More's *Utopia* expands Europe's vocabulary—albeit by one word—during the exact same period that New World travel narratives were expanding European maps of the world.<sup>63</sup>

Most scholars recognize the European Conquest of the Americas as a central event in the development of Western philosophy, cartography, theology and politics.<sup>64</sup> The T/O map—and all of its theological baggage—is thrown out of the window, and Europe makes a definitive step

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<sup>62</sup>This debt is not something More shies away from; in fact, he confronts it head on. Paul Turner's verse translation of the poetic front-matter sets the stakes (translation slightly modified):

Outopia was once my name,

That is, a place where no one goes.

Plato's *Republic* now I claim

To match, or beat at its own game; For that was just a myth in prose,

But what he wrote of, I became,

Of men, wealth, laws a solid frame, A place where every wise man goes:

Eutopia is now my name.

On More's debt to Plato, see Surtz's "Sources, Parallels, and Influences" in the Yale Edition of *Utopia*.

<sup>63</sup> See, for instance, J.H. Elliot's discussion of the transposition of a temporal Golden Age to the geographical Utopia: "The process of transposition began from the very moment that Columbus first set eyes on the Caribbean Islands. The various connotations of paradise and the Golden Age were present from the first. Innocence, simplicity, fertility and abundance—all of them qualities for which Renaissance Europe hankered, and which seemed so unattainable—made their appearance in the reports of Columbus and Vespucci, and were eagerly seized upon by their enthusiastic readers. In particular, they struck an answering chord in two worlds, the religious and the humanist. Despairing of the corruption of Europe and its ways, it was natural that certain members of the religious orders should have seen an opportunity for reestablishing the primitive church of the apostle in a New World as yet uncorrupted by European vices. In the revivalist and apocalyptic tradition of the friars, the twin themes of the new world and the end of the world harmoniously blended in the great task of evangelizing the uncounted millions who know nothing of the Faith" (Elliot 25).

<sup>64</sup> As will become apparent below, the term "discovery," when applied to Columbus' first westward voyage, is of little intellectual value; for the sake of convenience, I will use the term "conquest" to refer to the early contact between European and American peoples; this period roughly stretches from Columbus' October 1492 landing in the Caribbean to the 1572 execution of Tupac Amaru, and includes the fall of Tenochtitlan in 1521; although indigenous resistance to European rule continued well after these events (and struggles for indigenous autonomy in the Americas continue to this day). Needless to say, the "American continent" includes what we today call North, Central and South America.

away from the "closed world" and towards the "infinite universe."<sup>65</sup> Yet what looks like a decisive break to the modern observer was, in fact, a slow, painful and violent struggle over how to square new (and previously unthinkable) empirical observations with classical and theological authority. In this sense, reading More's text as a negotiation between Plato and Vespucci (or, more accurately, inherited authority and modern experience) is more in line with the intellectual climate which produced the work.<sup>66</sup>

With this dialectical understanding of the role of the conquest of the Americas in mind, I would like to turn to the aforementioned temporal coincidence, although it should be clear by now that these two events—the conquest of the Americas and the publication of *Utopia*—are actually far from coincidental. In fact, as we will see, one could make the case of a causal relationship between the two. I propose to examine the often-ignored relationship between the American continent and the concept of utopia, not to argue in favor of some ultimate American source for More's satirical little book, but rather to explore exactly what role America serves in More's text and, more importantly, to reveal the continent's hidden presence. Ultimately, in investigating the *land* behind utopia's non-place, we will come closer to the universal core of the utopian impulse: the concept of the *commons*.

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<sup>65</sup> The T/O Map is the visual depiction of Isidore of Seville's description of the physical world from the *Etymologiae*. See Alexandre Koyré, *From the Closed World to the Infinite Universe*.

<sup>66</sup> Anthony Grafton, in his *New Worlds, Ancient Texts*, warns us about adopting a simplistic vision of the clash between authority and observation: "A revolution in the forms of knowledge and expression took place in early modern Europe. But it resulted as much from contradictions between and tensions within the texts as from their confrontation with external novelties. The ancient texts served as both tools and obstacles for the intellectual exploration of new worlds. These remained vital—and defined authors' representations and explanations of what they found as Europe moved out to West and East—until well into the seventeenth century" (Grafton 6-7); and later, "The discoveries provided a clinching piece of evidence to those who wished to argue for a new vision of history, for the superiority of modern to ancient culture. But the substance of that vision, ironically enough, often came from the very ancient writers whose supremacy it denied" (Grafton 157).

### III America as "spur"

In the near 30-page "Sources, Parallels, and Influences" section of Edward Surtz's introduction to the definitive Yale edition of *Utopia*, the New World is mentioned in one paragraph. Surtz cites two sources—one certain, one probable—and a theory he deems "possible but hardly probable" (Yale clxxix). These are, respectively: Vespucci's *Quatuor nauigationes* (certain because Vespucci himself is mentioned in More's text); Pietro Martire d'Anghiera's early *Decades* (all of which would be collected—well after the publication of *Utopia*—in *De orbe novo*); and H. Stanley Jevons' theory (expanded on by others, including A.E. Morgan) that accounts of Incan socialism had traveled through Panama back to Europe and inspired More.

That is to say: there is no doubt that America played a role in the gestation of *Utopia*, but there is little scholarly interest in the extent of this role.<sup>67</sup> In a certain sense, this lack of interest is understandable. More's fundamental contribution to the genre is the very *name* he gives it, and the wonderful ambiguity entailed within. No longer are we stuck in the "no longer" of the Golden Age; More gives us place and non-place; a different *now* that could be Europe's future. I refer, of course, to the Renaissance humanist's greatest pun. Utopia: ou-topos and eu-topos; no- place and

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<sup>67</sup> Like the erasure of the American continent in *Utopia*, the erasure of American knowledge, especially during the first rumblings of scientific rationality, was commonplace in Europe. In *Measuring the New World*, Neil Safier comments: "As narratives of overseas exploration proliferated, an impressive array of seeds, saplings, and other specimens flooded into European repositories, which included the burgeoning public spaces of museums, curiosity cabinets, and botanical gardens. Naturalists and collectors had to filter, separate, and package these materials; compilers and editors in turn had to 'reduce' the descriptions to their utmost 'simplicity' by trimming what was seen as extraneous or useless information for the printed books and dictionaries of nature they were producing. These two impulses of accumulation and abridgement reflected two extremes of Enlightenment knowledge production. Exploration and observation beyond European shores allowed for the 'emergence' of a 'new world' from the pens of heroic travelers, in the words of Rousseau, while editorial practices made possible the 'erasure' or diminution of that same knowledge in order to control what Chartier calls 'the accumulated discourses' of European philosophy" (*Measuring* 12).

good-place.<sup>68</sup> The best of all possible places (eu) that does not exist (ou). If we insist on America, we do violence to the very non-place of the pun. Yet do we not do an equal violence to America if we insist on the sacred status of a pun?

But More himself seems in on the joke. In the series of letters that open More's text, we get the definitive (non)account of the island's location. Peter Giles describes Raphael Hythlodæus' discourse (the description of the island and its society that comprises Book II of *Utopia*) to Jerome Busleyden, where Giles lets it be known:

By the way, More's a bit worried because he doesn't know the exact position of the island. As a matter of fact Raphael did mention it, but only very briefly and incidentally, as though he meant to return to the question later—and, for some unknown reason, we were both fated to miss it. You see, just as Raphael was touching on the subject, a servant came up to More and whispered something in his ear. And although this made me listen with even greater attention, at the critical moment one of his colleagues started coughing rather loudly—I suppose he'd caught cold on the boat—so that the rest of Raphael's sentence was completely inaudible. (12; Yale 22/23)<sup>69</sup>

With that simple cough, More, Giles and the rest absolve themselves from their cartographic

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<sup>68</sup> Louis Marin masterfully demonstrates the wordplay: "Outopia-Eutopia: I would like to indulge in these terms. If on the way a number of allegories arise, consider them as part of our game. The no—the negation—inscribed within the name is *also* the most transcendent of values, the Good, because of the transparent inscription of an epsilon over an omicron. The name on the page's white space, here inaugurating the modern world, initially and simultaneously writes the monogram of nothingness and that lying beyond all being, or nothingness and of the good, of the good within nothingness" (Marin, *Utopics* xvi).

<sup>69</sup> Throughout I will quote from Paul Turner's supremely readable translation (Penguin Classics, 1965/2003) and give the corresponding page reference to the definitive, bilingual Yale edition of *Utopia*. The even page number refers to the Latin original and the odd number refers to the English translation based on G.C. Richards' 1923 version.

responsibility. Less the public remain unsatisfied with the account, Giles continues:

You may wonder why no reference to Utopia appears in any geographical work, but this problem has been very neatly solved by Raphael himself. He says it's quite possible that the ancients knew of the island under another name, or else that they never heard of it at all—for nowadays countries are always being discovered which were never mentioned in the old geography books. (12-13; Yale 24/25)

The "old geography books" are, of course, not *books* but *a book*: Ptolemy's geography (and Isidore of Seville's subsequent Christianization of Ptolemy that gave birth to the T/O map, Medieval Europe's ingenious articulation of Noah's three sons and the three known continents). Here we have a direct reference to the American continent—under the rubric of "discovery"—and it is precisely this empirical "discovery" that allows More and Giles to dismiss any worry over the exact location of Hythlodæus' perfect island as slavish deference to outmoded authority.

Although More-the-character does not mention the infamous cough, he does confirm the general uncertainty regarding the island's location; in a letter to Giles, More admits, "We never thought of asking, and he never thought of telling us whereabouts in the New World Utopia is" (9; Yale 42/3). Note again the simultaneous affirmation of America (the New World) and its dismissal (we never thought of asking). In this same letter, More sets up a comparative logic with regard to the detail, realism and accuracy of Hythlodæus' account. Immediately before More confesses his ignorance of the island's location, he also worries over the exact length of a bridge on that same island. His companions seem to disagree about the precise length, and More "shall rather tell an objective falsehood than an intentional lie—for I would rather be honest than wise" (Yale 40/41). In other words, this preoccupation with a trifling slip-up points to the larger lacuna, yet the narrative itself sets these two details on equivalent planes, as if the width of a bridge and

the actual location of the island were questions of the same magnitude. More's rhetorical prestidigitation has been extraordinarily successful over the centuries, and those who worry over the exact location of a self-confessed *non-place* find themselves grouped with sticklers who battle over the span of an imaginary bridge.

At the risk of absurdity, I will compile the evidence that More's *non-place* is in fact located off of the American coast. That is to say: within the fictional framework of *Utopia*, More and his co-conspirators indubitably sought at once to *mask* the imaginary island's true location and to *reveal* its general whereabouts as 'somewhere over there in the New World.' Beyond the references made in the introductory letters (as examined above) and the overriding fact that Hythlodæus accompanied Vespucci on several of the navigator's American journeys, there are two more punctual passages that highlight Utopia's New World location.<sup>70</sup>

The Old World/New World division that structures the two-part text first surfaces with Hythlodæus' introduction; this division is alternately coded "new nations/old nations" and "this hemisphere/that hemisphere."<sup>71</sup> It then resurfaces in what must be the first instances of the crutch of all mediocre sci-fi writers: the one-time technology transfer. Hythlodæus tells of a mythical shipwreck from the deep past of the island's history, from which the Utopians derived all of the European and Asian technology that was lacking on the American continent.

According to their records, they'd had no contact whatsoever with Transequatorials, as they call us, until we landed there—except on one occasion, twelve hundred years ago, when a ship was driven off its course in a storm, and wrecked on the coast of Utopia. A few survivors managed to swim ashore,

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<sup>70</sup> Beyond the two following examples, there are at least three other passing mentions of the New World in the text: Yale p. 14, l.18; Yale p. 30, ll. 11-14; and Yale p. 106, ll. 19-20.

<sup>71</sup> Turner's translation directly says Old World and the New (19); see Yale 54/55.

including some Romans and Egyptians, who settled there for good. [...] There wasn't a single useful technique practised anywhere in the Roman Empire that they didn't either learn from these survivors, or else work out for themselves, once they'd been given the first clue. They got all that from just one contact with our hemisphere (46; Yale 108/109).

This tidy explanation *excludes* the East (both near and far) as a possible site for Utopia's location, since the Utopian's lack of contact with the rest of the world must have been *total* (save this one exception). Furthermore, the very necessity of a "one time only" transfer tacitly acknowledges the American continent's lack of technology, as reported by the early European explorers.

#### **IV Foreclosing**

The debate over the proper amount of influence to concede Vespucci or Martyr's work (or some other, possibly apocryphal source on America) has bothered some More scholars to the extent that they would deny any American connection; the two extreme positions—on the one hand, More based *Utopia* on a pre-Pizarro account of Inca communism; on the other, although More mentions Vespucci by name, the news of the New World had little noticeable influence on *Utopia*—seem equally improbable.<sup>72</sup> More importantly, both miss More's sleight of hand: it is not that More based each and every aspect of the Utopians on some tale of New World noble savages; rather, it is precisely this inspiring/disappearing function the American continent plays that is of interest. In 1516 Europe, America is, *literally*, utopia: the blank slate upon which More—and Europe—can project its dreams. Thus we face the more pressing question: if Utopia is indeed a

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<sup>72</sup> For an example of each of the two extremes, see Arthur E. Morgan, *Nowhere was Somewhere: How History Makes Utopias and How Utopias Make History* and Alfred A. Cave's "Thomas More and the New World," respectively.



non-place, what does it mean that this non-place is literally superimposed over an existing land-mass?<sup>73</sup>

I would like to consider two very different ways of dealing with this question, as represented by two key twentieth-century thinkers of Utopia's American connection. Eziqel Martínez Estrada, Argentine writer and director of the Center for Latin American Studies at the *Casa de las Américas* in post-revolutionary Cuba, directly confronts the issue in his 1963 article "El Nuevo Mundo, la Isla de Utopía y la Isla de Cuba." Martínez Estrada seeks to reassert the centrality of the American continent for More's text. He does so through an exhaustive side-by-side comparison between the early texts (c. 1511) of Peter Martyr's *Decades* with *Utopia*, with the objective of confirming More's unacknowledged source. Yet, in the post-revolutionary fervor of 1963 Havana, Martínez Estrada goes one step further: not only is *Utopia* based on this early description of America, but the island of Utopia itself *is* Cuba: "This part [of Martyr's *Decades*], the only part published before 1516 (the year of the first edition of *Utopia*) is, indubitably, that which inspired More's famous book. Utopia is Cuba."<sup>74</sup> For the idea that Martyr may be an unacknowledged source, Martínez Estrada makes a convincing argument. That *Utopia is* Cuba, less so. Martínez Estrada's quick move to elevate the Cuban Revolution as the secular Revelation of More's sacred text actually undermines the scholar's tireless work:

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<sup>73</sup> This question has guided thinkers as diverse as Edmundo O'Gorman and J.H. Elliot. For O'Gorman's thought, see below. Elliot says of More: "As Sir Thomas More had already shown, the overseas discoveries could be used to suggest fundamental questions about the values and the standards of a civilization which was perhaps beyond reform. But by treating the New World in this way, the humanists *were closing the door to understanding an alien civilization*. [...] The dream was a European dream, which had little to do with the American reality. As that reality came to impinge at an increasing number of points, so the dream began to fade" (Elliot 26-7, my emphasis).

<sup>74</sup> "Esta parte de la obra, la única que se publicó antes de 1516 (año de la primera edición de la *Utopía*) es, indudablemente, la que inspiró a Moro su libro famoso. Utopía es Cuba" (Martínez Estrada 94).

Whether it be in messianic and prophetic, or in logical and deductive terms, Utopia effectively presents a prognosis of the natural development of the American historical process. It is not, in effect, a prophecy, but rather an anticipated vision, a "revelation" or apocalypse, like those experienced in portentous dreams or from a subliminal intuition of history's underlying biology.<sup>75</sup>

We must not let Martínez Estrada's hyperbole detract from the persuasive primary-source work that argues More's familiarity with Martyr's early New World correspondence. What is key to realize is Martínez Estrada's insistence on the American continent: beyond dubious claims that More was preparing a socialist manifest destiny, we have here an attempt to reveal the American scaffolding that supports the supposed non-place.<sup>76</sup>

Louis Marin is also familiar with this American scaffolding. The capstone essay of his 1973 *Utopics*, "Disneyland: Utopic Degeneration," unfolds a devilishly insightful reading of that paragon of ideological spaces. Marin reads the map of Disneyland—and the visitor's tour of the park—as if it were a utopian narrative. This allows Marin to advance his thesis that utopia is an ideological critique of ideology, only Disneyland represents the point at which utopia, made real, begins to degenerate. Disneyland is a *real* utopic space: a non-place that actually exists in time (present) and space (Anaheim). But utopia degenerates, it loses its *critical* strength and becomes a

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<sup>75</sup> "*Utopía* contiene, efectivamente, sea en forma mesiánica y profética o lógica y deductiva, una prognosis del desarrollo natural del proceso histórico americano. [...] No es, en efecto, una profecía, la de Moro, sino una visión anticipada, una 'revelación' o apocalipsis, como en los sueños premonitorios o de la intuición subliminal de las biológicas de la historia" (Martínez Estrada 114-5; all translations my own).

<sup>76</sup> Recently, Stelio Cro has returned to the More-Martyr connection, in a less ideologically-charged (and, regrettably, less textually rigorous) frame. Cro's recent article does not make as definitive a case for the *Decades* as source (in fact, his assertion that the character of Giles is based on Martyr's descriptions of peaceful Amerindians seems downright flimsy), but he makes a gesture towards that possibility. See "More, Erasmus, Vives and Peter Martyr: an Updated Comparison."

re-presentation of a collective fantasy (*Utopics* 239-40). Nowhere is this more true than in Frontierland, where the reality of North American westward expansion experiences a double displacement: first, from a history of genocide, prospecting, and battles over slave states to "how the West was won"; then, from "how the West was won" to "how the West was FUN!"

Yet Marin does not maintain this eye for the American continent throughout his opus. As opposed to Martínez Estrada, who misplaces the non-place through enthusiasm, Marin misplaces the non-place through omission. In one of his Greimas squares he situates More's Utopia between "the New World" and "Ceylon/Calicut." The passage to which he refers is obvious; it is a description of Hythlodæus' travels after leaving the island of Utopia, where the Portuguese wanderer "turned up in Ceylon [...] from there he made his way to Calicut, where he was fortunate enough to find some Portuguese ships, and so, quite unexpectedly, got a passage home" (17; Yale 50/51). Although this triangulation of Old Empire/New World/Old Colonies is indeed interesting, it is not pertinent to the island's location. The island itself is not mentioned in that particular itinerary; furthermore, on every other occasion when the island's nebulous location *is* mentioned, it is exclusively in the context of the New World (as demonstrated above). Marin invests too much in the *travel narrative*, since for him this implies a *circuit* and a *return* (a *closed series*); this in turn leads him to overemphasize Portugal, Ceylon and Calcutta while underemphasizing America in his account.<sup>77</sup>

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<sup>77</sup> Marin's is not the only instance of misplacing the non-place. Marie Louise Berneri makes the same error in her 1950 *Journey through Utopia*, where she says: "The island of Utopia was supposed to have been discovered somewhere between Brazil and India" (Berneri 59). Perhaps this oversight in imaginary geography can be tied to her dismissive attitude towards the American continent itself; she argues "As has often been pointed out, the discovery of the New World gave a new impetus to utopian thought, but it played only a secondary role, and one can safely assume that had More never read Vespucci's travels he would have imagined an ideal commonwealth in a different setting, like Campanella or Andreae who did not bother to consult travel books before they described their ideal cities. The main impetus came from the need to replace the associations,

Marin's under-emphasis of America metastasizes into a peculiar sort of negation in his later essay "Frontiers of Utopia: Past and Present." Beginning from a reflection on two contrasting images of the Sears Tower in Chicago, Marin develops two overlapping visions of utopia, variously named horizon and frontier; limit and expansion; free play and closed totality. In continuing with his interest in the *neutrality* of utopia, he proposes that in the gap between these two visions lies "the epistemological site of the utopian fiction" (Marin, "Frontiers" 402 fn 14). That site, in turn, situates the utopian subject in a neutral relationship (Marin, "Frontiers" 404).

The problem with Marin's "neutrality" is that when he locates the utopian subject in the indeterminate space of the neutral relationship, he implicitly defers the question of America's status. Marin intuitively understands this: he states that More's utopian moment joins both the birth and death of modernity.<sup>78</sup> Yet that very formulation—*Utopia* as the simultaneous foundation and exhaustion of modernity—restricts the concept of utopia to/for European modernity. Thus, for Marin, the conquest of the Americas becomes nothing more than an analogy to describe the global situation post-1989: the unenclosed wasteland after the demise of the USSR mimics the New World in that a new opening suggests a new horizon.

Utopia, for Marin, names this neutral space that arises on the horizon, but in *neutralizing* utopia, Marin in fact *erases* America. This contradicts Marin's previous arguments, where he has stated that utopian neutrality is "a distance or a gap that does not allow any affirmation or negation to be asserted as a truth or a falsehood" (Marin, "Frontiers" 411); but this *does* negate the

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and the philosophical and religious systems of the Middle Ages, with new ones" (Berneri 56-7). Of course, she does not explain *why* that need to replace old systems was so pressing. Perhaps it had to do with new empirical geographical evidence that contradicted scholastic authority? Berneri's error is repeated by later scholars, for instance, Porter and Lukermann, who cite her in their 1976 article "The Geography of Utopia."

<sup>78</sup> "Modernity could be characterized by the remarkable conjunction of its birth and its death. From this point of view, the poignant melancholic overtones of More's *Utopia* cannot be underestimated" (Marin, "Frontiers" 405 fn 21).

*topos* and the history of America itself! When Marin concludes, in 1993 "precisely at this moment it is worthwhile to recall the fiction of an island appearing at the dawn of a period for which the present time would be the twilight" (Marin, "Frontiers" 412), we must add: that island can only be recalled in its *historical plenitude*; in *this* sense and this sense only—the historical fullness that returns the truth of conquest to the myth of discovery, the reality of enclosure to the phenomenon of American emergence, territorial appropriation to the continent's vacant appearance—does the founding anticipate the end. Not through Martínez Estrada's revealed destiny, nor Marin's neutrality, but through *something else*. Marin comes close to naming this *other thing* when he proposes the collapse of the Soviet Union (understood as a communist utopia) as the force that shifts our cognitive map, as it were, *from* two "edges" buffered by a neutral zone *to* a frayed zone that negatively affirms the need for limits (enclosure):

It is becoming a fringe structure that consists on the one side in a well-determined edge and on the other side in an edge fraying so as to become a chaos of frontiers that do not limit anything but manifest an obscure need for having frontiers, for making closures, linguistic, racial, nationalistic, economic 'enclosures' like those that are denounced in the first book of *Utopia*, made by the sheep breeders, that gave birth to the urban crowd of unemployed staring people, future criminals fearing neither God nor men, people precisely without frontiers (Marin, "Frontiers" 410-11).

It is here—with the notion of *enclosure*—that things begin to collapse, and the Old World/New World division that structures More's text itself reveals a very interesting operation. For there are hidden enclosures in *Utopia*, and this "obscure need for having frontiers" becomes most visible in the trench that separates the island from the American mainland. Of course, this 'will to enclose' is

not limited to Marin's post-Cold War context; enclosure and possession were some of the most important issues during the first generations of Spanish contact with the America.

In fact, More's move—that of at once *acknowledging* and *erasing* America—was anticipated by Columbus himself. Stephen Greenblatt, in his study of possession and wonder in the New World, focuses on Columbus' formalism in his initial act of appropriation of America and the subsequent juridical and theological controversy.<sup>79</sup> Through a series of formal linguistic acts—declaring, witnessing, naming, recording—Columbus takes possession of the New World.<sup>80</sup> Columbus' declarative statement "And I was not contradicted," is the crux of the matter for Greenblatt: "It enables him [...] to stage a legal ritual that depends upon the formal possibility of contradiction without actually permitting such contradiction; that is, it enables him to empty out

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<sup>79</sup> See *Marvelous Possessions: The Wonder of the New World*, especially Chapter III, "Marvelous Possessions." Greenblatt's new historicist methodology is not without problems. For instance, Greenblatt acknowledges that by relying exclusively on post-contact European or *mestizo* sources, he falls into a 'representational blind spot' that denies him access to authentic Amerindian self-representation ("I have resisted as much as I can the temptation to speak for or about the native cultures as if the mediation of European representations were an incidental consideration, easily corrected for" [Greenblatt, *Marvelous* 7]). Yet this caveat actually ends up reconfirming the continent's status as a blank screen for European projection. Since the problem cannot be "easily corrected for," Greenblatt simply ignores it and proceeds to study exclusively what European representations of the New World tells us about European practices of representation.

<sup>80</sup> Columbus' *formalism* works to empty out the inhabited American landscape and clear the way for European possession (appropriation would not be a fitting term, since the entire act is premised upon the New World's uninhabited state): "We might say that Columbus's formalism tries to make the new lands uninhabited—*terrae nullius*—by emptying out the category of the other. [...] The ritual of possession, though it is apparently directed toward the natives, has its full meaning then in relation to other European powers when they come to hear of the discovery. It is as if from the instant of landfall Columbus imagines that everything he sees is already the possession of one of the monarchies he has offered to serve—Portuguese, English, Spanish—and he proceeds to establish the correct claim by the proper formal speech act. [...] Formalism then has the virtue of at once inviting and precluding contradiction both in the present and in the future: 'Speak now or forever hold your peace.' [...] It is one of the principal powers of narrative to gesture toward what is not in fact expressed, to create the illusion of presences that are in reality absent. For this reason, the formal acknowledgment of beings who are at the same time rendered silent is less discordant in Columbus's narrative, less obviously anomalous, than it is in juridical or theological discourse where it soon provoked eloquent and sustained protest" (Greenblatt, *Marvelous* 59-61).

the existence of the natives, while at the same time officially acknowledging that they exist" (Greenblatt, *Marvelous* 65). This process, which Greenblatt names "ideological forgetting," allows the practical European enclosure of the American continent and the imaginary foreclosure of its native inhabitants. Furthermore, it demonstrates the interconnectivity of these two manifestations: the American continent can only be enclosed and possessed *after* it has been "wiped clean." If, from the perspective of the European Renaissance, this process appears to be one of "forgetting," from the American continent, it resembles something much closer to *invention*.

## **V Inventing, Enclosing**

The *status* of the "invented Americas" has troubled critics since its inception. Mexican writer Alfonso Reyes (1889-1959) reads the American invention as the concretization of utopia. The New World, he argues, was the desired stimulus to invigorate European political thought in the earliest dawn of modernity. In *Última tule* (a 1942 collection of essays on utopia, conquest, and America), Reyes advances that,

America, it can be said without violence, was longed for and discovered (almost 'invented') as a playing field for the overflowing of that most powerful chimaeric energy. America was created, discovered, by thirsty bodies and souls, by those who needed golden houses to quench their longing for luxury, or free consciences in which to plant and cultivate the idea of God and the idea of the good.<sup>81</sup>

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<sup>81</sup>"América, puede decirse sin violencia, fue querida y descubierta (casi 'inventada') como campo de operaciones para el desborde de los altos ímpetus quiméricos. Crearon, descubrieron a América los que tenían sed en el cuerpo o en el alma, los que necesitaban casas de oro para saciar su ansia de lujo, o conciencias libres donde sembrar e inculcar la idea de Dios y la idea del bien" (Reyes, "Tule" 60; all translations my own).

The European conquest of the Americas, beyond being a geographical, political, and spiritual event, is also a philosophical and ideological one. The "discovery" of the continent is a discovery of hope; it should not be surprising that Reyes reads the emergence of this newly visible land mass as a utopian event.<sup>82</sup> It becomes the missing philosophical and poetic link to finalize and totalize the world, and to bring *hope* onto the terrestrial plane. Reyes contrasts America to Plato's vanished Atlantis or Seneca's beyond-the-horizon Ultima Tule; the continent appears in its material form to fill those voids left by the classical tradition. Those voids, those disappeared islands or lost Golden Ages of antiquity were merely placeholders for America's surging forth: "Before its presence was felt, America was perceived by its absence."<sup>83</sup> America means hope, America is utopia. This is not so much a picture of European ideological forgetting, as Greenblatt claims, but rather a prefiguration of contemporary celebrations of transculturation and cultural hybridity that turns the European conquest of the Americas to the New World's advantage:

And today, faced with the disasters of the Old World, America occupies a place of hope. Its very colonial origin, which obliged it to search for its *raison d'être* beyond itself, has gifted the precocious continent with an international sensibility, an enviable elastic ability to conceive the vast human panorama in its unity and its ensemble.<sup>84</sup>

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<sup>82</sup> Reyes writes, "El Continente se deja abarcar en una esperanza, y se ofrece a Europa como una reserva de humanidad. [...] La declinación de nuestra América es seguro como la de un astro. Empezó siendo un ideal y sigue siendo un ideal. América es una Utopía." (Reyes, "Tule" 60) [The Continent surges forth as hope, and it offers itself to Europe as a reserve of humanity ... The declination of our American is as sure as that of a star. It began as an ideal and it continues to be an ideal. America is a Utopia.]

<sup>83</sup> "Antes de dejarse sentir por su presencia, América se dejaba sentir por su ausencia" (Reyes, "Tule" 61).

<sup>84</sup> "Y hoy, ante los desastres del Antiguo Mundo, América cobra el valor de una esperanza. Su mismo origen colonial, que la obligaba a buscar fuera de sí misma las razones de su acción y de su cultura, la ha dotado precozmente de un sentido internacional, de una elasticidad envidiable para concebir el vasto panorama humano en especie de unidad y conjunto" (Reyes, "Tule" 61).



Mexican historian and philosopher Edmundo O'Gorman (1906-1995) would agree that America is the name of some kind of hope, except that he would specify that it is a thoroughly European hope. O'Gorman too advances that before it was discovered, America was invented. Following O'Gorman's reading, Columbus, Vespucci and other European explorers, in dealing with the alternately unexpected or misidentified continent, invented both the concept and the place of "America." That is, the continent was definitively *not* a non-place merely awaiting European discovery, and the invented myth of the "discovery" itself masks the actual history of conquest, domination, and assimilation. That said, this *invented* America was not without significance for Europe. Indeed, its utopian emergence was precisely what Europe—especially Catholic Europe—needed to break through the dam of stagnant authority and theological backwater:

As we will see, [the history of the invention of America] shows the first episode in man's liberation from his ancient cosmic prison and his age-old servitude and impotence, or, if you prefer, his liberation from an archaic manner of thinking that had already produced all of the fruit it was destined to produce. It was not a coincidence that America came onto the world stage as the land of liberty and the future, and the American man as the Western hemisphere's new Adam.<sup>85</sup>

O'Gorman proceeds to deconstruct the myth of the discovery in order to replace that narrative

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<sup>85</sup> "Porque en [la historia de la invención de América] hemos de ver, como se verá, el primer episodio de la liberación del hombre de su antigua cárcel cósmica y de su multiseular servidumbre e impotencia o, si se prefiere, liberación de una archaica manera de concebirse a sí mismo que ya había producido los frutos que estaba destinada a producir. No en balde, no casualmente, advino América al escenario como el país de la libertad y del futuro, y el hombre americano como el nuevo Adán de la cultura occidental" (O'Gorman 119; all translations my own).

with the more suggestive idea of an "invented" America, yet his process is completely opposed to that of Reyes, the later who seems only to further mystify the historical events of the conquest by reading them as seeds for the sprouting of a new global hope. O'Gorman's point, of course, is that this libratory operation for Europe—crystallized in the invention of America—had disastrous consequences for the American continent itself.<sup>86</sup> O'Gorman rejects Reyes' ontological premise that America was always there waiting to reveal itself to a Europe in need, and this allows O'Gorman to pursue an entirely different line of inquiry. O'Gorman abandons any impulse to read America as an object that was suddenly and miraculously revealed, and in doing so, he in turn reveals the conceptual violence that such a posited "discovery" entails. This line of inquiry opens a space for the development of an American subjectivity that, while acknowledging the reality and violence of the conquest, does not allow itself to be made into a blank screen for others' projected imaginaries.

O'Gorman's concept of an "invented" America inspired many later thinkers to take up the question of the status of the American subject and its relationship to the supposedly universal and practically universalizing spirit of European conquest. Mexican poet and essayist Octavio Paz (1914-1998) glosses O'Gorman thus:

The problem that worries O'Gorman is that of knowing what kind of historical entity America is. It is not a geographic region, nor is it a past, perhaps it is not even a present. It is an idea, an invention of the European spirit. America is a utopia; in other words, it is the moment of the universalization of the European

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<sup>86</sup> Even if O'Gorman's writings are explicitly more attuned to the realities of conquest and colonialism than Reyes', O'Gorman's project fits squarely within the logic of the Enlightenment: he frames his methodology in terms of the scientific method and even goes so far as to cite Kant in an appeal to awaken America from its dogmatic slumber (see O'Gorman section I.I). In other words: O'Gorman's project mobilizes the method and logic of the European Enlightenment to topple one of the pillars of said Enlightenment: the "discovery of America."

spirit, when Europe sheds its historical particularities and conceives itself as a greater unity. O'Gorman is correct when he sees our continent as the realization of the European spirit, but what happens when America—as a historically autonomous being—confronts European reality?<sup>87</sup>

This very question—the question of the alienated American, the projection of another's imagination—forms the contours of Paz's *Posdata* to his *Labyrinth of Solitude* (published in 1970 as a response to the Mexican government's 1968 massacre on protesting students in Tlatelolco Plaza). It is no coincidence that Paz names this state "utopia," and the poet's reflection on the matter forces him to consider exactly where the American continent fits in the utopia equation. A later generation of Latin American philosophers have proposed new language to talk about what O'Gorman calls "invention." This loosely affiliated group prefers to talk about the "coloniality of power" and modern/colonial world systems, always insisting on what they call the "dark side" of European modernity. Enrique Dussel, for instance, replaces "discovery" with "covering-up":

This other, in other words, was not 'dis-covered' (*descubierto*), or admitted, as such, but concealed, or 'covered-up' (*encubierto*), as the same as what Europe assumed it had always been. So, if 1492 is the moment of the 'birth' of modernity as a concept, the moment of origin of a very particular myth of sacrificial violence, it also marks the origin of a process of concealment or misrecognition of the non-European (Dussel 66).

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<sup>87</sup> "El problema que preocupa a O'Gorman es el de saber qué clase de ser histórico es lo que llamamos América. No es una región geográfica, no es tampoco un pasado y, acaso, ni siquiera un presente. Es una idea, una invención del espíritu europeo. América es una utopía, es decir, es el momento en que el espíritu europeo se universaliza, se desprende de sus particularidades históricas y se concibe a sí mismo como una idea universal que, casi milagrosamente, encarna y se afina en una tierra y un tiempo preciso: el porvenir. En América la cultura europea se concibe como unidad superior. O'Gorman acierta cuando ve a nuestro continente como la actualización del espíritu europeo, pero ¿qué ocurre con América como ser histórico autónomo al enfrentarse a la realidad europea?" (Paz 183; all translations my own).

Like O'Gorman and Paz, Dussel recognizes the significance of this event—the *encubrimiento*, following his terminology—for the construction of the new, modern European subject:

The experience not only of 'discovery' but especially of 'conquest' is essential in the constitution of the modern ego, not only as subjectivity per se but as a 'other- face' (*teixtli*, in Aztec), the essential alterity of modernity. [...] This sense of the relation between the conquest of America and the formation of modern Europe permits a new definition, a new global vision of modernity, which shows not only its emancipatory but also its destructive and genocidal side (Dussel 74-5).

Aníbal Quijano goes so far as to attribute the development of this new European subjectivity to an imported Andean concept:

Those first forms of a new historical consciousness, in which the beginnings of European reason and modernity were situated, were not only a new elaboration of their own [European] past. Their most powerful images, those that gave the utopias their immense motivating force and their longevity, were dependent above all on the seminal contribution of Andean rationality to the new European imaginary that was being constituted (Quijano 203).

These positions, both of which seek to reclaim the authentically *American* base of utopian thought, have significant limits. The limit in Dussel's line of thought becomes apparent in his very conclusions. His entire critique of Eurocentrism and modernity rests on the non-European other's recognition of her own innocence: "the **innocent** victim of a ritual sacrifice, who, in the process of discovering itself as the innocent may now judge modernity as guilty of an originary, constitutive, and irrational violence" (Dussel 76, my emphasis). What is *uncovered* through Dussel's critique of the so-called *discovery's* process of *covering-up* is the innocence of the

American victim. This logic of victimization is itself problematic; as Dussel well knows, post-modern and neo-liberal logic is much more comfortable adjudicating competing rights claims than confronting emancipatory demands for equality.<sup>88</sup> By positing an "innocent" victim, Dussel ends up enacting his own sort of *encubrimiento*, for he presents a monolithic, continent-wide state of victimhood. This is a problem on two counts: first, the invocation of "innocence" appeals to some neutral observer, when in fact it is the innocent victim himself, according to Dussel, who becomes modernity's judge. In practical terms, such claims are adjudicated by the supranational organizations such as the United Nations that are the very legacy of modernity itself; in this way a politics based on identity claims of victimhood very easily falls back into the modern legacy it seeks to escape. Second, Dussel's invocation of "ritual sacrifice" itself indicates a blind spot in his argument: the very "innocent victims" he highlights themselves participated in pre- Columbian imperial dynamics (both the Aztec and the Incan empires, for instance), some of which included literal sacrifice as imperial ritual. In Dussel's account, we cannot see the encounter between several American and European empires—each based on a particular theory of sacrifice—encountering one another, but rather we see a static tableaux of the European executioner and the innocent American sacrificial victim.

Yet there is a powerful appeal in Quijano's insistence on an Andean source for the concept of utopia, and other thinkers have been drawn to the problem. That *other* thinker of the American invention, Alfonso Reyes, was tempted by a similar argument: referring to Peruvian thinker Luis

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<sup>88</sup> For an account of the limits of identity politics in the context of Latin American cultural studies, see Alberto Moreiras' *The Exhaustion of Difference*. For a penetrating critique of logics of victimization and injury in the North American context, see Wendy Brown's *States of Injury*. Nonetheless, the violent excesses of the European Conquest of the Americas must be stated as a historical fact. In J.H. Elliott's words, "In the battle between European dreams and American reality, the dreams win out." In other words: any possible conception of an American utopia—whether historical or imaginary—must take into account the empirical events of the conquest.

Eduardo Valcárcel (1887-1991), Reyes suggests, "The simple thought that More's imagination coincides 'in a full eighty percent' with Incan reality astounds the erudite Peruvian. Could it not be possible, he asks, that the English Chancellor had somehow come into possession of the secret reports of some explorer who arrived to Peru before Pizarro?"<sup>89</sup> Arthur E. Morgan, in *Nowhere was Somewhere: How History Makes Utopias and Utopias Make History*, does exhaustive bibliographic work to present textual comparisons between accounts of Incan socialism and More's *Utopia* that prove impossible to dismiss.

Although I am arguing that the conquest of the Americas is the fundamental event beneath the expansion of the European horizon named "utopia," these arguments that European social/political utopias arise from an initial European contact with Andean rationality simply do not work out in Thomas More's case. Even if the most tenuous claims of Andean influence prove true in early sixteenth century Europe, there is no way that More—in 1516—could have had a detailed enough account of Andean rationality for that particular cosmovision to afford the concept of utopia (and its subsequent European imaginaries) a "seminal contribution."<sup>90</sup> Yet like Martínez Estrada's primary source work, the side-by-side comparisons amassed by Morgan, Valcárcel, and others are too compelling to ignore.

The solution to this riddle, however, is as interesting as the Gordian knot it slices. It is not that Thomas More poetically amplified whispers and rumors of Incan communism to serve as the model society for his witty little book; rather, it is that Inca Garcilaso de la Vega—author of the

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<sup>89</sup> "Al erudito peruano le asombra que la sola imaginación de Moro coincida 'en un ochenta por ciento' con la realidad de las cosas incaicas. ¿No será posible—se pregunta—que el Canciller de Inglaterra haya poseído sobre aquellas tierras informes secretos de algún explorador que llegó al Perú antes de Pizarro?" (Reyes, "No hay tal lugar" 366).

<sup>90</sup> According to William H. Prescott, Pizarro received his first reliable accounts of the Inca Empire in 1522, when Andagoya returned to Panama after abandoning an unsuccessful journey into Western South America. See *History of the Conquest of Peru* 114.

*Comentarios reales* and the most cited source throughout the centuries for descriptions of the Tahuantinsuyo—wrote his 1609 description and vindication of Incan communism using More's text as a model and guide. According to Margarita Zamora, the similarities between Inca Garcilaso and Thomas More's narratives are "an essential and intentional component of Garcilaso's discourse" (M. Zamora, *Language* 130). More's Utopians were a model pagan society; indeed, it was the only model of a pagan society in the Christian tradition that could bridge the intercultural gap and render the Tahuantinsuyo intelligible to Garcilaso's European audience.<sup>91</sup> Garcilaso assembles the fragments of an Incan history within the framework of More's pagan utopia; as Zamora argues, Garcilaso realizes utopia in American history:

[Garcilaso] turns fiction into history by making 'Nowhere' into somewhere.

Contrary to the view that the *Comentarios reales* is a fictionalized or novelesque account of Tahuantinsuyu, Garcilaso's use of the Utopian model can only be understood as an attempt to reconstruct Utopia as a concrete historical entity, a localizable point in time and space. The strong messianic overtones that Garcilaso reads into the Utopian fragment are an essential part of this process since it allows him to inscribe Tahuantinsuyu into a providentialist historical schema (M. Zamora, *Language* 142).

Thinkers who have noticed a striking similarity between More's *Utopia* and descriptions of the Tahuantinsuyo have indeed stumbled upon a chain of causal influence; it is only the direction of

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<sup>91</sup> According to Zamora, "the Utopian sociopolitical model was the only one available at the end of the sixteenth century that presented a contemporary pagan civilization in a favorable light. [...] Only Thomas More in the *Utopia* had developed an elaborate sociopolitical model of an imaginary native American civilization. The Utopian model set an important precedent by rendering a pagan New World culture both intelligible to a European readership and acceptable, even praiseworthy, within the context of Christian humanist ideology" (M. Zamora, *Language* 131).

the causal chain that they misread. More read Martyr, Garcilaso read More. This is what a transatlantic and interdisciplinary reading of More allows us to see: it is not that More had some mythical Andean source that reached the Old World in advance of that Old World's contact with the Andes. On the contrary, More's *Utopia* was one of the Inca Garcilaso's sources; when the *Comentarios reales* became the canonical historical source of Incan history, More's presence became erased much as America-as-source has become erased in our accounts of *Utopia*.

Regardless of these strangely parallel textual and interpretive errors, there is a further conceptual error in moves like Quijano's that posit a pre-modern Andean utopia as the ultimate source of the European concept. The trap Quijano falls into is that of insisting this Andean utopia actually existed. Why wouldn't the "authentic" Andean utopia be just as much a *promise* as the later European versions? And if not, how does one account for the double penetration-erasure of the American utopia (More reading Martyr, Garcilaso reading More)?

But perhaps Quijano points towards a more revealing coincidence. His vision of a truly American utopia is nurtured by the early twentieth century Peruvian thinker José Carlos Mariátegui. According to Quijano, Mariátegui sketches the outline of a potential American utopia that rejects the imposed binary of an intrusive state or unregulated private interests.<sup>92</sup> Yet it is in Mariátegui's overarching and uncompromising belief—most clearly stated in his *Siete ensayos de interpretación de la realidad peruana*—that Perú's problems fundamentally reduce to the problem

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<sup>92</sup> Quijano traces the twentieth century American-utopian lineage through José María Arguedas back to Mariátegui; it is from Mariátegui, Quijano argues, that the Peruvian novelist Arguedas see the possibility that "experience of the Andean communities before their adaptation to mercantilism shows the possibility of a communal form of the private, of "civil society," or institutions outside the state." It is this historical experience that conditions "New social practices founded on reciprocity, on an assumption of equality, on collective solidarity, and at the same time on the freedom of individual choice and on a democracy of collectively made decisions, against all external impositions" (Quijano 215).



of *land*. Mariátegui opens his third interpretative essay, "The Land Problem," thus:

We are not satisfied to assert the Indian's right to education, culture, progress, love, and heaven. We begin by categorically asserting his right to land. This thoroughly materialistic claim should suffice to distinguish us from the heirs or imitators of the evangelical fervor of the great Spanish friar [Las Casas], whom, on the other hand, our materialism does not prevent us from admiring and esteeming. The problem of land is obviously too bound up with the Indian problem to be conveniently mitigated or diminished. Quite the contrary. As for myself, I shall try to present it in unmistakable and clear-cut terms.<sup>93</sup>

Any attempt to advance towards—or to return to, as Dussel and Quijano seem to argue—an American utopia must grapple principally and fundamentally with the status of the material land of the continent. This was Mariátegui's overarching thesis, and that thesis continues to operate in Quijano's thought. Beyond Mariátegui, however, the communal solution that Quijano advances—the material, American answer to others' utopian visions—returns us directly to Thomas More. Specifically, we return to More's thinking about the relationship between Book I and Book II of *Utopia*.

If there is one fundamental change between the British Isles described in the first book and the island of Utopia, as described in the second, it would be the ownership of land. In discussing the ongoing process of land enclosure in Book I, More is at his satirical best. It is England's sheep,

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<sup>93</sup> "No nos contentamos con reivindicar el derecho del indio a la educación, a la cultura, al progreso, al amor y al cielo. Comenzamos por reivindicar, categóricamente, su derecho a la tierra. Esta reivindicación perfectamente materialista, debería bastar para que no se nos confundiese con los herederos o repetidores del verbo evangélico del gran fraile español, a quien, de otra parte, tanto materialismo no nos impide admirar y estimar fervorosamente. Y este problema de la tierra - cuya solidaridad con el problema del indio es demasiado evidente-, tampoco nos avenimos a atenuarlo o adelgazarlo oportunistamente. Todo lo contrario. Por mi parte, yo trato de plantearlo en términos absolutamente inequívocos y netos" (Mariátegui, *Textos Básicos* 68, translation mine).

"which used to require so little food, [who] have now apparently developed a raging appetite, and turned into man-eaters. Fields, houses, towns, everything goes down their throats" (25; Yale 64/65). Those who kick peasants off the common land—nobles, gentlemen and abbots—are "no longer content to lead lazy, comfortable lives, which do no good to society—they must actively do it harm, by enclosing all the land they can for pasture, and leaving none for cultivation" (35; Yale 66/67). From here, More—through the voice of Hythlodæus—builds up a trenchant critique of land enclosure, wool oligopoly, the common poverty that these two events bring, and the misguided penal system erected to suppress and criminalize that poverty. This section culminates in perhaps the most famous line of Book I: "You create thieves, and then punish them for stealing!" (27; Yale 70/71).

This vision of enclosure turning "farmland into a wilderness" (25; Yale 64/65) presents a sort of anticipatory rebuttal to John Locke, who in 1690, will argue that it is precisely *unenclosed land* that is wilderness and waste.<sup>94</sup> Enclosure *creates* wasteland in England; Utopian communism is the ingenious solution that attacks the root cause of the problem. Yet the situation is not so transparent, for the Utopians themselves colonize lands that would otherwise be "idle and in waste" (Yale 136/7). And, we must not forget, Utopia is an island only because of Utopos'—the conquering king of lore—project to cut a channel through the fifteen-mile isthmus connecting

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<sup>94</sup> In his *Second Treatise*, Locke consistently posits America as a blank slate on which liberalism will be written. In section 49, for instance: "Thus, in the beginning, all the world was America, and more so than that is now; for no such thing as money was anywhere known." Timothy Sweet sees Thomas More as an early precursor to this tendency to read American land as waste and thus disappropriate Amerindians of the territory on which they live: "The Utopian economic base (which resembles that of agrarian England in important respects) is replicated on this 'waste' land. Such a view of colonization established an assumption that would become crucial in legitimating the appropriation of indigenous Americans' land: the natives are assumed not to cultivate the land" (Sweet 403). I elaborate upon this theme in the third chapter, "Appropriation and Enclosure in the New World."

Utopia to the mainland (Yale 112/113). On this point, Fredric Jameson is most illuminating.<sup>95</sup> In a review of Marin's *Utopics* called "Of Islands and Trenches," Jameson reminds us that this trench is *Utopia's* absolute boundary, its fundamental and peremptory disjunction (Jameson, "Trenches" 20). In terms of geography, then, the uncommon non-place where all is held in common looks across the channel at the American continent, the island's own frontier, a blank slate for expansion, as an endless supply of raw materials and wilderness land. That trench maybe be an absolute ideological boundary separating the Utopians from the Americans, but it is a frontier inasmuch as it is a horizon of expansion.

In essence, the island of Utopia repeats its foundational conditions through its colonial expansion.<sup>96</sup> Yet the terms from Book I now experience an ironic displacement in Book II. In Book I, English enclosure turns land into waste; in Book II, Utopian expansion turns wasteland into the common. Wasteland, to the Utopians, means land that has not been brought under common Utopian rationality. Here, then, are the traces of Utopia's forgotten beginning. The perfect island posits its own blank slate on the American mainland, much as King Utopos—the builder of trenches—wiped his homeland's slate clean with a massive public infrastructure

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<sup>95</sup> See Jameson's "Morus: The Generic Window" in *Archaeologies of the Future*.

<sup>96</sup> Jeffery Knapp attacks the problem of Utopian colonialism from the perspective of England's troubled relationship with the New World. He writes, "Yet, instead of canceling the accusation that the colonialism of *Utopia* is either equivocal or ambivalent, this difference between European and Utopian expansionism seems to confirm the charge. For More advocates colonialism only when it is associated with negatives, when it both derives from Nowhere and seeks, in the Utopian stipulation, land *inane ac uacuum*, idle and waste. And then not even these two negatives can turn colonialism into a fully English option. The Utopians choose wasteland "on the mainland nearest them"; as the Yale editors of *Utopia* point out, the nearest mainland to England was Europe, "but where were the waste places?" (More, CW 4:416). The answer is: in the opposite direction." (Knapp 24-5). Knapp here focuses on **colonization** when he should actually be focusing on **enclosure**; America as unenclosed and waste (a rhetorical strategy picked up by Locke) in relation, not to England's failed colonial enterprises (because 1516 is way too early to bemoan American colonial *failure*), but rather in relation to the ongoing enclosure in England. Knapp mentions enclosure in passing at the end of the section, but he misses More's own ironic reversal of the concepts of *waste* and *enclosure*.

project. From this perspective, the poem that opens More's volume reads quite differently: "Plato's *Republic* now I claim / To match, or beat at its own game; / For that was just a myth in prose, / But what he wrote of, I became." In *Utopia*, America becomes the blank slate, the *tabula rasa* that Plato's philosopher-kings insist on as the baseline for political philosophy.

This is More's paradox: he constructs his critique of enclosure upon the erasure of the American continent. The cartographic opening that, in turn, opens newfound lands upon which Europe can develop its Enlightenment reason arises only via the geographic erasure of a continent. More, the great parodist of English enclosure, actually ends up *foreclosing* America in the articulation of his critique. Yet there still exists something timeless, placeless—uchronic, utopic—about this imaginary island and the tradition it births. We can understand the urge to ground More's satirical text in the reality of Andean communism, to prove some kind of historical, material basis for the rational and inevitable expansion of a just collective society. Yet just as an excessive fidelity to utopia's neutrality can blind us to the positive and negative conditions that allow the concept to enter the world, so too can an excessive fidelity to utopia's materiality encourage us to petrify a presumed actually-existing utopian moment as a lost Golden Age. What, then, is utopia's universal core? It is a claim that exceeds More, that animates Mariátegui, that energizes an entire tradition of real American responses to utopian Americas dreamed by others.<sup>97</sup> It is this very claim to an unenclosed *commons*, a radical equality that insists on the inclusive right of culture, land and life. As Marin warns, this concept's exhaustion becomes apparent in its earliest formulations: if this claim becomes petrified, it encourages the totalitarian impulse, the persistent and seductive attempt to finally and ultimately enclose life, land and culture. There is always a danger that the utopian horizon will foreclose upon itself, that utopian

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<sup>97</sup> See Adorno's *Guaman Poma: Writing and Resistance in Colonial Peru*.

dreams will erase material realities. But this is *precisely* what America spurs. When we account for America, it turns our concept of utopia inside-out, it opens the enclosed, it insists on the commons. We reveal the continent that More made vanish, and by doing so, we open the concept of utopia once again to those material dreams that ground themselves in struggles over the *topos* itself. More's *Utopia* is a defense of the English commons and a satire of the excesses of enclosure; when we connect *that* project with the portrait of the perfect republic in *Utopia's* second book, it is not a stretch to say that *Utopia* is a defense of the commons. If enclosure is the erasure of the commons, and More's utopian textual operation erases America in its positing of a blank slate, an examination of that process of enclosure and appropriation in the New World seems to be of the essence. This will be the task of the next chapter.

## CHAPTER 3

### APPROPRIATION AND ENCLOSURE IN THE NEW WORLD

"In the beginning, there was fence..." Jost Trier, quoted in Schmitt's *Nomos* p. 74

In the beginning, there was fence. So says Carl Schmitt in his *Nomos of the Earth*. Yet was there ever, and will there ever be, a moment in human history *without* fences? What exactly *begins* with the fence, with enclosure? That is the question I will address in this chapter, and I will focus on how a constellation of Andean thinkers have used chronicles, fiction, journalism, and theoretical inquiry to answer it. I begin with the novelist Manuel Scorza, whose *Redoble por Rancas* narrates the arrival of a fence in a Peruvian community. What is the connection between that fence and the community? I then continue to analyze the relationship between fence-as-concept and the conquest of the Americas. This line of questioning leads me to consider the role of fence and enclosure—especially enclosure in the Americas—in John Locke's theory of property. Although Locke uses America as a certain kind of blank slate over which liberalism will unfold, his own sources betray a very different America. This America—in the Andes, especially—is grounded in the material reality of conquest. Yet if this reality counters Locke's American blank slate with a history of appropriation, it also participates in its own species of utopianism, namely, a Golden Age of Incan communism. One could say this process substitutes a land problem for an identity problem: the insistence in an unenclosed Incan commons actually rests upon a closed, homogenous identity. Is it possible to conceive of a commons that is both materially *and* subjectively open?

## I Fence Arrives

Manuel Scorza (Lima, 1928; Madrid, 1983), in his 1970 novel *Redoble por Rancas*, gives us the origin story of a very particular fence. No fence, no enclosure, is created *ex nihilo*. In Rancas, the tiny, high altitude, subsistence agricultural community in the Peruvian Department of Cerro de Pasco, the Fence *arrives*.

*Redoble por Rancas* tell, in essence, two stories. Each story is told in alternate chapters, in what has best been described as a narrative double helix. The first story, told in the odd-numbered chapters, is that of the impending, and finally frustrated, confrontation between Héctor Chacón "el Nictálope" and Judge Montenegro. The second, told in the even-numbered chapters, is that of the parallel confrontation between the *comuneros* of Rancas and the multinational Cerro de Pasco Corporation; the latter's presence manifested through the corporation's goons and the anthropomorphized fence they install in the cover of darkness.

Scorza's novel is the first installment in his five-part cycle *La guerra silenciosa* which, in its totality, attempts to represent the struggles of the inhabitants of the Department of Cerro de Pasco as they fight to recuperate control and ownership of their communal lands from the Peruvian government and multinational mining interests. In the novelistic cycle, Scorza fictionalizes and dramatizes historical events that took place in Cerro de Pasco between the late 1950s and the mid 1960s.

Until recently, most of the critical attention directed towards Scorza's work developed under the rubric of *neoindigenismo*. Scorza's cycle narrates the intrusion of multinational capital into the life of communally-orientated villages in the Andes; in this aspect, the novels fall into the category of Latin American *indigenismo*: literature written by Western-educated Latin Americans that take as their subject matter the native population, in Scorza's case, the Peruvian Amerindians.

Yet Scorza incorporates much of the formal innovation that marked the Latin American Boom: novels like Gabriel García Márquez's *Cien años de soledad* which, through narrative experimentation and stylistic modes such as magical realism, found an international audience and solidified a recognizable and marketable "Latin American aesthetic."

Thus the critical appraisal of Scorza's work, particularly that of *La guerra silenciosa*, has revolved around the questions of narrative heterogeneity and the problem of subaltern representation. In Antonio Cornejo Polar's estimation, *La guerra silenciosa* is a fundamentally heterogeneous work, in that it employs Western narrative forms in order to tell an Andean (i.e. non-Western) story.<sup>98</sup> Others have questioned whether Scorza's "strange" elements arise organically from an Andean cosmovision or whether they are imported from the internationally successful magical realist novels; in other words: whether Scorza merely imposes the imported model of magical realism on Andean reality, or whether the "fantastic" events he narrates have some organic connection to the Andean world he represents.<sup>99</sup>

But this does not seem to be the most interesting line of criticism with which to approach Scorza's work. What *is* worth rescuing from *Rancas* is the arrival of the Fence. In the novel, the

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<sup>98</sup> Cornejo Polar describes the essential aspects of *indigenismo*: "su heterogeneidad conflictiva, que es el resultado inevitable de una operación literaria que pone en relación asimétrica dos universos socioculturales distintos y opuestos, uno de los cuales es el indígena (al que corresponde la instancia referencial), mientras que el otro (del que dependen las instancias productivas, textuales y de recepción) está situado en el sector más moderno y occidentalizado de la sociedad peruana. Esta contradicción interna reproduce la contradicción básica de los países andinos" (Cornejo Polar, "Neoindigenismo" 550).

<sup>99</sup> An exception to this is Natalio Ohanna's reading of *Rancas* that faults Scorza for his "homogenizing tendency," which Ohanna locates in Scorza's utilization of literary techniques associated with the international style of the Boom. Ohanna seems to have a different understanding of "heterogeneity" even though he quotes extensively from Cornejo Polar: Ohanna believes that Peruvian novelists must intentionally produce heterogeneous narratives in order to represent Peru in narrative, and he ultimately points toward the *testimonio* as the literary form most adequate for this task. Other theorists of Peruvian heterogeneity understand the causal chain to flow in the other direction: it is the heterogeneity of Andean life that manifests itself—even in unintentional ways—in Peruvian literary production. Thus heterogeneity is not the *goal* of Andean literary production, it is an analytic category used to understand literary phenomena.



Fence itself becomes a character; indeed, it becomes the principle antagonist of the second narrative thread, parallel to Judge Montenegro—the greedy and corrupt sub-official—in the first thread. Scorza presents the Fence as an invading organism that rips a tear through the fabric of communal Andean life, yet what is more interesting is that the novel details the Fence's arrival in the community. The Fence first appears in an inchoate state, transported via that other hallmark of modernity's late arrival to savage frontier: the railroad.<sup>100</sup> The train "vomits" forth a group of unknown men, men who we later learn, after some speculation and rumors, work for the Cerro de Pasco Corporation, a multinational mining company. The men unload rolls of wire; after a brief lunch, they begin digging post holes. At first, the *ranqueños* watch, amused, at the Fence (from this point on in the story, always capitalized as a proper noun) wraps its way around Huiska, one of the barren peaks in the region: "Huiska is a barren peak. It hides no minerals. It has no water. It refuses to even grow the most miserable grass. Why enclose it? With its barbed-wire necklace Huiska looked like a cow shoved into a corral. The *comuneros* almost died laughing" (*Drums* 24, translation slightly modified).<sup>101</sup>

Soon, however, the *comuneros'* laughter dies down, as the Fence grows kilometers daily and devours everything in its path. It becomes a voracious worm that gobbles up lakes, peaks, and even towns. Locals must now walk kilometers along the length of the fence simply to traverse their villages: "Now the land, all the land, was growing old as a spinster behind a fence that no

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<sup>100</sup> Scorza makes the requisite nod to *Cien años de soledad*: "En Rancas nunca sucedió nada. Mejor dicho, nunca sucedió nada hasta que llegó un tren" (*Rancas* 171).

<sup>101</sup> "El Huiska es un cerro pelado que no esconde mineral, ni ojo de agua, ni tolera el más mísero pasto. ¿Para qué encerrarlo? Con su collar de alambre el Huiska parecía una vaca metida en un corral. Se murieron de risa" (*Rancas* 179). All translations are Edith Grossman's (*Drums for Rancas*). The page number in the body of the text refers to Grossman's translation; the page number in the footnote refers to the original Spanish in the Cátedra edition.

man's feet could follow. The closest villages were days away" (*Drums* 181).<sup>102</sup> Sheep, trapped within the confines of the enclosed land, begin to die of starvation: "The highway to Cerro de Pasco was a sixty-mile-long necklace strung with dying sheep. Starving herds chewed the last blades of grass growing on the narrow strips of land tolerated by the Fence on either side of the highway. That grass lasted two weeks. The third week the livestock began to die. By the fourth week one hundred eighty sheep had died; by the fifth, three hundred twenty; by the sixth, three thousand" (*Drums* 73).<sup>103</sup>

Strangely enough, as the Fence transforms from eyesore to existential threat to the *comuneros*, it becomes increasingly invisible to the upper classes of the Department. In one of Scorza's more Márquez-esque flourishes, he described a "blindness epidemic" that ravages the rich folk of the Department:

No one ever learned why an epidemic attacked Cerro de Pasco. An unknown virus infected the eyes of its citizens. Apparently the victims enjoyed perfect vision except for a mysterious partial blindness that made certain objects invisible to them. A patient affected by the disease, who was able to describe, for example, the spots on a sheep half a mile away, could not see a fence at a distance of one hundred yards (*Drums* 159-60).<sup>104</sup>

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<sup>102</sup> "Ahora la tierra, toda tierra conocida, envejecía soltera detrás de un cerco que los pies de ningún humano eran capaces de seguir. Los pueblos más cercanos distaban jornadas" (*Rancas* 342).

<sup>103</sup> "La carretera a Cerro de Pasco era un collar de cien kilómetros de ovejas moribundas. Rebaños famélicos rascaban las últimas matas en las estrecheces que, a cada lado de la carretera, toleraba la imperiosidad del Cerco. Ese pasto duró dos semanas. La tercera el ganado empezó a morir. La cuarta semana fallecieron ciento ochenta ovejas; la quinta, trescientas veinte; la sexta, tres mil" (*Rancas* 232).

<sup>104</sup> "Nunca se supo por qué una epidemia azotó Cerro de Pasco. Un desconocido virus infectó los ojos de los habitantes. Aparentemente, las víctimas gozaban de la integridad de su visión, pero un novedoso daltonismo les escamoteaba algunos objetos. Un enfermo capaz de señalar, por

As Scorza spins out the absurd tale over several pages, he suggests—reporting rumors overheard amongst the town gossips—that the blindness was caused by a fruit-born virus from peaches and plantains imported from the Amazon; since the poor *comuneros* could not afford such delicacies, this explained their immunity to the disease. And thanks to the convenient blindness of almost all of the officials in the Department, the Fence continues to grow, and the *comuneros* find themselves radicalized to the point of political action. At that point, the *comuneros* do indeed become visible to the Cerro de Pasco Corporation, but only in the form of targets: the novel ends with the Corporation's massacre of the protesting commoners.

Yet for all of its feigned invisibility, the Fence brings a new sense of order and measure to Cerro de Pasco. As Rodriguez Ortiz has observed, it is the one object capable of universalizing, equalizing, and quantifying the indefinite proliferations of geographic names:

Especially for a reader unfamiliar with Peruvian geography, the plurality of names and the geographic breadth creates a certain reality effect by way of an ambiguity that synthesizes the many distinct spaces: Rancas, Yanacocha, Yurscayan, Huariaca, Tambopampa, Huancayo, Cauta, Piscapuquio, are a few of the recognizable names that upon first glance appear to presuppose their (rarely indicated) geography proximity, but also the wide open space of rhetorical effects in the text. All of these multiple spaces become one thanks to the limiting presence of a fence erected by the mining company, and what becomes singular and reduced in its configuration (an anonymous company run by foreign capital and capitalists)

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ejemplo, las manchas de una oveja a un kilómetro, era incapaz de distinguir un cerco situado a cien metros" (*Rancas* 321).

imposes a limit upon what is in reality unlimited.<sup>105</sup>

Of course, the question of whether that unlimited and overlapping world needed to be limited and measured is of another order.

The Fence does the work of enclosure: not only does it serve as the visual reminder and material codification of that line between *mine* and *thine*, but furthermore it creates a new metric that robs the land of its social past and erases the history of communal practices that had previously constituted the place. In pretending that the communal lands were available for enclosure and appropriation in the first place, the fence creates its own myth of wilderness, wasteland, and frontier that it posits *and* erases. 'Before my arrival,' Scorza's anthropomorphized Fence seems to proclaim, 'there was an infinite, immeasurable, and unknowable expanse of wilderness. I bring reason and measure.' So says the Fence, but the Fence—even as it tames the slovenly wilderness—gives neither of bird nor of bush. Indeed, it is Wallace Stevens' "Anecdote of the Jar" that seems best to reflect the process Scorza dramatizes:

I placed a jar in Tennessee,  
And round it was, upon a hill.  
It made the slovenly wilderness  
Surround that hill.

The wilderness rose up to it,  
And sprawled around, no longer wild.  
The jar was round upon the ground  
And tall and of a port in air.

It took dominion every where.

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<sup>105</sup> "La pluralidad de nombres, especialmente para el lector ajeno a la geografía peruana, la amplitud geográfica crea un especial efecto de realidad por medio de una ambigüedad que sintetiza lo distinto: Rancas, Yanacocha, Yurscayan, Huariaca, Tambopampa, Huancayo, Cauta, Piscapuquio, son algunos de los nombres identificables después de un rastreo que pareciera presuponer su cercanía (indicada pocas veces) geográfica o mensurable, pero también el espacio abierto de efectos retóricos en el discurso del texto. En el fondo todas esas localidades llegan a ser una sola por la presencia limitante de un cerco tendido por la compañía minera, y lo que es uno y reducido en su configuración (una compañía anónima con capitales, capitalista y cabezas fuera del Perú) impone una limitación a lo realmente ilimitado" (Rodríguez Ortiz 106; my translation).

The jar was gray and bare.  
It did not give of bird or bush,  
Like nothing else in Tennessee.<sup>106</sup>

What Scorza shows is that the "wilderness," the commons land of the *comuneros* is precisely *not* slovenly, and that "dominion," or in this case, enclosure, robs the land of its fecundity. Fence can only measure itself; in drawing the line of measure, it erases the community. Enclosure is always a *process*; if fence can ever serve as origin, it is only via some form of appropriation and erasure.

Yet some critics interpret *Rancas* and *La guerra silenciosa* as a whole as a literary failure, especially in light of the author's stated intentions in the prologue to produce "the exasperatingly real account of a lonely battle"<sup>107</sup> and his position as more of a "witness" than a "novelist."<sup>108</sup> According to these critics, Scorza works himself into a (static, non-dialectic) corner while trying to negotiate the two distinct traditions of the *indigenista* novel, on the one hand, and the Boom novel, on the other. So while he may employ a savage irony in the portrayal of the real injustices suffered by the *comuneros* (the blindness epidemic, for instance), the fantastic/magical realist register in which he operates leave Scorza without any way to attack the concrete contradictions he details. Losada sees this process as ultimately culminating in an ahistorical position that robs Scorza's characters of any agency: "Scorza is not interested in action, but rather in singular moments, almost fully independent of context, that give a static tableaux of a spiritual situation [...] He does not establish a unity of action, but rather moments independent of any action, or actually a series of superimposed moments that, in sum, make up an dehumanized state of indefiniteness; not a life but rather an *Erlibnis*."<sup>109</sup> This critique, then, is as political as it is

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<sup>106</sup> See <[http://en.wikipedia.org/wiki/Anecdote\\_of\\_the\\_Jar](http://en.wikipedia.org/wiki/Anecdote_of_the_Jar)>.

<sup>107</sup> "la crónica exasperantemente real de una lucha solitaria" (*Rancas* 149).

<sup>108</sup> "Más que un novelista, el autor es un testigo" (*Rancas* 149).

<sup>109</sup> "No le interesará la acción sino diversos momentos, independientes casi del contexto, que

aesthetic: from his "heterogeneity" (to use Cornejo's formulation), Scorza can only approach "the people" i.e. the *comuneros* from an ahistorical position that appeals to timeless myth and fantasy in the explanation of reality.

Moraña takes this line of criticism even further: she accuses Scorza's work of ideological folly. Scorza's cycle—as exemplified in *Rancas*—presents an ideological justification of defeat; according to her reading, the mythical-fantastic, far from deconstructing the dominant ideological vision (represented by the arrival of the Fence, the train, and the Cerro de Pasco Corporation), rather superimposes that ideological vision on the *comueros* themselves. The very cyclical and fantastic nature of the novel cycle—where each attempt at organized resistance ends with a massacre—in a sense conforms to dominant ideology because it presents defeat itself as the inevitable and timeless confirmation of an eternally recurrent myth. In a word: it is power itself, according to Moraña, that becomes mythologized in Scorza's novels. Expanding on Loasada, she advances: "It is a vacillating, distant, and troubled petty bourgeois consciousness which produces a mythic conceptualization of power and solidifies history and class struggle in the neutral plane of fantasy."<sup>110</sup>

In Moraña's reading, the neutralization of struggle is, again, an ideological operation. This position seems to posit a different location from which an escape from ideology is possible; it would not be, then, a question of telling *better stories* but rather of correct empirical confirmation. *How to correctly represent the comuneros' struggle against the Fence?* This question directly

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muestran estáticamente una situación espiritual [...] No establece la unidad de la acción, sino momentos independientes de ésta, o mejor, momentos superpuestos que constituyen, todos, un mismo estado indefinido, deshumanizado, no una vida sino una vivencia" (Loasada 110-111, my translation).

<sup>110</sup> "Es la conciencia de la vacilante, lejana, e inquieta pequeña burguesía' que produce una conceptualización mítica del poder y estatiza la historia y la lucha de clases en el plano neutral de la fantasía" (Moraña 185, my translation).

attacks the problem of narrating the story of a historical defeat while maintaining open the possibility of radical change. And, as I develop in the course of this project, that problematic involves revealing the appropriation and enclosure (or, in Marxist terms, the primitive accumulation) that lies beneath and behind utopian projections onto American soil. Yet the second part of the problem—insisting on the possibility of radical change—also functions within a utopian logic, although a utopian logic that remains open to the possibility of radical change cannot be based on any kind of previous enclosure. So the question becomes: can there be a utopian concept of commons that is not based on enclosure?

Moraña, of course, does not argue that Scorza's novel participates in any kind of enclosure; her point is that Scorza's myth-making forecloses the possibility of radical change by removing Rancas and the *comuneros* from history itself. One could argue, however, that Scorza's presentation of power is mythologizing because the Fence itself is a mythological creature: it creates its own origin story by erasing the past and imposing itself as the only proper way to measure and understand the very world which it has brought into being. In understanding Fence as an act of appropriation and erasure, we uncover enclosure as both the flip side to utopia and its enacting gesture. Given the structural link between utopia and enclosure,<sup>111</sup> perhaps Louis Marin's formulation is pertinent: utopia is best understood as an ideological critique of ideology.<sup>112</sup> Scorza's novel is valuable in that it makes visible the appropriation and enclosure that unroll themselves with each kilometer of the Fence. The Fence, analogously, represents the erasure of the *comuneros'* land; more generally, Fence erases the commons. For better or for worse, Scorza does not counter the dystopian Fence and the Cerro de Pasco Corporation behind it with a utopian appeal to a Golden Age of Incan communism (an appeal that, as we shall see, has made various

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<sup>111</sup> See chapter two, "Utopia Emergence and the Myth of an American Blank Slate."

<sup>112</sup> See "Disneyland: Utopic Degeneration" in Louis Marin's *Utopics*.

appearances in post-Conquest Andean life). Scorza does, however, insist that there *is* something before the existence of Fence, and he names that thing *community*.

## II Conquest and *Nomos*

Scorza's literary intervention is indubitably political. He is concerned with a particular injustice: that of a liberalizing state and a multi-national corporation presenting the communal lands of the Andean highlands as a blank slate to be enclosed and improved. Yet the question of Fence opens up to an ontological problem at the heart of the process of appropriation and enclosure in the New World. Simply put: does Fence precede community? *Rancas* highlights how a specific community—the *comuneros*—precedes the arrival of a particular Fence; but what of Fence-as-such? Is the idea of an unenclosed commons a utopian fantasy, a mythologized ideology? To consider this broader question, I will turn to one of the more problematic yet important thinkers of the emergence of the New World: Carl Schmitt. Although Schmitt has not been traditionally recognized as a key thinker of the conquest of the Americas, he is one of the few theorists of international law to insist on the centrality of the emergence of the New World—both as location and as concept—to the development of the modern era of secular nation-states. Thus his importance; he is a problematic thinker because he, like many of the philosophers and legal scholars he cites, actually ends up erasing and concealing America in his account of the *nomos* of the Earth.

Schmitt's key point in the first sections of *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* is that land appropriation is the primeval act of all possible law. It is the relationship between this assertion and the historical act of sixteenth-century land appropriation in America that I will examine in detail, but first, a brief outline of Schmitt's overall



project in *Nomos*. That project takes the form of a historical and philosophical investigation into the origins and developments of the European concept of international law, yet it also serves the function of a eulogy for the passing of that order in the wake of two World Wars. Schmitt believes the "bracketing of war" within the European order of nation-states to be the chief, heroic accomplishment of international law and global politics in the modern era; the disintegration of that system and the seeming vacuum (in the late 1940s, but still visible today) it left represent, consequently, the most significant challenge to the maintenance of world peace since the religious and civil wars that plagued Europe during the period of Medieval anarchy. The text has four major sections. The first advances the centrality of land appropriation as the ontological, historical, and legal ground for any political/social ordering of human life. The second section argues for the centrality of the sixteenth-century land appropriation of the Americas as the foundational and defining moment of what will develop into the *Jus Publicum Europaeum*, or the European concept of international law based on the "bracketing" of war. The third section details the functioning of that particular *nomos*, both in legal and philosophical terms. The final section documents the disintegration of the European Spatial Order and imagines what possible *nomos* could take its place.

As Schmitt argues that any spatial order has at its root a division of land, the priority he gives to the act of enclosure is understandable. Indeed, Schmitt opens his text with a direct appeal to the mythological foundation of law and justice in the land itself. Justice and law arise from the earth in a threefold fashion, he states: First, the law within the earth—the earth's inner measure—is the justice of growth and harvest. Second, the natural demarcation of human cultivation—the tilled soil, the rotated crops—is the law manifest upon the earth. Finally, fences visualize human

power and domination: Fence is the law sustained above the earth.<sup>113</sup>

Yet Schmitt does not settle on the mythical invocation of original appropriation, nor does he posit a "state of nature" as an intellectual construct. No, he declares, appropriation is a historical event: "Not only logically, but also historically, land-appropriation precedes the order that follows from it. It constitutes the original spatial order, the source of all further concrete order and all further law. It is the reproductive root in the normative order of history" (*Nomos* 48). Thus appropriation is at once the primeval source of order and, in any given circumstance, the particular historical event and legal fact (*Nomos* 46) that gives rise to radical legal title:

*Nomos* is the immediate form in which the political and social order of a people becomes spatially visible—the initial measure and division of pasture-land, i.e., the land-appropriation as well as the concrete order contained in it and following from it. In Kant's words, it is the 'distributive law of mine and thine,' or, to use an English term that expresses it so well, it is the 'radical title.' *Nomos* is the *measure* by which the land in a particular order is divided and situated; it is also the form of political, social, and religious order determined by this process. Here, measure, order, and form constitute a spatially concrete unity. The *nomos* by which a tribe, a retinue, or a people becomes settled, i.e., by which it becomes historically situated and turns a part of the earth's surface into the force-field of a particular order, becomes visible in the appropriation of land and in the founding of a city or a colony (*Nomos* 70).

To the logical, legal, and historical primacy of Fence, we might add the ontological priority that Schmitt affords it. In short, Schmitt's answer to the question we have posed is clear: Fence

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<sup>113</sup> See "Law as a Unity of Order and Orientation," *Nomos* 42-9.

absolutely precedes community. So, then: what was before Fence?

Given Schmitt's dual interest in land-appropriation—as mythological origin and the root of the normative order of history—it is not surprising that he turns to the conquest of the Americas as the prime example of originary appropriation. For it is the European conquest of the Americas that makes a truly global spatial order possible: "The originally terrestrial world was altered in the Age of Discovery, when the earth first was encompassed and measured by the global consciousness of European peoples" (*Nomos* 49). The emergence of America in European consciousness allows for a planetary concept of a spatial order based on scientific measurement; in fact, scientific measurement will prove to be the most powerful justification in Schmitt's argument for the European conquest itself.

Schmitt's invocation of the European conquest of the Americas as the key moment in the shift from a medieval-mythological to a modern-scientific consciousness is not a claim uniquely his own; Koyre's thesis of the shift from a closed world to an infinite universe presents a popular version of that same argument.<sup>114</sup> Yet for Schmitt, there is a particular and uniquely European link between discovery, conquest, and measurement which, when combined, results in a just land-appropriation capable of sustaining a new *nomos*. As Bruno Bosteels points out, when Schmitt posits the European conquest of the New World as the legendary, unrepeatable historic event that stands as the paragon of authentic land appropriation, his only justification lies in the assertion of the empirical success of European conquest.<sup>115</sup>

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<sup>114</sup> See Alexandre Koyre, *From the Closed World to the Infinite Universe*.

<sup>115</sup> "All that Schmitt has to offer by way of an answer [for the legitimacy of European land-appropriation in the Americas], however, seems to be the success and lasting force of actual fact, followed by a circular reassertion of the premise behind his geopolitical ontology: 'not every invasion or temporary occupation is a land appropriation that founds an order. In world history, there have been many acts of force that have destroyed themselves quickly. Thus, every seizure of land is not a *nomos*, although conversely, *nomos*, understood in our sense of the term, always

When reduced to its core, Schmitt's argument sounds rather brutish and banal: Europe conquered and measured America,<sup>116</sup> while America neither conquered Europe nor measured its own continent to the (nascent, modern) standards of European science. Therefore America could never have conquered Europe nor measured its own land. Since land *must* be conquered and measured (how else to understand appropriation?) in order to establish any *nomos* whatsoever, the *ex post facto* empirical European superiority justifies European conquest and enclosure itself.<sup>117</sup>

That is not to say the Schmitt *dismisses* the complex problem of justification and reciprocity; on the contrary, he dedicates a substantial section of *Nomos* to Francisco Vitoria, one of the key Spanish participants in the sixteenth-century debate over the justification of the conquest and the ontological status of the Amerindians. Schmitt argues that Vitoria is a key transitional figure, a theologian who represents Medieval Christianity's final attempt to found international law in *justa causa* doctrine. For Schmitt, the shift from *justa causa*—just cause—to *justus hostis*—just enemy—is the seed that flowers into the European Spatial Order.<sup>118</sup> Only when the European powers worry about the ontological status of the *enemy*, as opposed to the

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includes a land-based order and orientation' (*Nomos* 80). How long should a brutal use of force last, one is tempted to ask, before it qualifies as a legitimate act of founding law? There more important question, however, remains: Who is to say?" (Rasch 302).

<sup>116</sup> "The originally terrestrial world was altered in the Age of Discovery, when the earth first was encompassed and measured by the global consciousness of European peoples" (*Nomos* 49).

<sup>117</sup> In Schmitt's own words, "It was an achievement of newly awakened Occidental rationalism, the product of an intellectual and scientific culture that arose in the European Middle Ages, with the necessary assistance of systems of thought that had reconstituted classical European and Arabic thinking in Christian terms, and had molded it into a great historical power. [...] Thus, it is completely false to claim that, just as the Spaniards had discovered the Aztecs and the Incas, so the latter could have discovered Europe. The Indians lacked the scientific power of Christian-European rationality. It is a ludicrous anachronism to suggest that they could have made cartographical surveys of Europe as accurate as those Europeans made of America. The intellectual advantage was entirely on the European side, so much so that the New World simply could be 'taken,' whereas, in the non-Christian Old World of Asia and Islamic Africa, it was possible only to establish subjugated regimes and European extraterritoriality" (*Nomos* 132).

<sup>118</sup> "The ability to recognize a *justus hostis* is the beginning of all international law" (*Nomos* 52).

theological and/or moral reasons for war, can war itself be "bracketed" within Europe.

Vitoria fascinates Schmitt because the Spanish theologian sketches out a preliminary theory of universal reciprocity that gestures towards a *justus hostis* concept of war, but he does so from within the medieval framework of *justa causa*. Schmitt describes this strange intermediary position as Vitoria's "Scholastic objectivity." Christians and non-Christian, Vitoria argues, are equals in legal terms, and thus there is no direct right to appropriate the non-Christian lands of the New World. But Vitoria, according to Schmitt, goes even further: there is no ontological *newness* in the New World: "[Vitoria's] ahistorical objectivity goes so far that he ignores completely [...] the humanitarian concept of 'discovery' so laden with history in the modern view. From a moral standpoint, the New World for him was not new, and the moral problems it entailed could be handled by the immutable concepts and standards of his scholastic system of thought" (*Nomos* 106). In other words: Vitoria arrives at true humanistic universality only by denying the *event* of the New World.<sup>119</sup>

Schmitt, of course, takes the opposite position: the conquest is a truly singular event that inaugurates a new *nomos*. For Schmitt, reciprocity and objectivity are tied inextricably to Vitoria's scholastic position, and this blinds Vitoria to the newness of the New World. Yet Schmitt sacrifices Vitoria's attractive concept of universality, and thus Schmitt finds himself in the awkward position of consistently advancing claims for a "European" international order, i.e. an international order that does not recognize reciprocity between European nations and non-European nations (and thus dubious in its claim to be truly *inter-national*). As Schmitt himself argues, legal claims based on discovery "lay in a higher legitimacy" (*Nomos* 132); Schmitt rather cryptically suggests that said legitimacy lies in Europe's superiority, whether technological,

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<sup>119</sup> In this point, Vitoria finds an unexpected ally in Guaman Poma, who famously proclaimed "There was no conquest."

religious, moral, or some combination of the three.

### III Discovery or Enclosure?

The reason Schmitt's argument ultimately collapses into a brute claim of superiority is due to his use of "discovery" as a key analytic term in his understanding of the emergence of the European spatial order. Schmitt, as we have seen, dismisses Vitoria's concept of reciprocity as a ludicrous anachronism; instead of proposing the hypothetical of a Amerindian "discovery" of Europe, Schmitt insists on the historic particularities of the 'only discovery that ever was': the "unrepeatable historical event" of the Americas.<sup>120</sup> In this view, it is *discovery* as political-technological fact which grants the common European title of acquisition in the New World; Schmitt, against any form of "reciprocal" thinking—whether Scholastic like Victoria or modern/relativistic—asserts the "common European origin" of American land-appropriation.

Yet it is here that Schmitt stumbles as a historical thinker. As Patricia Seed has argued, Europeans established colonial rule in the New World through a series of distinct ceremonial practices that carried enormous and varied—even within the emerging European international order—political meaning. Seed contrasts the Iberian logic of "discovery" with the English logic of improvement; Schmitt strategically ignores this distinction in order to focus on the transition in juridical and legal logic from a scholastic concept of *justa causa* to a modern concept of *justi hostes*. This transition in the ways European colonial powers formalized their claims of possession in the New World has implications for Schmitt's own argument, and any other theorization of the process of enclosure and appropriation in the Americas.

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<sup>120</sup> "Unrepeatable" with the following qualification: "Only in fantastic parallels can one imagine a modern recurrence, such as men on their way to the moon discovering a new and hitherto unknown planet that could be exploited freely and utilized effectively to relieve their struggles on earth" (*Nomos* 39).

Seed outlines a general development in the ceremonies of possession that moves from the earliest Spanish claims based on the *Requerimiento* (a Scholastic juridical exercise that has its origins in the Spanish reconquest of the Iberian peninsula from Moorish occupation) through Portuguese claims based on navigational technology up to English arguments based on the enclosure and improvement of “waste” lands.<sup>121</sup> It is the English concept of “improvement” that will come to dominate—over and above the Iberian claims of “discovery” that Schmitt seeks to emphasize—the legal register in which appropriation is understood in international law.<sup>122</sup>

According to Seed, "sixteenth- and early-seventeenth-century Englishmen usually constructed their right to occupy the New World on far more historically and culturally familiar grounds: building houses and fences and planting gardens. [...] Building the first house was critical to the initial stages of English settlement in the first place because of their cultural significance as registers of stability, historically carrying a significance of permanence missing even elsewhere in continental Europe" (Seed 18). That is to say: "Englishmen shared a unique understanding that fencing legitimately created exclusive private property ownership in the New World" (Seed 20). “Fencing” was synonymous with “improving;” both terms implied a process of

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<sup>121</sup> See her *Ceremonies of Possession in Europe’s Conquest of the New World, 1492-1640*. In addition to the sections on the Spanish, Portuguese, and English examples discussed above, Seed also dedicates a chapter to French colonial possession that focuses on ceremony and performance, as well as a chapter to Dutch navigational techniques that develop from and ultimately replace Portuguese possession claims based on scientific superiority.

<sup>122</sup> Seed also illuminates a contrast between Portuguese-Dutch claims based on an immaterial conception of what today we would call proprietary technology, on the one hand, and the materially grounded English claims of improvement and enclosure of the land, on the other; this contrast is perhaps one of the earliest examples of the split between material and immaterial concepts of property that I will study in the second half of this dissertation. She argues, “Like modern technology or intellectual property rights, the Portuguese claimed a right to monopolize access to regions unattainable without the techniques they had pioneered” (Seed 102), and, later, “The Portuguese claims, repeatedly voiced in international conflicts, that they had right to a commercial monopoly on the seaborne trade with the new lands was an explicit claim that because of their vast expenditures on developing the science and technology of high-seas navigation, they had a just right to compensation” (Seed 130).

the private enclosure of land for the purpose of sedentary agriculture (Seed 30).

The very concept of “improvement,” which will become the backbone of John Locke’s theory of property, rests on the logic of the American blank slate.<sup>123</sup> More specifically, it rests on the early modern visions of the New World as a “localized” state of nature where man acted as wolf to man (according to Thomas Hobbes), or a living relic of the prehistory of society (as in John Locke’s theory of property). In Locke’s *Second Treatise*, particularly, America exists as a pre-political wasteland to be enclosed and improved; it is in this spirit that Locke famously and enigmatically affirms “In the beginning, all the world was America.”<sup>124</sup> As with Thomas More’s *Utopia*, America appears as a blank slate to be enclosed and cultivated. Yet the temporality of Locke’s utopian “state of nature” is quite distinct from More’s perfect non-place.

More presents his island as a parallel world, and this parallel structure frames More’s entire text. On the European side, corresponding to Part One of *Utopia*, More sketches a satire of English enclosure; on the American side—Part Two—he erects a perfect contemporary society. These two worlds exist in the same historical instant: one of More’s primary contributions is bringing the myth of a lost Golden Age of humanity into a politically and historically

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<sup>123</sup> Schmitt recognizes the role that the enclosure of the American continent plays in the English political theories of possession. Speaking of Thomas Hobbes, Schmitt states: “Hobbes obviously was influenced not only by the creedal civil wars in Europe, but also by the New World. He speaks of the ‘state of nature,’ but not at all in the sense of a spaceless utopia. His state of nature is a *no man’s land*, but this does not mean it exists *nowhere*. It can be located, and Hobbes locates it, among other places, in the New World” (*Nomos* 96); regarding Locke: “Given the historical evaluations of Locke’s doctrine of the state of nature and his model of society, also keep in mind the remarkable statement (made by an alleged rationalist at the beginning of the 18<sup>th</sup> century) that best elucidates the historical and spatial context of his thought: ‘In the beginning, all the world was America.’ The astonishing transformation of consciousness that occurred toward the end of the century also affected notions of the state of nature and of their location in America: the New World” (*Nomos* 97).

<sup>124</sup> Schmitt calls Locke’s statement that “In the beginning, all the world was America” a “remarkable” one because it condenses the growing early modern belief that America existed as a free zone to be appropriated. See *Nomos* 97.



contemporary moment. John Locke, writing a century and a half later,<sup>125</sup> returns to a mythical invocation of a past state of humanity in the construction of his theory of property and politics. But Locke, like More, leans heavily on the New World as an empirical fact in the construction of his argument. For Locke, Amerindians do not represent a parallel model of human organization, nor does the “discovery” of America serve as a heuristic tool to clear the philosophical slate. Instead, Locke looks to the descriptions of pre-Columbian American societies as a historical relic, as a petrified record of the pre-history of Europe. Locke’s utopia, which he calls the “state of nature,” is not satirical; on the contrary, Locke uses the idea of a pre-political America as a justification for European enclosure, at once justifying European appropriation in the New World and grounding the liberal theory of property on an invisible process of primitive accumulation.

In the fifth chapter of his *Second Treatise*, commonly called "On Property," Locke purports to show how individuals can justly divide up what "God gave to mankind in common" without any express contract (*Second Treatise* § 25). That is to say, he must demonstrate a method of individual appropriation that historically predates organized/political society (which, for Locke, is based on an expressed contract). He begins by affirming, following various Biblical passages, that "Every man has a property in his own person." This implies that each person owns his/her own labor, and thus, "Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature placed it in, it hath by this labour something annexed to it that excludes the common right of other men. For this labour bring the unquestionable property of the labourer, no man but he can have a right to what that is once joined to, at least where there is enough, and as good, left in common for others" (§

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<sup>125</sup> Locke published the *Second Treatise*, which contains the essay “On Property,” in 1689, although the date of composition remains a point of contention.

27).

Locke elaborates that the hunter-gatherer appropriates through the labour of hunting/gathering: "That labour put a distinction between them and common: that added something to them more than nature, the common mother of all, had done; and so they became his private right"; and "The labour that was mine, removing them out of that common state they were in, hath fixed my property in them" (§ 28). This becomes his most primitive model for justifying private property: the appropriation of naturally occurring things through human labour. Whenever he invokes the "primitive" hunter/gatherer model, he has been implicitly referring to America. He quickly makes this reference explicit: "Thus this law of reason makes the deer that Indian's [Amerindian's] who hath killed it; it is allowed to be his goods who hath bestowed his labour upon it, though before it was the common right of everyone" (§ 30).<sup>126</sup>

He then moves on to the more complex model of land appropriation. Man can appropriate the land itself through *improvement*, i.e. agriculture (§ 33); he names this process of agricultural appropriation *enclosure*: "He by his labour does, as it were, enclose it from the common" (§ 32). Enclosure via improvement continues as long as there is sufficient wasteland to be appropriated, and the model of wasteland is, again, America.<sup>127</sup> He categorically states: "Thus in the beginning all the world was America" (§ 49). Even in John Locke's present, America continued to be "wasteland" available for improvement and appropriation. Indeed, Locke's entire theory of land appropriation through agricultural improvement rests upon the existence of a vast "wasteland" called America, sparsely populated by pre-political savages and available for almost unlimited

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<sup>126</sup> This "primitive appropriation" is limited by spoilage: "As much as anyone can make use of to any advantage of life before it spoils, so much he may by his labour fix a property in: whatever is beyond this, is more than his share, and belongs to others" (§ 31).

<sup>127</sup> It is the invention of money via compact that allows man to get beyond the spoilage provision. The advent and function of the money economy is the main concern of the second half of "On Property" (§ 36-51).

appropriation by political—read: European—individuals.

James Tully has described in detail the use Locke makes of America in the *Second Treatise*. The process is two-fold: first, Locke delegitimizes the existing forms of Amerindian political organization by positing a “so-called natural system of individual self-government.” Instead of a recognizable polity, Locke sees atomized hunter-gatherer individuals living in nature. This move, according to Tully, dispossesses Amerindian governments of their political authority, which in turn effectively preempts any attempt to negotiate land appropriations through treaties with sovereign nations. After Locke has delegitimized Amerindian political organization, he uses a similar strategy to delegitimize Amerindian claims to American land: “The Amerindian system of property over their traditional territory is denied and it is replaced by a so-called natural system of individual, labour-based property, thereby dispossessing Amerindians of their traditional lands and positing a vacancy which Europeans could and should use without the consent of the first nations” (Tully, "Property" 151).

In effect, Locke's argument takes the form of a strange inversion of More's *Utopia*: The Amerindians live without private property in a primitive, pre-political utopia, and they actively *need* political European societies to colonize and enclose American lands in order to make politics a *possibility* (Tully, "Property"152). America may represent a savage utopia to Locke, but only in so far as utopia is equivalent to an apolitical wasteland.<sup>128</sup>

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<sup>128</sup> Tully describes the ideological stakes of Locke's argument: "It seems clear, therefore, that the central sections on labour, value, and commodities are designed to legitimate and to celebrate the superiority of English colonial market agriculture over the Amerindian hunting, gathering, and replacement agriculture that it forcibly displaced. The destruction of centuries-old native American socio-economic organizations and the imperial imposition of commercial agriculture is made to appear as an inevitable and justifiable historical development. It is justified, according to Locke, because native Americans had no rights in the land, consented to the market system in agreeing to the use of money, and desired the change because the use of money changed their motivation. Furthermore, they are better off because the European market system produces 'more

Yet is America solely a wasteland to be colonized? It is not exactly clear what Locke means when he invokes *America*, nor is it clear if he is consistent in his own understanding of the word. In "On Property," Locke relies heavily on a vision of hunter-gatherer and non-sedentary agricultural societies in North America in his description of the originary "American" state of nature. But elsewhere, Locke makes direct references to Inca Garcilaso de la Vega's *Comentarios reales* in response to the rhetorical question "where are or ever were there any men in such a state of nature?"<sup>129</sup> One can find examples of contemporary states of nature, Locke suggests, in the Peru that Garcilaso so thoroughly describes. In fact, a quick scan of the catalogue of Locke's library reveals that Locke had, in either English or French translations, copies of Gómara's *History of the Conquest of New Spain* and *General History of the West Indies*, Acosta's *Natural and Moral History of the Indies*, Las Casas' *History of the West Indies*, along with Inca Garcilaso's *Royal Commentaries* and *History of Florida*.<sup>130</sup>

It is not ignorance, then, that leads Locke to ignore the significant pre-Columbian civil and political societies organized in Mesoamerica and the Andean region in his assertion that "Thus in the beginning all the world was America" (§ 49). According to Barbara Arneil, Locke makes deliberate omissions of relevant information from his source material. She argues, "Locke's descriptions of natural man, while drawn from accounts of Amerindians, were forced into a theoretical framework demanded by both the needs of his political philosophy and his moral

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conveniences'—a manifestly partial standard that continues to be issued down to this day to measure and legitimate the non-native socio-economic systems on North America" (Tully "Property" 162).

<sup>129</sup> "The promises and bargains for truck, &c. between the two men in the desert island, mentioned by Garcilaso de la Vega, in his history of Peru; or between a Swiss and an Indian, in the woods of America; are binding to them, though they are perfectly in a state of nature, in reference to one another: for truth and keeping of faith belongs to men as men, and not as members of society" (*Second Treatise* § 14).

<sup>130</sup> See *The Library of John Locke*, Eds. Harrison and Laslett.

judgment of civil man; what did not fit was ignored" (Arneil 33).<sup>131</sup> Locke's theory of property, founded upon a particularly English style of agricultural labour, at once excludes the Amerindian hunter-gatherer and the Spanish miner from any defensible claim to improvement, enclosure, or property (Arneil 102-3). For Locke, then, only enclosure of wasteland is capable of producing political space; this happens by appropriating a pre-political and utopian state of nature. The pre-political state of nature, in turn, exists in the Americas.<sup>132</sup> But Locke's own sources do not agree with his assessment of America as a pre-political, property-less state-of- nature. In fact, the very sources Locke employed have been mobilized to create an entirely opposite American utopia. Against Locke's delegitimization of Amerindian political sovereignty, these American utopians insist on a space that precedes European enclosure.

#### **IV Mariátegui's Inca**

Alberto Flores Galindo's *In Search of an Inca* (1986) is the most comprehensive critical study of this counter-colonial utopian tendency in the Andes. According to Flores Galindo, the Andean utopian tradition is connected to an identity. This identity finds its basis in an idealized concept of the Inca; as such, the Incan utopia breaks with More, as it returns non-place to a past

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<sup>131</sup> Arneil details the example of Locke's use of Acosta; Locke, arguing against Filmer's elevation of hereditary monarchy to the best form of political organization, cites Acosta to argue that governments natural evolve towards consent and election. Yet Acosta actually chronicles many examples of American monarchy that arose from previous democracy. See Arneil 33-43. Vicki Hsueh, in a recent series of articles, compares Locke's vision of the Amerindian as expressed in the *Second Treatise* with the image sketched his notebooks and correspondence in his capacity proprietary administrator of colonial affairs.

<sup>132</sup> Klausen has expanded this positions to its ultimate consequences: "Lockean liberalism not only thus enables and justifies settler-initiated colonialism; it ideologically requires it insofar as natural liberty relies on the availability of open space for full actualization" ("Room Enough" 762) and "Lockean liberalism thus not only justifies the colonization of America but, furthermore, requires America's open spaces for the realization of natural liberty's potentiality" ("Room Enough" 768).

Golden Age. Flores Galindo explains, "The Andean utopia was the project—or, better yet, projects—that confronted [Andean] reality, an attempt to reverse dependency and fragmentation, to search for an alternative path in the encounter between memory and the imaginary: the rebuilding of Inca society and the return of the Inca ruler. It was an effort to find in the reconstruction of the past a solution to their identity problems" (*In Search* 5). Far from Thomas More's pun about a perfect and non-existent place, the Incan utopia became ever-more locatable: it resided in the historical memory of Tahuantinsuyo. Flores Galindo elaborates:

Andean people previously reconstructed the past and transformed it into an alternative to the present. This was and is a distinctive feature of the Andean utopia; the ideal city did not exist outside history or at the remote beginning of time. On the contrary, it was a real historic fact that had a name (Tahuantinsuyo); a ruling class (the Incas); and a capital (Cuzco). Andean people changed the particulars of this construction to imagine a kingdom without hunger, without exploitation, and where they ruled once again. It represented the end of disorder and darkness. Inca became an organizing idea or principle (*In Search* 27).

In reaction to the nightmare of conquest and colonization, an inverted dreamworld emerged, and it was a world that preceded European enclosure. The imperial and expansionist policies of the brief pre-Colombian Incan hegemony became, in the popular imagination, a period of abundance, equity, equality, and health (*In Search* 53). This vision of an empirical historical Golden Age represents an imaginary response to a real conquest; one effect has been to put into high relief the political and ideological nature of interpretations of Incan and pre-Colombian history.

The heterodox Peruvian Marxist José Carlos Mariátegui made one of the more subtle and

exciting uses of the myth of an Incan Golden Age. Mariátegui's thought, if anything, was grounded in the concrete historical situation of early twentieth-century Peru. Yet he realized the centrality of myth in the discourse of political and social change. In his "El hombre y el mito" ("Man and Myth," 1925), Mariátegui reveals what he believes to be the universal consensus of any investigation into the "world crisis": "Bourgeois civilization suffers from a lack of a myth, of a faith, of a hope. That lack is the expression of its material bankruptcy."<sup>133</sup> Furthermore, it is only myth that can animate man in a historical sense: "Myth moves man in history. Without myth man's existence lacks historical meaning. History possesses man and illuminates him with a superior belief, with a super-human faith; the rest of humanity is the anonymous chorus of this drama."<sup>134</sup>

So, in Mariátegui's view, it is only a *myth* that can give human beings the orientation and strength necessary to follow a path of historical change; that is, to make history. And, for Mariátegui, "making history" had a clear and unambiguous meaning in his contemporary Peru: the inauguration of Peruvian socialism.

Mariátegui constructed this myth throughout his extensive writings in registers as diverse as correspondent columns in periodicals, addresses to labor and political organizations, and editorials in his own publication, *Amauta*. His thought is eminently dialectical, combining the animating vision from the past with a revolutionary vision for the future. He conjugated a Marxist-based interpretation of Peruvian reality with a Sorelean-inflected promise of a coming revolution, while drawing inspiration from a Golden Age myth, and always keeping open a

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<sup>133</sup> "La civilización burguesa sufre de la falta de un mito, de una fe, de una esperanza. Falta que es la expresión de su quiebra material" (*Textos básicos* [TB] 9, all translations my own).

<sup>134</sup> "El mito mueve al hombre en la historia. Sin un mito la existencia del hombre no tiene ningún sentido histórico. La historia la hacen los hombres poseídos e iluminados por una creencia superior, por una esperanza super-humana; los demás hombres son el coro anónimo del drama" (TB 10).

pathway between materialism and an Andean spiritual-magical sensibility. Thus, his vision of the Incan utopia rests in the background, shadowed by his commitment to a materialist analysis of contemporary Peruvian reality; it is this commitment—which effected his break with the Third International over issues of imperialism and race—that insulates Mariátegui from any charges of advancing a simplistic return to the golden past of Incan communism.<sup>135</sup>

And yet, this Golden Age acts as ballast, lending gravity and equilibrium to his demands for Peruvian socialism. In perhaps his most famous revolutionary slogan, Mariátegui affirms: "Certainly, we do not wish that socialism in America be an imitation and a copy. It must be a heroic creation. We must, with our own reality and our own language, bring Indo-American socialism to life. *This* is a mission dignified enough for a new generation."<sup>136</sup> Immediately preceding this expression of revolutionary independence and fidelity to the Peruvian situation (and not often included in the quotable aphorism), Mariátegui states, "The most advanced communist organization, primitive, recorded by history is the Incan."<sup>137</sup> It is this mythical past, that of the world's first and most advanced communist society, which gives weight to the twentieth-century Andean revolutionaries. Incan communism, however, is not to be a model; it is

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<sup>135</sup> Flores Galindo accounts for Mariátegui's understanding of pre-Colombian Incan society: "Although Mariátegui did not write extensively about Inca society, arguments about agrarian communism were central to his work at large. According to him, the Incas did not use slaves, their society was not feudal, and the term 'socialist' was a blatant anachronism. Their society combined state organization, collective appropriation of goods and products, and developed agriculture. It was not primitive communism but rather agrarian communism. This suggested a peculiar historical formation: while Europe marched from slavery to feudalism, collectivism persisted in the Andes. The Spanish interrupted that history, but the collapse of the Inca state did not destroy ayllus, kinship groups whose silent and prolonged struggle persisted through peasant communities" (*In Search* 182-3).

<sup>136</sup> "No queremos, ciertamente, que el socialismo sea en América calco y copia. Debe ser creación heroica. Tenemos que dar vida, con nuestra propia realidad, en nuestro propio lenguaje, al socialismo indo-americano. He aquí una misión digna de una generación nueva" (TB 127).

<sup>137</sup> "La más avanzada organización comunista, primitiva, que registra la historia, es la inkaica" (TB 127). In my translation, I have remained faithful to the juxtaposition—if not the outright non-sequitur—of "advanced" and "primitive."



rather a guiding force that propels Peruvians forward in the knowledge that communism already reigned in the Andes. This is not without irony, as Mariátegui's understanding of pre-Colombian society looks very different than historical accounts such as Rostworowski's;<sup>138</sup> his dedication to contemporary Peruvian reality and devotion to the coming revolution perhaps blinded him to the thoroughly imperial and authoritarian nature of the short-lived pre-Colombian Inca hegemony.<sup>139</sup>

Perhaps the best way to understand the Incan side of Mariátegui's myth is to relate it to Walter Benjamin's concept of a dialectical image. Indeed, Aníbal Quijano has argued that Benjamin may be the "heterodox Marxist" who most closely resembles Mariátegui.<sup>140</sup> For Benjamin, the dialectical image occurs when a historical moment snaps into a contemporary political setting, and the conjunction forms a "constellation" in which history awakens subjects and creates a moment of political possibility. The 'coming into focus' of a previous historical moment does not show history 'as it really was,' but rather crystalizes into a "now of recognizability" (*Arcades Project* N3,4 p.463). That is, an image—such as that of Incan communism—attains legibility at a particular time: this coming together into a constellation is itself the "dialectical image," and it is in the "now of recognizability" that an otherwise "archaic" image like that of Incan communism or *ayllu* democracy becomes "genuinely historical" (N3,1 p. 463). Benjamin also expresses this idea that a Revolution can "quote" a previous historical

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<sup>138</sup> See Maria Rostworowski, *History of the Inca Realm*.

<sup>139</sup> When Mariátegui does address the unpalatable nature of Incan society to the contemporary revolutionary, he has this to say: "Teocrático y despótico fue, ciertamente, el régimen inkaico. Pero este es un rasgo común de todos los regímenes de la antigüedad" (TB 90).

<sup>140</sup> In his introduction to Mariátegui's *Textos básicos*, Quijano argues, "El proceso de la reflexión mariateguiana puede ser emparentado más bien con el de Walter Benjamin, no solamente por esa peculiar tensión de una racionalidad que se niega al reduccionismo, sino también porque en ambos la revolución es pensada como una cuestión de redención, sin que esto desemboque, sin embargo, en un territorio extraño a la propia historia. De ese modo, en ambos, la materialización de la igualdad social, de la solidaridad, de la reciprocidad, del amor al prójimo, en la vida cotidiana de la sociedad, no se refiere a—ni depende de—ningún poder religiosos institucional" (TB x).

moment in his *Thesis on the Concept of History*; in either case, the quotation is no simple repetition or recuperation, but rather an activation that allows current political actors to connect with a timeless spirit of struggle against oppression:

It's not that what is past casts its light on what is present, or what is present its light on what is past; rather, image is that wherein what has been comes together in a flash with the now to form a constellation. In other words, image is dialectics at a standstill. For while the relation of the present to the past is a purely temporal, continuous one, the relation of what-has-been to the now is dialectical: is not progression but image, suddenly emergent.—Only dialectical images are genuine images (that is, not archaic); and the place where one encounters them is language.

**Awakening.**" (N2a,3; p 462)

Similarly, Cornejo describes the interaction between revolution and historical tradition in Mariátegui's thought: "Only from a revolutionary position is it possible to vindicate tradition and convert it, not into a museum piece, but rather into living history."<sup>141</sup>

But Mariátegui faced a problem that was foreign to Benjamin: the persistence of the colonial encounter and the racially-charged feudalism it entailed. Thus, Mariátegui's famed *Siete ensayos de interpretación de la realidad peruana*, dedicated as it was to the empirical situation in inter-war Peru, presented a developed criticism of Peru's persistent and anachronistic feudal

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<sup>141</sup> "Sólo desde una posición revolucionaria es posible reivindicar la tradición y hacerlo como historia viva y no como pieza de museo" (*Aire* 187). Coronado also describes a similar operation in Mariátegui's thought: "For Mariátegui, *Amauta* described a project that distanced itself from the remote past at the same time that it renewed and deployed the forms it found therein. Thus the journal would take Incan history as a point of departure, but the past would not be its destination. In a move that characterizes Mariátegui's political positioning of culture, his choice of this title culls from the ashes of an old civilization the kindling necessary to ignite a new one" (Coronado 28).

economy and society. The overarching problem, Mariátegui states, is the latifundio; but the solution is not the liberal-democratic one of breaking up the latifundios into small lots. The division of the large landholdings into smaller individual lots, to be cultivated and managed by a new class of small landholders, is *not* "utopian, nor heretical, nor revolutionary, nor Bolshevik, nor avant-garde, but rather orthodox, constitutional, democratic, capitalist, and bourgeois."<sup>142</sup> Like the Marxist he claims to be, Mariátegui rejects this liberal-individualist solution as antiquated given the global conditions of social and political revolution. Peru, furthermore, holds a distinct advantage over other colonial nations submerged in the feudal remnants of a neo-colonial situation: "The survival of the *comunidades* and various practical elements of socialism in indigenous agriculture and daily life."<sup>143</sup>

The survival of the *comunidad* offers a provisional answer to that question Carl Schmitt was incapable of asking and that John Locke was successful in distorting: what preceded European enclosure of the New World? Mariátegui turns to Luís Valcárcel—one of the founders of the Peruvian *indigenismo* movement—to sketch an account of the Incan commons: "In the indigenous tradition, the earth is the common mother: from her entrails come not only the fruits of sustenance, but also man himself. The earth distributes all good. The cult of Mama Pacha is on par with sun-worship, and as the sun belongs to nobody in particular, neither does the planet."<sup>144</sup> Mariátegui separates the authoritarian aspect of Tahuantinsuyo from the socio-economic aspect. The authoritarian aspect of Incan rule is offensive to liberal sensibilities, Mariátegui concedes.

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<sup>142</sup> "utopista, ni herética, ni revolucionaria, ni bolchevique, ni vanguardista, sino ortodoxa, constitucional, democrática, capitalista y burguesa" (TB 69).

<sup>143</sup> "la supervivencia de la comunidad y de elementos de socialismo práctico en la agricultura y la vida indígenas" (TB 70).

<sup>144</sup> "La tierra en la tradición regnícola, es la madre común: de sus entrañas no sólo salen los frutos alimenticios, sino el hombre mismo. La tierra depara todos los bienes. El culto de la Mama Pacha es par de la heliolatría, y como el sol no es de nadie en particular, tampoco el planeta lo es" (Luis Valcárcel, quoted in TB 71).

But then, he adds, why should a Marxist worry about offending liberal sensibilities? "To view the abstract idea of freedom," he reminds his readers, "as consubstantial with a specific, concrete image of freedom—daughter of Protestantism and the Renaissance and the French Revolution—is to fall into an illusion that rests upon the slight, although not disinterested, philosophical astigmatism of the bourgeoisie and its democracy."<sup>145</sup> Incan communism was indeed authoritarian, but it was also communism. And just as the contemporary socialist is capable of embracing bourgeois liberalism's authentic contributions to the cause of human liberation while simultaneously rejecting those liberal-bourgeois elements hostile to socialism, so too can the contemporary socialist draw from the Incan experience in crafting a truly modern, truly Peruvian social order.

And Mariátegui clearly explicates those elements of liberal-bourgeois society that must be overcome. In fact, the nominal liberalism of the Peruvian Republic does not even represent a threat to the neo-feudal order. The specific constellation of Peruvian liberalism during the Republic (inaugurated after the successful conclusion of the early 1820s struggle for independence from Spain) had neither the political power nor the will to confront the persistent feudal organization of society, yet the Republic could easily expropriate the indigent members of the *comunidades*. This is Mariátegui's critique of the liberal Republic: impotent against the large landowners, it turned its attention to agrarian reform of the indigenous *comunidades*. Yet this so-called land reform merely enclosed commonly-held lands, redistributed those lands into the hands of the propertied class, and converted the indigenous residents into *de facto* serfs. (TB 86).

Thus the major problem of his contemporary Peru is a *land* problem. The cause of the

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<sup>145</sup> "Consustanciar la idea abstracta de la libertad con las imágenes concretas de una libertad con gorro frigio—hija del Protestantismo y del Renacimiento y de la Revolución Francesa—es dejarse coger por una ilusión que depende tal vez de un mero, aunque no desinteresado, astigmatismo filosófico de la burguesía y de su democracia" (TB 89).

misery and wretchedness of Peru's indigenous population is, concretely, a continuous and unabated act of land appropriation. Mariátegui systematically rejects any other "exclusive and unilateral criteria"; any "administrative, juridical, ethnic, moral, educational, ecclesiastical" explanation because the "Indian problem" reduces fundamentally to an economic injustice. That injustice goes by the name appropriation, which is synonymous with the existence of feudalism in contemporary Peru. The persistence of *comunidades* and communal practices within indigenous spheres only highlights that *things could be otherwise*. It is not that Mariátegui advocates a return to this pre-Colombian Golden Age (he says so explicitly throughout his writings), but rather, he seeks to mobilize the already-existing structures of a community-oriented anti-capitalist practice (for instance, the ayllu form of social organization) in order to further his goal of an autochthonous Peruvian/Andean socialism.<sup>146</sup>

The *comunidades*, then, stand against the Lockean idea of an American wasteland. Thus Mariátegui can speak of an indigenous agrarian *revindication*, and he realizes the mythical register in which the Golden Age of Incan communism must resonate. The myth, for whatever historical inaccuracy, also has the pragmatic and expedient value of, as Cornejo Polar argues, destroying the oppositions between, on the one hand, the blunt cosmopolitanism of the Comintern with the nativism of the Peruvian *indigenismo* tradition, and between an indigenous traditionalism and a program of modernization, on the other (*Aire* 189-90). It gives direction and purpose to the

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<sup>146</sup> For example, "El comunismo no supone, históricamente, libertad individual ni sufragio popular. La autocracia y el comunismo son incompatibles en nuestra época; pero no lo fueron en sociedades primitivas. Hoy un orden nuevo no puede renunciar a ninguno de los progresos morales de la sociedad moderna. El socialismo contemporáneo—otras épocas han tenido otros tipos de socialismo que la historia designa con diversos nombres—es la antítesis del liberalismo; pero nace de su entraña y se nutre de su experiencia. No desdeña ninguna de sus conquistas intelectuales. No escarnece y vilipendia sino sus limitaciones. Aprecia y comprende todo lo que en la idea liberal hay de positivo: condena y ataca sólo lo que en esta idea hay de negativo y temporal" (TB 90).

Peruvian struggle.<sup>147</sup>

According to Cornejo, Mariátegui's insistence on an Andean modernity is his primary contribution to political and social thought; furthermore, his thesis can be extrapolated to posit the existence of multiple modernities, each modernity developing from and responding to a dialectic between local and global conditions.<sup>148</sup>

Cornejo believes the identity of Mariátegui's modern (or modernizing) subject to be open and in construction. But in answering the Lockean/Schmittean question of *what precedes enclosure*, Mariátegui falls into an identitarian trap. For if what preceded enclosure is a commons, it must be understood as an Incan commons. As much as Mariátegui tries to ground himself, literally, in the land, his vision of Peru's socialist future is profoundly marked by the problem of indigenous identity. He justifies the legitimacy of the unenclosed commons through an appeal to a specific mythical construct; as Peruvian history attests, even Mariátegui's carefully constructed appeal to an Incan Golden Age can quickly collapse into a closed and reactionary identity that only serves to exacerbate conflicts and further fracture an already heterogeneous order.

The problem of land and the problem of identity are never too far apart. As Flores Galindo reminds us, the Incan utopia—in whatever its iteration—is always fundamentally an identity-based utopia. When Mariátegui orients this Incan utopia towards a defense of a pre-conquest commons, he substitutes the enclosure of land with the enclosure of a particular subject. If socialism and community precede *latifundismo* and enclosure, that unenclosed community is

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<sup>147</sup> Mariátegui describes the revindication: "La lucha de los indios contra los gamonales, ha estribado invariablemente en la defensa de sus tierras contra la absorción y el despojo. Existe, por tanto, una instintiva y profunda reivindicación indígena: la reivindicación de la tierra. Dar un carácter organizado, sistemático, definido, a esta reivindicación, es la tarea en que la propaganda política y el movimiento sindical tiene el deber de cooperar activamente" (TB 253).

<sup>148</sup> On multiple modernities, Cornejo advances, "La tesis mariáteguiana propone una alternativa antidogmática: no hay una sino muchas modernidades, y varias maneras de llegar a ese punto, y dentro de aquéllas es insensato no incluir la opción de imaginar y realizar una modernidad de raíz y temple andinos" (*Aire* 190).

nonetheless a particular community based upon a specific identity: hence, the descriptor "Incan" communism.<sup>149</sup>

In other words, Mariátegui's appeal to an open commons collapses upon itself, and that collapse has its inevitable origin in his identitarian move to enclose the Incan commons within one set identity. In insisting on an agrarian commons that precedes the imperial enclosure of so-called wasteland, Mariátegui answers our original question: *what precedes Fence?* His answer, however, relies on a common subject under the banner of a mythological Inca. This rhetorical move merely shifts the question to a subjective register: can there be a truly common subject without Fence, without the foundation of an already-constituted identity? Is Cornejo's heterotopia of multiple modernities with their respective subjects-in-construction an impossibility? Or do we see in Mariátegui's work the early stirrings of some future subject-to-come?

## **V Arguedas and the Heterogeneous Subject**

That question, of the subject-to-come, has played out on the battlefield of one of Mariátegui's inheritors and admirers, José María Arguedas. The concepts of utopia, community, and subjectivity run through both Arguedas' own work and the critical debate that surrounds it. Arguedas—novelist, poet, and anthropologist—famously grew up speaking Quechua in the Andes, although he is not of indigenous descent. His work has become a focal point for theorists of mestizaje, transculturation, heterogeneity, and other themes of post-colonial scholarship.<sup>150</sup> Perhaps his best-known statement on the topic of his cultural hybridity comes in the final chapter

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<sup>149</sup> I explore the problem of commons and essentialism in chapter five, "Copyleft as Training Ground: The Digital Horizons of Intellectual Property." See also Jean-Luc Nancy, *The Inoperative Community*.

<sup>150</sup> For a comprehensive bibliography of both Arguedas' own work and criticism current until 1992, see *El zorro de arriba y el zorro de abajo*, critical edition coordinated by Eve-Marie Fell.

of his incomplete, posthumously published novel, *El zorro de arriba y el zorro de abajo* (1971). In that tragic and disconcerting chapter, titled "Diary: Final Entry?" Arguedas addresses the homological split in his own biography that mirrors the nature of Peruvian society; the chapter is extremely dark in tone, as it effectively became a suicide note (Arguedas committed suicide in late 1968, shortly after writing "¿Último diario?"). Yet even in his despair over Peru's tragic situation and his perceived insufficiency as a novelist, Arguedas manages to celebrate Peru's complicated ethnic and social constitution: in Peru, *nuestra patria*, "any man no longer shackled and brutalized by selfishness can joyfully experience all of the homelands" (Foxes 260).<sup>151</sup>

Needless to say, that passage is an obligatory quotation for any Arguedas scholar interested in the questions of identity, nation, and subjectivity. Less frequently quoted, however, is the sentence that immediately follows and, in a way, completes his idea: "How are the barbed-wire borders, Comandante? How long will they endure? Just as those servants of the gods—the gloomy darkness, threats, and terror that were raised up and heightened—are being weakened and worn away, so are those borders, I believe."<sup>152</sup> Barbed-wire fences that weaken and corrode: Arguedas, like Scorza, also understands Fence to be a key concept in interpreting his contemporary reality. Yet while Scorza's novel unmasks Fence to reveal the original appropriation that lies behind Fence's own Schmittean origin story, Arguedas' work can be said to understand Fence as the ontological condition of a heterogeneous Andean subject. This expression only

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<sup>151</sup> "cualquier hombre no engrilletado y embrutecido por el egoísmo puede vivir, feliz, todas las patrias" (*Zorros* 246). All English translations from *The Fox from Up Above and the Fox from Down Below*, trans. Frances Horning Barraclough.

<sup>152</sup> "¿Cómo están las fronteras de alambres de púas, Comandante? ¿Cuánto tiempo durarán? Igual que los servidores de los dioses, tiniebla, amenaza y terror, que las alzaron y afilaron, creo que se debilitan y corroen."



becomes more clear in Arguedas' later work.<sup>153</sup>

In his 1968 acceptance speech for the Inca Garcilaso de la Vega prize, Arguedas once again employs the image of a "closed-off" or "fenced-off" people in his description of Peruvian society. In accepting the prize named after the "modern" defender of Quechua culture, Arguedas sketches a picture of two cultures in Peru: the dominate culture of the oppressor—the legacy of the Conquest—and the dominated, isolated Quechua culture. In Arguedas' estimation, Quechua culture is walled-off, and he names the dominant culture *los cercadores*—the enclosers. "I am not acculturated," he proclaims, for acculturation would mean restricting life to the enclosed world within the oppressor's walls. Arguedas' literary mission, however, was to "transform into written language what I was as an individual: a strong living link, capable of being universalized, between the great, walled-in nation and the generous, humane side of the oppressors" (*Foxes* 268).<sup>154</sup> Like Mariátegui before him, Arguedas looks towards a future where the best of all cultures rise above and beyond the divisions and borders that the worst of each culture creates. "Aculturation" is unilateral, according to Arguedas: aculturation would mean, then, the perfect completion of Fence. What Arguedas lived and wrote, later critics articulated in the language of post-colonial theory. A dominant imperial culture that "celebrates" difference merely allows Fence to be decorated with so many symbols of a vanished, unarmed past, now rendered politically impotent and finding its expression mainly in tourism and the international market for so-called "authentic" indigenous culture. Instead, Arguedas calls for the destruction of Fence, tearing down the wall that encloses and separates.

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<sup>153</sup> For an excellent overview of Arguedas' development as a novelist, and how the idea of heterogeneity gains an increasingly rich and complex expression in his work, see the final section of Corjeno Polar's *Literatura y sociedad en el Perú: La novela indigenista*.

<sup>154</sup> "convertir en lenguaje escrito lo que era como individuo: un vínculo vivo, fuerte, capaz de universalizarse, de la gran nación cercada y la parte generosa, humana, de los opresores" (*Zorros* 257).

That position, of course, begs the question: if Fence is indeed the current ontological condition of Andean subjectivity, what would a post-Fence subject look like? Without borders, there would be no heterogeneity, as the very concept of the heterogeneous depends upon a division, a distinction between two non-identical elements. Yet Arguedas, the "happy devil" who lives, cheerfully, all of the *patrias* within one *patria*, is far from homogeneous or self-identical. So Arguedas looks for something *beyond* fence, and this point is precisely what some of his most vocal critics ignore.

For instance, the Peruvian novelist, former (unsuccessful) presidential candidate, and neo-liberal apologist Mario Vargas Llosa, who prologued the early international editions of Arguedas' novels, views Arguedas as the primary representative of what he calls "archaic utopianism." At its heart, the phenomenon Vargas Llosa names "the archaic utopia" is a belief in "the resurrection of a past mythically embellished with elements assimilated from the 'dominant' culture and the creative fantasy of writers and artists."<sup>155</sup> The utopia is archaic because it proposes a return: the *resurrection* of a mythical past. Like Mariátegui's critics, Vargas Llosa understands Arguedas as preaching a return, when really the novelist and anthropologist is groping to feel the contours of a subject-to-come in the darkness of a possible post-Fence Peru.<sup>156</sup> One imagines that Vargas Llosa misreads this "resurrection" into Arguedas' novels because Vargas Llosa is actually quite happy with the contemporary Peruvian reality of neoliberalism, and acculturation represents the cultural path towards Vargas Llosa's own utopian vision of a "modern" Peru. "Neither Indian nor White,"

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<sup>155</sup> "la resurrección de un pasado míticamente embellecido con elementos asimilados de la cultura 'dominante' y la fantasía creadora de los escritores y artistas" (Vargas Llosa 248).

<sup>156</sup> Again, it is important to remember that Arguedas' thought is significantly indebted to Mariátegui; the mythological and theological registers of which most closely resemble Benjamin's concepts of the dialectical image and history as ruin. To speak of a simple "resurrection" of a past Golden Age in Arguedas' work is to ignore not only the novelist's own understanding of Mariátegui, but also to advance a deaf and blind reading his fiction.

he states, "neither Indigenous nor Hispanic, the Peru that is emerging with apparent longevity still remains a mystery; the only thing we can be assured of with absolute certainty is that it will look nothing like the images that José María Arguedas described—or rather, fabulated—in his literary work."<sup>157</sup> In other words: anything but *that*, anything but what Arguedas had in mind. But this is just a deferral of the problem, a belief that a more complete "acculturation" will effectively solve the indigenous problem through total assimilation, reducing difference to a matrix of consumer preferences within the framework of a "completed" process of modernization.<sup>158</sup>

Of course, this scenario of a "completed modernity" is precisely what Arguedas feared most. Furthermore, Vargas Llosa is wrong: the Andean utopia best imagined by Mariátegui and Arguedas is not closed and archaic. It is, rather, open and heterogeneous. That does not mean it is without its own contradictions. And those contradictions become most clear when we consider that subjective and identitarian elements of that utopia. Cornejo Polar's reading of Arguedas draws our attention to just those elements. "Subject and discourse," he says, "are acutely pluralized and the novel as such transforms into a space where all lose their secure and definite identities, and instead share—not without conflict—a socialized and oscillating semiosis."<sup>159</sup>

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<sup>157</sup> "Ni indio ni blanco, ni indigenista ni hispanista, el Perú que va apareciendo con visos de durar es todavía una incógnita de la que sólo podemos asegurar, con absoluta certeza, que no corresponderá para nada con las imágenes con que fue descrito—con que fue fabulado—en las obras de José María Arguedas" (Vargas Llosa 335).

<sup>158</sup> For a further exploration of acculturation, transculturation, and cultural difference in general, see Alberto Moreiras' reading of *Los zorros* in his *The Exhaustion of Difference*. For a critique of Vargas Llosa's celebration of neoliberal Peru, see Gareth Williams' chapter "Of *Pishtacos* and Eye-Snatchers: Neoliberalism and Neindigenism in Contemporary Peru" in his *The Other Side of the Popular*, along with Juan E. De Castro's recent article "Mario Vargas Llosa versus Barbarism."

<sup>159</sup> "Sujeto y discurso se pluralizan agudamente y la novela como tal se transforma en un espacio donde uno y otro pierden sus identidades seguras y definidas y comparten, no sin conflicto, una semiosis socializada y oscilante" (*Aire* 215). The fact that this agonistic, "socialized and oscillating semiosis" is represented as between distinct subjects in Scorza's novel (as opposed to

Cornejo sees this tendency most clearly exhibited in Arguedas' 1958 novel *Los ríos profundos*. The scene where the bilingual narrator reflects upon his childhood memory of first touching the Incan wall in Cusco is emblematic. The narrator remembers being consumed by the phrase *puk'tik yawar rumi*, "boiling stone of blood." That disjunctive, heterogeneous phrase—rock boiling in liquid form, the liquid water of the title's *Deep Rivers* transforming into boiling blood—literally erupts from his mouth. Cornejo then spins out this moment of transculturation into a greater theory of Arguedas' utopia. It is neither archaic, pace Vargas Llosa, nor the dream of a perfect cosmic harmony between man and world, *pace* classic utopians, but rather plural, multiple, and contradictory: "It would be possible to read the Arguedian utopia not in terms of a conciliatory synthesis, but rather in those of multiple, indeed contradictory, pluralities that do not abdicate in the face of the troubling desire to be many beings, live many lives, speak many languages, inhabit many worlds."<sup>160</sup>

Yet if we conceive of the Arguedian iteration of the Andean utopia in purely linguistic and subjective terms, we risk forgetting Mariátegui's fundamental lesson: the horizon of the problem must always touch the land itself. If the Andean utopia is to remain open to heterogeneity, without enclosing any particular identity as such, can this model function on the material level as well? Can a commons exist simultaneously in the material and the subjective sphere?

In bouncing between subject and land, the question becomes one of essentialism: how to understand a *right to the commons* that is not based on an essentialist identity? There are those

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*within* a subject in Arguedas' novels) may explain why Scorza has become foil to Arguedas in postcolonial readings of Andean heterogeneity (see above).

<sup>160</sup> "Sería posible leer la utopía arguediana no en términos de síntesis conciliante sino de pluralidad múltiple, inclusive contradictoria, que no abdica frente al turbador anhelo de ser muchos seres, vivir muchas vidas, hablar muchos lenguajes, habitar muchos mundos." (*Aire* 217).

who would reject outright any concept of a *right to the commons*—whether articulated in terms of a land-based claim for communal land or a subject-based claim for a multiple identity forever in construction—because the very concept of a "right" is hopelessly entangled in the liberal account of possessive individualism.<sup>161</sup> That is to say: the very form in which a demand for the commons could possibly be articulated is itself a subject of great debate. If that demand is to be articulated as the revindication of a certain kind of right, however, it must be expressed in a way that remains at once *open* to the kinds of multiple and heterogeneous subjects that Cornejo finds expressed in Arguedas, and *grounded* in the material realities of whatever local situation. These conditions suggest a very particular kind of universalism: a universalism that does not demand a stable, homogeneous subject, nor a central, essential identity. Today, that universalism seems to rally under the name "multitude." Perhaps, as a myth, "multitude" seems more palatable to a universal audience, as opposed to an Andean mythology under the banner of the Inca. Still, it is not clear that the "multitude," as a concept, manages to resolve the tensions and contradictions that Fence erects.<sup>162</sup>

Furthermore, contemporary enclosures have created, literally, a new frontier to appropriate. These new enclosures happen in the digital realm, yet the problems of history and the subject, so visible in the Andean case, have not simply disappeared. They, like the concept of the commons itself, have simply leapt from the material realm of land and primitive appropriation to the immaterial sphere of the new global communications networks. This will be the subject of the next chapters.

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<sup>161</sup> See, for instance, Arianna Bove's essays on [www.generation-online.org](http://www.generation-online.org).

<sup>162</sup> For my reading of Hardt and Negri's *Empire-Multitude-Commonwealth* trilogy, chapter four, "The Commons, Between Literature and the City."

## CHAPTER 4

### THE COMMONS, BETWEEN LITERATURE AND THE CITY

This chapter investigates the shifting nature of creative and artistic work in the contemporary globalizing and networked moment. The commons—a key term in historical struggles over enclosure, land appropriation, and colonialism—has been reappropriated and rearticulated as a concept bound to creative endeavors, especially in the realm of aesthetics. I first examine the contested nature of the commons as concept. Then I discuss some of the implications of the concept of a cultural commons in an age of globalization. Finally, I study several examples of cultural production from Latin America that exemplify divergent strands of thinking the relationship between property and creativity. What these projects share is an ecological vision of creativity, whether that understanding manifest itself through plagiarism as an act of creative circulation, or recycling as a gesture towards opening a literary commons. I use the concept of *unmanageability* to talk about these phenomena; we can also understand them as contemporary projects that open up virtual space while reaching out into the material city. It is through these practices—practices which the current order can only understand as unmanageable—that we find the commons, exposed.

#### **I The Digital Commons: A Case of Blind Men and an Elephant**

In the previous chapter, I discussed the *commons* at great length. The commons is a form of economic, social, and ecological organization based around collective land use. The political valence of a *commons*, as we saw in the Mariátegui's case, is actually ambivalent: it can represent an authoritarian, even tyrannical mode of political organization (as in the Incan case), or it can

represent a democratic, socialistic organization (as in the case of the post-revolutionary Peru which Mariátegui theorized). The commons is opposed to the process of *enclosure*; indeed, it is the political and economic process of enclosure that erases the commons through privatization of a shared community resource.

The concept of the commons has also found currency in contemporary debates over the architecture of the digital universe. The basic design of the Internet—the "network of networks," a collection of computers and electronic devices that all share the basic, non-proprietary Internet Protocol Suite (TCP/IP)—has been viewed by many as a commons; yet when we talk about the Internet, we jump from a material concept of the commons based in land to an immaterial concept of a commons based on shared protocols and connectivity. As long as it remains clear that the Internet is a metaphorical commons based on shared infrastructure that is both material property *and* immaterial things (protocols, ideas, intellectual properties), that concept is useful to employ.

In part because of the contemporary emphasis on the concept of immaterial commons, and in part because of the early utopian visions of the Internet and its communistic horizon of possibilities, the concept of the *commons* has crossed with the concept of the *common*, singular. The *common* tends to be used in philosophical discourse when dealing with the problem of community (as in the work of Nancy, Blanchot, and, recently, Esposito) or with the question of communism (Badiou, Hardt and Negri). As I am concerned with the shift from the material to the immaterial conception of the commons, I will use the term in the plural save for when I am discussing the work of theorists who explicitly invoke the common in its singularity.<sup>163</sup>

In thinking through the implications of digital culture on creative production, I will be

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<sup>163</sup> I directly address Hardt and Negri's notion of the common below; for my readings of Nancy, Blanchot, and Esposito, see chapter five, "Copyleft as Training Ground: The Digital Horizons of Intellectual Property."

drawing primarily from two distinct yet overlapping models for conceiving what has been called the realm of immaterial production or networked society. In the broadest of terms, these two models can be called, respectively, the liberal and the radical models of the commons.<sup>164</sup> In order to give a sketch of the general contours of the debate, I will use three recent texts as examples of these positions: Yochai Benkler's *The Wealth of Networks*, James Boyle's *The Public Domain*, and Hardt & Negri's *Commonwealth*. What is at stake in all of these texts is the status of human creative activity in an era dominated by information flows and new technologies of social relations.

Benkler's *The Wealth of Networks* (2006) aims to be a treatise on the nature of the emerging networked information economy (NIE). In this sense, the audacity of the title is no mere overreach; Benkler intends to describe a new sphere of human production beyond the market sphere that captured Adam Smith's attention in late eighteenth-century Europe. As the NIE expands and develops, it does so at the expense of the Industrial Information Economy (by Industrial Information Economy, Benkler means the large-scale manufacturers that have dominated North American capitalism: the various iterations of the centralized Ford assembly line adapted to the particular needs of an industry). Information, Benkler argues, has *always* been different from the other commodities produced by capitalism, and now new technological innovations free information from the limits and logic of material production. Radically distributed, nonproprietary *peer production* is the emergent relation of production best suited for the NIE.<sup>165</sup>

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<sup>164</sup> This distinction is merely expedient, and there exist other, divergent models that bisect the liberal/radical division, for instance, the libertarian and anarchic traditions.

<sup>165</sup> A critique of the concept of *peer* is necessary, but it falls outside the scope of the present text. One must consider the dual nature of the word *peer*: it at once implies radical inclusion (as in a



Furthermore, he says, the NIE—and the nonproprietary model of peer production on which it is based—enhances human autonomy by carving out social realms beyond the market sphere. Benkler's work is exciting, and he tempers his descriptions of the emerging NIE with a skeptical approach towards what he calls techno-utopianism.<sup>166</sup> Yet this methodological commitment creates a blind spot in Benkler's thought. Benkler celebrates the enhanced individual autonomy that arises from increased social and collaborative production beyond the realm of the market, but he does not think about the implications such a networked model of social production has on the status of the autonomous possessive individual subject assumed by market-based liberal thought. Instead, Benkler doubles down on liberalism.<sup>167</sup> It is from this position—that of the committed techno-liberal—that he considers the conflict between emerging social practices

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jury of one's peers, the legal sine qua non of a democratic judicial system) and absolute exclusion (as in peerage). These two poles, if theorized, lead to a larger critique of the concept of community.

<sup>166</sup> This skepticism becomes especially clear when he discusses the NIE's effect on democracy and the public sphere. Benkler insists that the techno-utopian baseline of "everyone a pamphleteer" is spurious; instead, he sets up an entire comparative methodology against the commercial mass media model that rose to dominance with the Industrial Information Economy. One might say that Benkler rejects speculation about the possible in favor of the iron rule of the actual.

<sup>167</sup> Benkler's position is most visible when he outlines the methodological concerns of his project. Describing his individualist and economic methodological orientation, he posits, "If we are indeed seeing the emergence of a substantial component of nonmarket production at the very core of our economic engine—the production and exchange of information, and through it of information-based goods, tools, services, and capabilities—then this change suggests a genuine limit on the extent of the market. Such a limit, growing from within the very market that it limits, in its most advanced loci, would represent a genuine shift in direction for what appeared to be the ever-increasing global reach of the market economy and society in the past half century" (Benkler, *Wealth* 18-19). This shift, however, is not radical enough to call into question the very subject posited by the liberal market economy; Benkler continues, "I am concerned with human beings, with individuals as the bearers of moral claims regarding the structure of the political and economic systems they inhabit. [... Benkler's position] is concerned first and foremost with the claims of human beings as human beings, rather than with the requirements of democracy or the entitlements of citizenship or membership in a legitimate or meaningfully self-governed political community" (Benkler, *Wealth* 19). Note here the naturalization of the liberal *possessive individual* as the human being as such.

like nonproprietary peer production and "the political and judicial pressures to form an institutional ecology that is decidedly tilted in favor of proprietary business models" (Benkler, *Wealth* 470). On the one hand, he can talk about this conflict in the language of data-driven analysis (this makes up a significant portion of his book) and suggest practical, policy-driven interventions to, as he argues, enhance human autonomy. On the other hand, Benkler is incapable of explaining why liberalism is the best way to think of nonmarket/nonproprietary human production.<sup>168</sup>

Indeed, based on the evidence Benkler presents, the reader is likely to be persuaded that there is a fundamental incompatibility between the proprietary, market based model of a liberal economy and the nonmarket, nonproprietary sphere of information. Yet what is this information sphere? Benkler tends to conflate *information* and *culture*; this is a tendency he shares with many of the liberal theorists of the networked economy. As a result, Benkler talks about culture in a way that a) seems confined to a screen-mediated culture, and b) overestimates the novelty of its existence in a networked world. For instance, when Benkler affirms that in the NIE, "culture is becoming more democratic: self-reflective and participatory" (Benkler, *Wealth* 15), the other side

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<sup>168</sup> For instance: "The emergence of a substantial nonmarket sector in the Networked Information Economy offers opportunities for providing better access to knowledge and information as input from, and better access for information outputs of, developing and less-developed economies and poorer geographic and social sectors in the advanced economies" (Benkler, *Wealth* 130); in other words: there is an economy beyond the liberal market, and its existence will play a crucial role in global development. Yet Benkler gives no reason why *liberalism* is the best set of assumptions to think such a nonproprietary, collaborative mode of production. Benkler's position also, it should be noted, allows him to begin his argument "given the Internet," and thus avoid the question of the global digital divide (which he brushes off as a "transitional problem"). At its worst moments, Benkler's entire argument collapses under the weight of its own circularity: a world with enough individuals networked to one another via portable digital devices will create a world in which enough people will be networked together so as to engage in nonproprietary, nonmarket peer production. Yet Benkler talks very little about nonproprietary nonmarket solutions for the physical infrastructure of that vision, especially in those parts of the world on the *other* side of the digital divide.

of this assertion is that culture previously was unreflective and monolithic. In his account, this increasingly democratic culture arises because "nonmarket behavior is *becoming* central to producing our information and cultural environment" (Benkler, *Wealth* 56; my emphasis). Of course, this perspective only considers pre-NIE culture produced *within* the sphere of market relations; Benkler ignores the wealth of nonmarket cultural manifestations that predate any networked information economy: fan fiction, story telling around a campfire, an impromptu dance party.<sup>169</sup>

By wrapping the NIE in a layer of *newness*, Benkler nullifies any cultural production that existed beyond the reach of the market before the emergence of the NIE. That is to say: Benkler's pre-NIE vision of culture is confined to those cultural artifacts produced and disseminated by the industrial-style mass media. Additionally, by subsuming *culture* into the broader sphere of *information*, Benkler produces a model that reduces cultural production to the transmission of binary data over a network. These moves allows him to dodge many of the problematic questions surrounding the concept of culture, including but not limited to the ways in which culture has

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<sup>169</sup> Furthermore, Benkler leads himself to a methodological dead end when he compares the screen culture of the Industrial Information Economy with the Massive Multiplayer Online Game (MMOG) culture of the Networked Information Economy. He compares the experience of watching a television screen with playing a MMOG such as *Second Life*: "The two models assume fundamentally different conceptions of play. Whereas in front of the television, the consumer is a passive receptacle, limited to selecting which finished good he or she will consume from a relatively narrow range of options, in the world of *Second Life*, the individual is treated as a fundamentally active, creative human being, capable of building his or her own fantasies, alone or in affiliation with others" (Benkler, *Wealth* 136). Such an approach is disingenuous on two accounts: 1) Benkler compares the worst of pre-Internet screen culture (Hollywood blockbusters and network TV programming) with the richest/most immersive offerings of Internet screen culture like *Second Life*; 2) film—and, to a lesser extent, television—presupposes a world beyond the screen; MMOGs like *Second Life* strive to erase the border between world and screen. This leads to two fundamentally different forms of aesthetic experience that must be theorized in more detail before they can be fruitfully compared. And, it must be noted: Benkler's near-exclusive focus on screen-mediated culture leaves him stunningly incapable of addressing issues of the body's role in the production of culture and information.

been produced historically over the ages, and the connections between cultural manifestations and the material environment in which such manifestations circulate. Benkler's insistence on the exceptional nature of information is important—the property status of ideas and information has *always* been a problem for liberalism—but he fails to ask the central question: if the structures of liberal society developed in support of a proprietary economy of material production, and the emergence of nonproprietary social production represents a fundamental shift in human productivity, why should those liberal structures carry over naturally to what he calls the Networked Information Economy?

James Boyle's work is much more interested in investigating the moments when liberal models of subjectivity *fail* to provide coherent accounts of cultural phenomena. Boyle is perhaps best known for his 1996 book *Shamans, Software, & Spleens: Law and the Construction of the Information Society*, an early investigation into the way "information society" conceives information and the paradoxical results of such conceptions. Boyle explains, "The 'problems' I refer to are problems in the realm of ideas, paradoxes, or tensions in our assumptions, brought to the surface when the subject is information. To put it more specifically, as a form of wealth, a focus of production, and a conception of value, information is a problematic category within our most basic ways of thinking about markets, property, politics, and self-definition" (Boyle, *Shamans* xi).

Boyle is also much better equipped to deal with issues of cultural production than Benkler, as Boyle is not invested in the newness of peer production. Instead of approaching the problem as *new* and *emergent*, Boyle is open to the possibility that new technological developments can reveal how creative production has always functioned; when, in his 2008 book *The Public*

*Domain: Enclosing the Commons of the Mind*, he discusses how law deals with the concepts of originality and authorship in the case of recorded music, he advances that, "Our theories of aesthetics are poorer than the creativity they seek to describe" (Boyle, *Public Domain* 155; see also 135 and 193).

Accordingly, Boyle has produced one of the stronger critiques of the Romantic conception of authorship in the liberal tradition.<sup>170</sup> The Romantic author can be read as the creative possessive individual. If this model of creative subjectivity is incapable of accounting for the empirical realities of artistic production, Boyle looks towards an account of cultural production grounded in a shared pool of human creative labor; following others, he calls this shared resource of human creativity alternately the *commons* or the *public domain*.<sup>171</sup> But the status of the commons is shifting in Boyle's work, and he seems to be most comfortable with the concept when the commons is restricted to a resource at the level of society-wide access. Such a position makes a commons effectively indistinguishable from State-owned or "public" property (Boyle, *Public Domain* 39). In this view, a strong guiding metaphor when talking about the commons would be a public road: a road is available to all, yet its use is not unrestricted (think speed limits, driver's licenses, etc.). For Boyle's purposes, such a metaphor fails on two accounts, one of which Boyle would freely admit, and another which he appears to ignore. First, Boyle is concerned with the status of intellectual property in contemporary society; the immaterial nature of IP is, of course, a question that has plagued legal thinkers and creative practitioners since the popularization of the printing press, if not before. A road, as a material object, is not entirely suited to a comparison

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<sup>170</sup> See "Copyright and the Invention of Authorship" in *Shamans, Software, & Spleens*. Boyle's account draws on Martha Woodmansee's groundbreaking work; for more on Woodmansee, the Romantic author, and copyright, see below.

<sup>171</sup> The practical interchangeability of the two terms is most evident in the title of Boyle's 2008 book *The Public Domain: Enclosing the Commons of the Mind*.

with something like the general plot outline of two star-crossed lovers' narrative (the ur-narrative that gives us, for instance, Shakespeare's *Romeo and Juliet*). Or, if you will: traveling along a road is a different experience than navigating humanity's river of stories. Boyle is keen to these differences, and he explores them throughout his work. What Boyle misses, however, (and this is the second failure of his metaphor) is the fact that the commons and the public domain do not completely coincide. In talking about the "commons of the mind," Boyle makes it seem as if the commons are some form of State property donated to a community at large (and since Boyle is mainly concerned with society-wide commons, that community becomes more or less equivalent to the "public"). But this notion of the commons is at odds with Benkler's concept. Benkler asserts that what is common lies beyond the proprietary-based logic of the market, and thus, the commons is constitutively *not* property of any kind. In other words: the commons is neither State nor private property (Benkler, *Wealth* 60-1).

The two liberal thinkers get tripped up by the problematic concept of property as it applies to the products of creative labor. Both appeal to a notion of the commons—as either the realm of non-proprietary peer production or a resource open to society at large—yet both struggle at the moment of conceiving an alternative form of ownership right that is based neither in possessive individualism nor the absolute sovereignty of the state. This impasse—the place where liberal theories of property break down when confronted by nonmarket and/or collaborative creative production—is precisely the starting point for radical left theorists of the common.<sup>172</sup>

One of the baseline assumptions of Michael Hardt and Antonio Negri's recent *Commonwealth* (the final installment in their *Empire-Multitude-Commonwealth* trilogy) is that

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<sup>172</sup> It is interesting to note the shift from a plural (commons) to the generic singular (common) in the move from the liberal to the radical left tradition.

the *common*, as they understand it, is an object of neither public nor private property.<sup>173</sup> In a sense, this is a shared affinity with Benkler's position, but Hardt and Negri strive not to incorporate non-propriety social production into a liberal economic model, but rather to unfold a total critique of the "Republic of Property." This task directs them towards Marxist critiques of property like those of C.B. Macpherson, who insists that common property is fundamentally different from both private property and state property.<sup>174</sup> The question then becomes how the common can reproduce and expand itself. Hardt and Negri state their project thus: "Socialism and capitalism, [...] even though they have at times been mingled together and at others occasioned bitter conflicts, are both regimes of property that exclude the common. The political project of instituting the common, which we develop in this book, cuts diagonally across these false alternatives—neither private nor public, neither capitalist nor socialist—and opens a new space

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<sup>173</sup> Indeed, the common's very status as an *object* is an open question, since the relationship between the common and the multitude is one of subjectivity producing itself: "The multitude makes itself by composing in the common the singular subjectivities that result from this process [of biopolitical production]" (Hardt & Negri x).

<sup>174</sup> Macpherson first reminds us that property is a *right*, not a *thing*: a right to exclude others, a right claim "that will be enforced by society or the state, by custom or convention or law." (Macpherson, *Possessive* 3) In this sense, private property seems to be the most straightforward of these enforceable rights claims: it is my right to exclude you from using or appropriating some thing. Yet the case becomes more complicated when we consider artificial persons such as corporations, for the artificial-corporate person too claims private property rights. State property is a corporate right to exclude, only now in the Hobbesian sense of the state as an artificial person. The reason that State property differs from common property lies in the empirical realization that the State can *exclude* persons from claims to State property: "the state, in any modern society, is not the whole body of citizens but a smaller body of persons who have been authorized (whether by the whole body of citizens or not) to command the citizens" (Macpherson, *Possessive* 5-6). Thus, paradoxically, it is common property—the very kind of property least visible in the market-based society of possessive individualism, that is the most "unadulterated kind of property." Macpherson explains: "Common property is always a right of the natural individual person, whereas the other two kinds of property are not always so: private property may be a right of either a natural or an artificial person, and state property is always a right of an artificial person" (Macpherson, *Possessive* 6).

for politics" (Hardt & Negri ix).<sup>175</sup>

Hardt and Negri describe the current global social organization (what they have called, in previous co-authored works, "Empire") as the "Republic of Property." This Republic shares many of the descriptive properties of Macpherson's naturalized market-based possessive individualism. It is the very act of naturalization—positing the basic elements of capitalist society as an eternal, naturally occurring *a priori*—that Hardt and Negri seek to critique. This critique—a transcendental critique of the transcendent structure of property—appropriates Kant's framing of the Enlightenment—*sapere aude!*—to ask the question of property. In other words, the slogan of *Commonwealth* could be *dare to ask the question of property!* (Hardt & Negri 15-21).

Property, it turns out, is mainly a question of productive bodies. But not exclusively. To account for this split, Hardt and Negri divide the common into two separate spheres. On the one hand—and this is the sphere historically associated with talk of commons and enclosure—there is the common of natural resources: land, water, fisheries, air, etc. On the other hand, there is the common of the "endlessly creative resources of social production." They call these two notions of the common, respectively, the natural and the artificial common.<sup>176</sup> There is an apparent analogy between the two commons: as primitive accumulation is to the natural common, so is biopolitical exploitation to the artificial, or social, common (Hardt & Negri 139).

The structural analogy allows Hardt and Negri to explore biopolitical expropriation, or, to

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<sup>175</sup> For other sections that discuss common property as neither public nor private, see *Commonwealth* 88; 281-90; 302; 311, 320.

<sup>176</sup> Hardt and Negri make the distinction between the two notions of the common in the preface: "By 'the common' we mean, first of all, the common wealth of the material world—the air, the water, the fruits of the soil, and all nature's bounty—which in classic European political texts is often claimed to be the inheritance of humanity as a whole, to be shared together. We consider the common also and more significantly those results of social production that are necessary for the social interaction and further production, such as knowledges, languages, codes, information, affects, and so forth" (Hardt & Negri viii). They return to this distinction at crucial moments in the text. See, for instance, 111; 137-9; 171; 250.



use Boyle's terminology, the "second enclosure movement," with a much more critical eye than Benkler. Where Benkler advances a naive affirmation of biopolitics ("In these two great domains of life—production and consumption, work and play—the networked information economy promises to enrich individual autonomy substantively by creating an environment built less around control and more around facilitating action," Benkler, *Networks* 138-9), Hardt and Negri's account reveals capital, in its biopolitical guise, as a rent-seeking parasite appropriating the surplus of human creative labor. Hardt and Negri's investigation of the autonomy of social production reveals the common in a way neither Benkler nor Boyle can.

Yet the very split in the common that allows Hardt and Negri to discuss biopolitical expropriation strangely duplicates the paradox at the heart of liberal models of intellectual property (or, in Hardt and Negri's account, immaterial labor). And so for all of the effort to distance themselves from market-based possessive individualism, the radical thinkers end up in a position of uncomfortable proximity. By Part Three of their text—the fulcrum between the philosophical/historical and the economic/political sections of the book—Hardt and Negri find themselves at the starting point of almost all of the liberal critiques of contemporary IP. Namely, Thomas Jefferson's 1813 letter to Isaac McPherson, where Jefferson produces what will become the defining metaphor of the circulation of creative labor: "He who receives an idea from me receives instruction himself without lessening mine; as he who lights his taper at mine, receives light without darkening me."<sup>177</sup>

And so we have blind men describing an elephant: Boyle is unable to see the commons

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<sup>177</sup> Quoted in *Commonwealth* 139. See also: Boyle's chapter "Jefferson Writes a Letter," *The Public Domain*; Jefferson's letter is central to almost all contemporary critiques of the legal structure of IP. See also Siva Vaidhyanathan, *Copyrights and Copywrongs*, and Lawrence Lessig, *The Future of Ideas*.

separate from the State but he certainly *feels* the paradox; Benkler searches for communism within or beside liberalism; Hardt and Negri undertheorize liberalism's fundamental division between material and immaterial labor and thus reproduce it.

Both the liberal and the radical models bring important elements to the discussion. The liberal model, although invested in legal norms, does have its utopian impulse. This impulse asks *how can we update/revise our legal structure so that new technologies can best facilitate our liberal democratic vision?* The radical model asks *how do these new technologies reshape power dynamics in a society*, with the understanding that the society in question may no longer be constituted as a liberal, democratic, or capitalistic one. The radical model is shaped by a utopian impulse, too; it can be expressed as such: *what new potentials for social and economic organization emerge with these new technologies, and how can those potentials be harnessed to create a more perfect society?*

We can see that in all cases, the problem is one of property: what these accounts share is a consensus that new technological developments have laid bare the fundamental contradiction in liberal accounts of property. As the Newtonian account of the universe's mechanics was acceptable until technological developments enhanced human perception and sensibility to realms where the Newton's assumptions broke down, so it seems that our contemporary technologies of social production reveal the limits and paradoxes of Lockean models of property.<sup>178</sup>

Liberal accounts such as Benkler's, as I have argued, focus on the *new*. In the remainder of this chapter, I would like to move away from examples such as computer games and software in order to de-emphasize the *newness* factor. Instead, I will look towards modes of cultural

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<sup>178</sup> Locke's position can be summarized as follows: possession occurs when human labor extracts an object from the commons. An apple in the commons belongs to no one while on the tree; whoever mixes his labor—the act of picking the apple—with that common resource thus appropriates it. See John Locke, "On Property," *Second Treatise of Government*.

production that have *always* been in tension with the market in order to gain a better understanding of how such creative commons function, and what kind of social/political/legal organizations most clearly promote, in Hardt and Negri's Spinozism, felicitous common encounters.

## II Geniuses and Romantics: The Gift of the Market

That is not to say that culture is insulated from the market. Indeed: the relationship between the cultural practitioner and the market has been one of the central preoccupations of modern and postmodern times. And no cultural producer is more attuned to this conflict than the (aspiring) professional artist.

In his influential 1979 book *The Gift: Creativity and the Artist in the Modern World*, Lewis Hyde poses that conflict thus: "If a work of art is the emanation of its maker's gift and if it is received by its audience as a gift, then is it, too, a gift?" He then complicates this question, admitting that, "Any object, any item of commerce, becomes one kind of property or another depending on how we use it. Even if a work of art contains the spirit of the artist's gift, it does not follow that the work itself is a gift. It is what we make of it." (Hyde, *Gift* xvii). The separation of the creative and the economic spheres led Hyde's book to be celebrated by a certain kind of artist, ridiculed by a certain kind of entrepreneur, and dismissed by literary critics.<sup>179</sup> The theory of gift

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<sup>179</sup> It is interesting to note that Hyde himself has come to realize the limitations of this work, and it has led him to his current research into intellectual property and the commons. In the 2007 preface for the 25<sup>th</sup> anniversary edition of *The Gift*, Hyde writes, "We've witnessed the steady conversion into private property of the art and ideas that earlier generations thought belonged to their cultural commons, and we've seen the commodification of things that a few years ago would have seemed beyond the reach of the market" (Hyde, *Gift* xii). See also the recent *New York Times Magazine* article on Hyde's interest in the concept of the commons ("What is Art For?" 14 November 2008).

exchange and cultural circulation became central to influential members of the 1990s Free Software and hacking communities.<sup>180</sup> In a way, Hyde's work anticipates Benkler's, as both are committed to imagining a non-scarcity or even anti-scarcity economy of social circulation. If we focus on Hyde's account of the gift as that which is "consumed" in its very circulation, and his subsequent affirmations that "only that which is passed along remains abundant," (Hyde, *Gift* 26) or that "the passage of the gift increases its worth" (Hyde, *Gift* 45), we are already close in spirit to Benkler's concept of non-proprietary peer production.

Yet Hyde's account of the conflict between the artist and market society, even if it offers spiritual comfort to practitioners, does not spend much time considering the material conditions that make someone like an "artist" possible. Hyde ultimately understands the "gift" as transcendental illumination: the artist is "gifted" (as is obvious from his initial framing of the question "If a work of art is the emanation of its maker's gift and if it is received by its audience as a gift, then is it, too, a gift?"). That is the primary gift; all other gifts—any aesthetic objects to be exchanged, say—are secondary gifts, products of the first. This two-step differentiation is how artists can participate in an abstract exchange economy based on money: as long as the artist is faithful to his/her *primary* gift, any objects produced via that ultimate pursuit may enter into the world. Like Jesus (the most divine of all gifts in the Christian tradition), the art object is destined to be mistreated once in the realm of human society. But the artist-creator is exculpated from such secondary effects.

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<sup>180</sup> See, for example, Eric Raymond's "Homesteading the Noosphere," in *The Cathedral and the Bazaar*, where Raymond analyzes hacker culture "as a gift culture in which participants compete for prestige by giving time, energy, and creativity away" (Raymond 65). Lately, in techno-liberal circles, talk of "gift economies" has given way to a concept of an "attention" economy. The foundational assumption is that human attention is a scarce commodity; the fact that "attention" is easily quantified (hit counts, page views, etc.) may explain its current popularity among techno-liberal circles. See, for example, <[http://en.wikipedia.org/wiki/Attention\\_economy](http://en.wikipedia.org/wiki/Attention_economy)>.

Again, we see the material/immaterial division, although in a slightly different incarnation. The artist receives an immaterial gift; the fruit of this gift is the material art object. What are the origins of this omnipresent division?

One is tempted to say that the artist and the market have *always* existed in a relationship of tension and contradiction. But this kind of naturalizing move—the *always* that implies an immutable baseline—is precisely the locus of the problem. And since Michel Foucault posed the famous question *What is an author?* (in part as a response to Roland Barthes' earlier announcement of the "Death of the Author"), the historical contingency of the "author function" has become a topic of broad speculation. Martha Woodmansee is one of the thinkers who has taken up Foucault's call for a historical account of the birth of the author-function. Her 1994 book *The Author, Art, and the Market: Rereading the History of Aesthetics* presents a convincing historical account of the vexing material/immaterial divide in creative objects.

Woodmansee traces the growth of art's "disinterested" age and the concurrent "deification" of the art object as one of complete self-sufficiency.<sup>181</sup> According to Woodmansee, Karl Philip Moritz's theory of the art object as the disinterested bearer of an intrinsic aesthetic value—a theory that predates Kant's 1785 *Critique of Judgment* by five years—arises from a concrete dilemma in the developing art world. The rise of a literate middle class and improved technology for the reproduction and distribution of literature led to a massive increase in demand for reading material in Germany in the later half of the XVIIIth century. This rising demand did not coincide

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<sup>181</sup> The following two paragraphs draw heavily on, respectively, the first and second chapters of Woodmansee's book, "The Interests in Disinterestedness" and "Genius and the Copyright." Woodmansee focuses on a series of German and English thinkers whose thought forms the foundations for contemporary aesthetic philosophy: Mendelssohn, Moritz, Goethe, Kant, Schiller, Fichte, Edward Young, Wordsworth, among others.

with the kind of literature that aesthetic thinkers such as Moritz and Schiller believed the public should have been reading. Accordingly, Moritz's valorization of aesthetic perfection over the reader's pleasure "arms his own and all difficult writing against the eventuality of a hostile or indifferent reception" (Woodmansee, *Market* 32). Moritz carved out a space for the newly relevant category of the "artistic genius" to flourish; this space was, via the categories of disinterestedness and autonomy, sufficiently insulated from the tastes and demands of the middle class reading public.

Aesthetic recognition, however, was not enough. The genius had to contend with the market, for he was now a professional creator. It is here that Edward Young's 1759 essay *Conjectures on Original Composition*—which, according to Woodmansee, was better received in Germany than in Young's native England—proves key. The role of the author was drifting away from its Renaissance conceptualization, which viewed him as, at once, a skilled manipulator and craftsman of words, and as the inspired recipient of external motivation. Young's concern with the production of *newness* and *originality* in the aesthetic realm, Woodmansee advances, minimized the craftsmanship element of literary production and internalized the locus of inspiration. It is in this vision of the author's originality that the aesthetic philosophers found a foothold for the literary *ownership* necessary for the professionalization of the author. In an era of rampant and condoned literary piracy and non-existent legal protections of an author's financial interests, the defense of originality was a first step towards establishing some form of literary propriety, yet there was more work to be done. Amidst much skepticism that a person could have any property claim in an idea, Fichte, in his *Proof of the Illegality of Reprinting: A Rationale and a Parable* (1793) stepped in to explain how "ideas, once communicated, could remain the property of their originator" (Woodmansee, *Market* 51). Fichte argued that the creative work transcends its

physical foundation, and that such a work was intentional and not merely physical. The material aspect of the work—a book, say—may be sold, but the form—the content—remains the exclusive property of the author. This proprietary claim is based solely in the originality of the author's intention: "The copyright laws [*Urheberrecht*] enacted in the succeeding decades turn upon Fichte's key concept, recognizing the legitimacy of this claim by vesting exclusive rights to a work in the author insofar as he is an *Urheber* [originator, creator]— that is, insofar as his work is unique or original [*eigentümlich*], an intellectual creation that owes its individuality solely and exclusively to him" (Woodmansee, *Market* 52).

Beyond the content/form division lies yet another contradiction that has only recently become clearly visible. The Romantic posture brings together two models of subjectivity: the possessive individual on the one hand, and the singular genius on the other. It was through the possession of individual genius that the Romantics articulated their nascent defense of intellectual property. Yet this singular, genius, creative individual *also* claims, following the general orientation of the Romantic movement, to be the voice of the people, of the folk. These conflicting claims—an absolute genius bearing individual rights claims who simultaneously speaks for an entire people—previews the problems of representation that become most visible in the light of poststructuralist and postcolonial critiques of representational practice in politics and aesthetics.<sup>182</sup>

This combination of an individual genius, located at the pinnacle of a hierarchy of cultural representation, as best expressed by Fichte, is exceedingly hostile to any concept of the common or peer production. This is why the figure of the "Romantic Genius" has become one of the main ideological targets of the Free Culture movement in all of its orientations. Whereas Thomas

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<sup>182</sup> My thanks to Cornell University's European History Colloquium, and especially Steve Kaplan, Duane Corpis, and Taran King, for drawing out this point.

Jefferson and some of the Framers of the US Constitution sought to balance the potential monopoly power of absolute authorship against their understanding of information and ideas gaining value through circulation and access, contemporary content distributors in their multi-national incarnations have adopted the absolutist position of the original creator as the non-negotiable standard for international IP regimes. In the account of those pushing for ever-greater enclosures, the Enlightenment/Romantic model of the author is completely adequate to describe human creative production. This makes sense: any regime that seeks to enclose the commons—in either material or immaterial form—will care not if its concepts erase the commons. Armed with historical accounts such as Woodmansee's, the enemies of enclosure are confident that the liberal model has come unhinged and will betray its own instrumentality: as the legal fiction of absolute creative paternity came into being with technological and social developments (printing and the demands of a rising middle class readership, respectively), so will it wither away with the rise of the technological and social developments that Benkler heralds. Yet information and culture seem to be stuck in a vortex. Culture becomes a source of rent and an expedient tool at the service of politics. Hyde's comfort to artist-creators about the inevitable commodification of their work does not provide a critical position from which to understand such procedures.

George Yúdice provides such a critical position. In his 2003 *The Expediency of Culture: Uses of Culture in the Global Era*, Yúdice advances a thesis that culture in our global age has fallen under a logic of *management* that mirrors global capital's relationship to natural resources: "When culture is touted as a resource, it departs from the Gramscian premise that culture is a terrain of struggle and shifts strategy to processes of management" (Yúdice 279).<sup>183</sup> Is this the

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<sup>183</sup> Yúdice continues, "Compatible with neoliberal reconversions of civil society, culture as resource is seen as a way of providing social welfare and quality of life in the context of diminishing public resources and the withdrawal of the state from the guarantees of the good life.



way to resolve the material/immaterial split at the heart of liberal conceptions of property? For we see the two sides of the common—cultural and natural resources—subsumed under the same rubric of *management*.<sup>184</sup>

Who, then, manages culture? The same organizations, it turns out, that seek to manage natural resources: regional and national governments, supra-governmental organizations, non-governmental organizations (NGOs), and private foundations. The form of cultural management takes the form of that closest at hand to global capital: "As powerful institutions like the European Union, the World Bank, the Inter-American Development Bank (IADB), and the major international foundations begin to understand culture as a crucial sphere for investment, it is increasingly treated like any other resource" (13). Following the neoliberal logic that governs such institutions, "*culture for culture's sake*, whatever that may be, will never be funded, unless it provides an indirect form of return. [...] The 'bottom line' is that cultural institutions and funders are increasingly turning to the measurement of utility because there is no other accepted

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What we have commonly thought of as the often contentious new social movements have made common cause with international foundations and many government agencies in creating a 'collaborative' civil society. This tendency is global and local at the same time and indeed marks a new development in conceptualizing the scope of culture, politics, and agency" (Yúdice 279-80).<sup>184</sup>Yúdice is very keen to this problem: "It is not always easy to make both—sociopolitical and economic—aspects of cultural management jibe without problems or contradictions. Consider, for example, that in accepting Western forms of law in order to protect their technologies (e.g., engineering of seed varieties) and cultural practices (e.g., aboriginal dream paintings), non-Western peoples may undergo even more rapid transformation. If a particular technology or ritual is not currently included as a form of protectable property, the recourse to Western law to ensure that others do not make profits therefrom almost certainly entails the acceptance of the property principle. What will it mean when non-Western forms of knowledge, technology, and cultural practices are incorporated into intellectual property and copyright law? Will the sale of 'inalienable' culture become something akin to the sale of pollution permits in the United States, whereby companies that reduce their air emissions can sell the rights to emit those air pollutants? Increasingly, in cultural as in natural resources, management is the name of the game" (Yúdice 2). For more on the collision of the international IP regime and indigenous cultural traditions, see Rosemary Coombe's recent work, for instance, "Intellectual Property Regimes of Neoliberal Governmentability: Locating Community Subjects and their Traditions," *Contexts of Invention* (Eds. Biagioli, Jaszi, Woodmansee, University of Chicago Press, forthcoming).

legitimation for social investment" (Yúdice 15-6).

What Yúdice calls the "expediency of culture" is the collapse of "what in modernity belonged to emancipation on the one hand, and to regulation on the other." He continues, culture "is called on to resolve a range of problems *for* community, which seems only to be able to recognize itself in culture, which in turn has lost its specificity. Consequently, culture and community are caught in a circular, tautological reasoning" (Yúdice 25).

Yúdice's position is a more pessimistic presentation of what others have called "information environmentalism" or an "ecology of the commons." If the common is conceived, in both its natural and artificial form, as nothing more than 'that which is managed,' the common disappears as a productive force. It is precisely when something becomes *unmanageable* that it reveals itself as the common: industrial pollution of the environment reveals the interconnected web of an ecosystem that is no respecter of persons or nations.<sup>185</sup> This is why the rapid transfer of digital files over peer-to-peer networks has fundamentally disturbed the current IP regime: as it is constituted, the dominant conception of IP would criminalize the basic cultural activities remixing, content-sharing—of a generation of so-called digital natives.<sup>186</sup> In a word: for Benkler's Industrial Information Economy, file sharing has become absolutely unmanageable.

Unmanageability, in this context, can be seen as distinct from the kinds of *shocks* described by Milton Friedman, Jeffery Sachs, and Naomi Klein.<sup>187</sup> In Klein's account, a shock is a

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<sup>185</sup> The classic example is Rachel Carson's *Silent Spring*, where pesticide use, through its negative consequences, actually reveals the ecological truth that then condenses and consolidates itself into the political force called "the environmental movement."

<sup>186</sup> On the criminalization of remix culture and legal solutions to the problem within the liberal property model, see Lawrence Lessig, *Remix: Making Art and Commerce Thrive in the Hybrid Economy*.

<sup>187</sup> See Naomi Klein's *The Shock Doctrine: The Rise of Disaster Capitalism* for a critical account of Friedman's free market economics, especially the "shock program" he and other Chicago school economists recommended in Pinochet's Chile.

traumatic event—either natural or man-made—that hegemonic powers take advantage of in order to institute neoliberal and/or free-market reforms. In other words, Klein's thesis is that power manages catastrophic events in order to further consolidate hegemony.

The unmanageable is precisely not an acute crisis to be taken advantage of. Peer production may have been catastrophic for the hegemony of traditional record labels or political orders based on censorship and absolute media control, but neither the Recording Industry of America Association nor Arab and North African autocrats (so far) have capitalized on these catastrophes. The unmanageable elements tend to arise from sites otherwise abandoned that no one else cares to manage, and through the mobilization of unmanageability, something like a commons emerges. For, to borrow Hardt and Negri's term, the Republic of Property is constitutively incapable of dealing with a true commons, so a commons' emergence can only be experienced within the Republic of Property as an unmanageable event. In this sense, what is unmanageable for Property is also an opening for new critique of that order, and an extension of the general horizon of possibilities for political association and aesthetic production.<sup>188</sup>

Our question then becomes: if culture can only escape neoliberalism's capture by becoming unmanageable, and if the common becomes visible through these moments of unmanageability, what are the kinds of aesthetic objects that can set this procedure into motion, and who are the subjects capable of producing them?

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<sup>188</sup> It must be said that no phenomenon is absolutely and eternally unmanageable. For instance, anarchist squats and community gardens that arise in urban spaces abandoned by Capital eventually run the risk of becoming reintegrated into the neoliberal order when/if Capital returns. For an account of this process, see "Creative Sabotage in the Factory of Culture: Art, Gentrification and the Metropolis" in Matteo Pasquinelli's *Animal Spirits: A Bestiary of the Commons*. Tiqqun is an example—there are many others—of a group that seemed dedicated to remaining unmanageable at any cost. Of course, the Situationist International and early avant-garde groups are key reference points in this practice.

### III Constructing the Unmanageable: *Bolivia construcciones*

The twentieth century has certainly seen its share of artistic and cultural movements dedicated to making culture itself *unmanageable*. Dada, Situationism, Festivals of Plagiarism, early Hip Hop, and The Pirate Bay have all, in their own ways, undertaken projects of destabilizing the liberal or neo-liberal orders in which they found themselves functioning. In literature, it would appear that plagiarism as a deliberate technique functions as one of these strategies to produce aesthetic objects that cannot be managed; when plagiarism-as-technique has appeared, its practitioners have generally pointed to notions of intertextuality, re-writing, creative transformation, and the like, and thus gestured towards an understanding of creativity based more on circulation than on ownership. Such instances exploit the liberal impasse—the abyss between material and immaterial property, between a printed book and the ideas contained within—to reveal the common: that surplus of human creativity which possessive individualism cannot possibly manage.

The digital moment has only made these issues more pressing, as every single instance of accessing a digital file involves the copy and transfer of binary code amongst components of a networked communication system. Yet for the moment, I would like to explore two decidedly analog examples of literary appropriation and circulation in Latin America in order to see how such practices interact with and reveal something like a *commons*.

Plagiarism seems to be a strictly defined term, yet in truth it is a minefield that requires careful and deliberate navigation. Perhaps the simplest provisional definition would be "improper citation." The impropriety of an extended citation was precisely the issue in Argentina in 2006, when a prize-winning novel, *Bolivia construcciones*, was revealed to contain significant and unaccredited passages lifted more or less verbatim from the Spanish novelist Carmen Laforet's

1944 *Nada*.

*Bolivia construcciones* is an impressionistic novel, of some 87 chapters—few longer than two pages—that tells the story of a group of Bolivian immigrants living in contemporary Buenos Aires. The immigrants are mostly construction workers, and the novel chronicles their interactions with each other, with native-born Argentines of all classes, and with the urban fabric of the city itself. The book is attributed to Bruno Morales, pen name of the Argentine journalist-turned-novelist Sergio Di Nucci. Upon its release, the novel was heralded as a playful, compelling, and literarily significant exploration of the existence of a relatively invisible and marginal sector of the urban population. It was awarded the prestigious 2006-07 *Premio de la novela* by *Editorial Sudamericana* and *La Nación*. Several months after Morales/Di Nucci accepted the prize and its purse, a nineteen-year-old blogger posted to the publishing house's website revealing the undeniable similarities between Di Nucci's novel and passages from Laforet's *Nada*.<sup>189</sup> The blogosphere lurched into action; by the final count, thirty continuous pages of Di Nucci's two hundred page text came directly from Laforet's novel; these pages represented the climax of the novel, and the only observed changes were strictly superficial: changing of character and street names, along with some substitutions of Peninsular slang with more Rioplatense-sounding turns of the phrase. As a result, the judges revoked the prize, a group of authors, literary critics and professors penned an open letter in support of Di Nucci, and the question of the role of plagiarism and "sampling" was once again front and center in Argentine intellectual life, if only for a few months.

In fact, Di Nucci's act takes up a long and turbulent tradition of plagiarism in Argentine letters. Many bloggers of the *Bolivia construcciones* affair commented on the connection—with

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<sup>189</sup> The website [www.nacionapache.com.ar](http://www.nacionapache.com.ar) has compiled an exhaustive online bibliography of the scandal. See the links at <http://www.nacionapache.com.ar/archives/1512>.

varying levels of approval—to Jorge Luis Borges' well-known story "Pierre Menard, Author of the Quixote." Borges' story, of course, is a touchstone for a proliferation of twentieth century post-structuralist theories of the death of the author; furthermore, Menard himself announced a technique that Borges would adopt throughout his entire *opus*: that of "deliberate anachronism and erroneous attribution." Such a technique cannot but undermine the literary economy of Modernist citation (one only has to compare T.S. Eliot's exhaustive footnotes following "The Wasteland" with Borges' lost volume of the Anglo American Cyclopedic in "Tlön, Uqbar, Orbis Tertius"), it also destabilizes the Romantic concept of the author that, as Woodmansee and others have argued, leans heavily on the concepts of originality and propriety.

Much less had been made of the connections to Di Nucci's closer predecessor, Ricardo Piglia. In the mid-1970s, in a period of radicalization that immediately preceded the 1976-83 Dirty War, Piglia published a collection of stories called *Nombre falso*. The centerpiece of the collection was Piglia's "Homage to Robert Arlt." That text surpasses Borges at his own game. Piglia narrates a literary detective story, the search for an unpublished manuscript by the early twentieth century Argentine writer Roberto Arlt; reproduced within the "Homage" are the narrator's field notes, sections of Roberto Arlt's notebooks, extended meditations—mostly contained within long and meandering footnotes—on the concepts of originality and authorship, and finally the object of the detective's investigation: Arlt's unpublished manuscript, a short story titled "Luba." But, of course, things are not as they seem; the unpublished story is actually a plagiarized translation of Leonid Andreyev's "The Darkness," the quotations that pepper the narrator's field notes are falsely attributed, and unattributed passages burst forth from the text. The sum total of Piglia's project is a total assault on the logic and economics of literary production in bourgeois society; his goal is clearly revolutionary, and he launches a bomb into the heart of the

concept of literary originality. The text is like a self-destructing letter mailed to Woodmansee's Romantic Genius, and the letter bears Ricardo Piglia's authoritative signature.

This does not seem to be Di Nucci's fight. Where Piglia attacks authorship, Di Nucci takes appropriation as a given. Where Piglia tangles himself in Argentine literary history and leftist politics, Di Nucci reaches for the most unlikely of sources (that is, the mid-century Spaniard Laforet). Josefina Ludmer (to whom, incidentally, Piglia dedicated "Homage to Roberto Arlt") has used *Bolivia construcciones* as an example of what she calls "post- autonomous literature." In Ludmer's reading, the 'autonomy' that is superseded in post-autonomous literature is the autonomy of the aesthetic object itself. This kind of literature (which still relies on the authority of the author's name, as evidenced by Ludmer's bibliography that includes Cesar Aira, Francisco Vallejo, and Mario Bellatin, among other Latin American novelists) works through two movements of erasure. First, novels such as *Bolivia construcciones* erase the border between the economic and the literary; second, they erase the border between fiction and reality.<sup>190</sup> Encounters with such post-autonomous aesthetic objects force the reader to confront the very conditions of possibility of literature as such. The reader can take one of two paths: "The reader can see the change in the status of the literary, and consequently a different episteme or a different mode of reading appears. Or the reader can ignore or deny such a change, and consequently categories like 'good' and 'bad' literature, or simply 'literature' and 'not literature' continue to exist."<sup>191</sup> Clearly, for Ludmer, the second path represents a failure of the *reader*, even if that reader passes off the failure to the text itself. The concept of 'post- autonomous literature' helps us confront how

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<sup>190</sup> Reinaldo Laddaga has advanced a similar thesis; see *Espectáculos de realidad: Ensayo sobre la narrativa latinoamericana de las últimas dos décadas*.

<sup>191</sup> "Dicho de otro modo: o se ve el cambio en el estatuto de la literatura, y entonces aparece otra episteme y otros modos de leer. O no se lo ve o se lo niega, y entonces seguiría habiendo literatura y no literatura, o mala y buena literatura" (Ludmer Tesis VIII; my translation).

*different* Di Nucci's project is from the radical celebration of plagiarism. Sergio Di Nucci, or Bruno Morales, or Carmen Laforet...whoever it is, that author is not looking to advance a withering away of the author through the subversive proliferation of cribbed textual fragments. If Piglia's *Nombre falso* forces the reader to ask, *who?* it would seem that Di Nucci demands that his reader, staring at the book itself, ask *what?* It is precisely that calling into question of the aesthetic object itself that makes such an object unmanageable.

My own reading, up to this point, has mimicked the general tenor of the novel's critical reception: much more has been made of the plagiarism than of the novel itself. And even if I am sympathetic to Ludmer's thesis, I am not yet ready to jettison my traditional modes of reading. The teenage blogger's "discovery" of the lifted passages—itsself a chance event—leads me to ask: what would this novel be without that discovery? It would have continued to be, to begin with, a prize-winning novel. Yet perhaps we as readers would have been more focused on Di Nucci's staging of the problems of representation. Di Nucci maintained that the title itself, *Bolivia construcciones*, was enough of a clue to exculpate the author from any charges of plagiarism.<sup>192</sup> We can agree that the title is indeed strange: not "Bolivian Constructions" nor "Constructing Bolivia"; the two Spanish words are incommensurate. "Constructions Bolivia," the title a mismatch in number, a mixture of singular and plural, with "Bolivia" almost an adjective modifying "Constructions," but not quite because it is out of place and out of agreement. The two nouns exist uncomfortably side-by-side. And there is the problem of the author's name itself. Sergio Di Nucci, an almost textbook example of an Argentine name of Italian extraction, recedes (Di Nucci's name only appears on the inside flap of the dust jacket) while Bruno Morales, a name

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<sup>192</sup> Daniel Link had what in hindsight appears to be a properly nihilistic solution to the entire affair: Di Nucci needed simply to dedicate his text *A Nada*, "to nothing."



both generically Bolivian and evocative of Evo Morales, the indigenous President of that country, dominates the book's cover. It is as if Morales' fictional tale would have been meaningless if published under any name but a false one.

This concern with the problematic nature of representation continues throughout the text itself. In one of the brief sketches, the characters encounter a German filmmaker. An Argentine friend of the protagonist introduces the filmmaker with the proud declaration, "He knows that I'm not a petty bourgeois."<sup>193</sup> As the filmmaker records footage for his documentary (a documentary on, the reader supposes, the conditions of immigrants and workers), a Bolivian woman, fishing some olives out of a glass jar, worries that, "This man is going to think we don't know what a fork is."<sup>194</sup> The protagonist gives us two images from that otherwise "unmemorable" day: the filmmaker's delight upon seeing an Italian painting reproduced on a tin of jam ("He thought that was 'admirable,' and proof he was in a country of the highest class"); and the "more complicated" moment when, after a round of laughter sweeps the table, the German comments, "You have such a sad story, yet you somehow manage to conserve a bit of happiness." After an awkward pause, the Bolivian woman replies, "Ay no, why do you think that we have a sad story?"<sup>195</sup>

This little scene, reported faithfully by Bruno Morales, separates the author himself from those patronizing others who come to document brief moments of dignity in a world otherwise comprised entirely of suffering and sadness. According to Graciela Speranza's reading of the novel, such scenes move the reader away from a constellation of plagiarism and authorship and

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<sup>193</sup> "—Él—y lo señalaba—sabe que no soy un pequeño burgués" (Morales 93; all translations my own).

<sup>194</sup> "—Este hombre—se refería al alemán—va a pensar que no conocemos los tenedores" (Morales 93).

<sup>195</sup> "Le pareció 'admirable', y la prueba de que estaba en un país cultísimo. [...] —Tiene usted una historia tan triste, y sin embargo ha logrado conservar la alegría. [...] —Ay no—le dijo—, ¿por qué le parece que tenemos una historia triste?" (Morales 94).

towards one of indigent identity. Yet the question remains: who can tell this story? Di Nucci's oblique reference to the problem highlights concerns over realism and verisimilitude; here, then, is another register of the *construcciones*, one familiar to any critic of the *testimonio* debate in Latin American literature. Yet that question—*is this the real thing?*—falls immediately back into the quagmire of *Nada*. Does the author's appropriation of a sixty-year old Spanish novel about post-Civil War Spain, through the unapologetic anachronism of its very presence, somehow resolve the problems of representation through absolute overdetermination?

If the novel itself appears as improvised, as the piecemeal, cobbled-together dwellings in which the characters live, does that bring us away from or back towards the literary text? We know there are further constructions beyond the walls and chimneys that the Bolivian laborers build. Does Di Nucci ask his reader, contemplating the "constructed" text, to return to Laforet? (*Nada* is, Di Nucci mentions in various interviews, the third most translated Spanish novel...do we need to confirm that fact as well?) Is there some greater resonance between the appropriated scenes, a series that follows a frustrated and temperamental artist in his descent into the violent urban underworld while the narrator, foolishly in love with the painter's girlfriend, follows? The critic wants some guarantee before embarking on his own chase: will there be some critical payoff for the reader who tracks down all of these literary 'samples'? In the model that Di Nucci follows, that of Borges and Piglia, the literary detective is always rewarded. But this seems to be Di Nucci's formal break with his predecessors. The case of Piglia's *Nombre falso*, as Bruno Bosteels has demonstrated in a masterful reading, leads the reader through a reconfiguration of Argentine literary history, a conjugation of Borges and Roberto Arlt, Kafka and Max Brod, Brecht and Mao,

to a conclusion as inescapable as it is nonexistent.<sup>196</sup> Di Nucci's literary appropriation lacks the political coloring of Piglia's text; in effect, Di Nucci points somewhere else. If anything is articulated in *Bolivia construcciones*, it is not the systematic destabilization of a series of authors' proper names; it is, rather, *construction* in its material and immaterial guises. Laforet, it turns out, is a red herring. Di Nucci does not want to send his reader to the library. He wants to send her to the city itself, to those improvised structures of the shantytowns and the unexpected juxtapositions of the immigrant *barrios*.

At this point it is useful to return to Ludmer's thesis. While Piglia's text seeks to destabilize the author's proper name as such, Di Nucci seeks to reveal construction wherever it may be, especially at the expense of any concept of the autonomy of the aesthetic object.<sup>197</sup> The text reveals the very construction of the city as a collective yet antagonistic effort, and this constructed nature of the urban fabric parallels the constructed nature of Di Nucci's text. Thus, the second half of the novel moves away from construction sites and towards the general circulation of these characters in the city, shown through scenes like those of their interactions with property developers seeking to gentrify their neighborhood, or the characters' attempts to organize a petition to remove the obnoxious megaphones from the grounds of a local school. In other words:

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<sup>196</sup> Bosteels explains how Piglia's text works against the very concept of originality so central to literature's claims of autonomy: "How, then, does one avoid, not just in theory but in the practice of a different writing, the whole of literary ideology with its basic elements that are creation, genius and the canon of absolute values? Piglia responds to this dilemma with the systematic application of plagiarism and false attribution, that is, with a practice that destroys the most obstinate of all ideologies of the literary: the cult of originality. It is here where the combination of Arlt with Borges acquires its politico-economic value through the false attributions made by Kostia or Piglia. Falsification does not bring about only a new literary aesthetic but, by attacking the very principle of the private appropriation of the written, it also attempts to annihilate the very foundation that has been the basis of aesthetic judgment throughout modernity" (Bosteels 241).

<sup>197</sup> It is worth observing that although the characters spend their days planning and building dwellings for both themselves and for upper class Argentines, nowhere are they referred to as architects. They are *albañiles* through and through.

this text opens out to the city at the expense of its own autonomy.

In the wake of the plagiarism scandal, Di Nucci made several gestures that reinforce this operation. In his subsequent interviews, the author explained that the novel *Bolivia construcciones* was merely an instrumental means in a larger social project. He had always intended to donate any prize money to community organizations in Buenos Aires that focused on issues of immigrant rights. In his enigmatic acceptance speech—presented *before* the discovery, but only transparent in its meaning *after* the revelation—he proclaimed, "There are ends, and there are means. The end was always this donation. The means—*Bolivia construcciones*—is only a novel. [...] Beginning with the author's use of a pseudonym, everything is construction in *Bolivia construcciones*, just as the novel's title announces. Construction, not a homage to a reality that no form of empathy will allow us to represent."<sup>198</sup> The literary object—the novel—exists to serve the needs of a greater extra-literary project of community organization. Di Nucci thus strikes a pose of a literary Robin Hood, taking cash from the treasuries of publishing houses and prestige from a distinguished panel of judges only to distribute his booty amongst the indigent and voiceless. Or, viewed from another angle, Di Nucci has embraced the role of propagandist, subordinating aesthetic concerns to those of political mobilization and social organization. Or perhaps he is walking the line of the politically committed novelist who directs his creative gifts towards some sort of intervention without any sacrifice other than those demanded by the cause.

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<sup>198</sup> "Hay los fines, y hay los medios. El fin era esta donación. El medio—*Bolivia construcciones*—es sólo una novela. En los años sesenta, un novelista norteamericano blanco publicó el relato en primera persona de un esclavo. Aspiró a narrar con una voz que sonara negra, y terminó convirtiendo el libro en una clara falsificación. Yo preferí reconocer que nunca sonaría como boliviano auténtico. En literatura, lo verdadero no existe. Si nos desnudamos, es porque perseguimos un efecto: lo sabía un gran santo, que lo hizo en la plaza pública. Ya desde la adopción de un seudónimo para el nombre de autor, todo es construcción en *Bolivia construcciones*, como lo anuncia el título de la novela. Construcción, antes que homenaje a una realidad que ninguna empatía nos permitirá representar" (Di Nucci, *Una felicidad*; my translation).

After Di Nucci's initial Robin Hood gesture, what remains of the aesthetic object as such? Two significant events follow. The "constructed" literary object appeared as a digital file under an anticopyright, freely available to anyone with an internet connection to download, manipulate, remix, and re-distribute.<sup>199</sup> Furthermore, Di Nucci donated the text to a Bolivian organization called Yerba Mala Cartonera, a publishing house/community organization that prints literature from recycled materials. Yerba Mala Cartonera is a sister project of Eloisa Cartonera, located in Buenos Aires. The connection between Di Nucci's novel and the Cartonera is illuminating, as it situates Di Nucci's textual intervention in a larger constellation of contemporary creative production in Latin America.<sup>200</sup>

#### **IV Refuse Aesthetics, Aesthetic Refusal?**

I will bracket the digital incarnation of *Bolivia construcciones* for now, as I investigate the phenomenon of digital distribution and copyleft in the next chapter. For the moment I would like to focus on the decidedly low-fi approach to social and creative production that is the Cartonera project. In the words of the founders of Eloisa Cartonera, "We are *Eloisa Cartonera*, a work cooperative located in the La Boca neighborhood in the city of Buenos Aires, Argentina. We produce handmade books with cardboard covers. We purchase this cardboard from the urban pickers ("cartoneros") who collect it from the streets. Our books are of Latin American literature,

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<sup>199</sup> Available at <http://lavaca.org/notas/bolivia-construcciones/>. La Vaca, the organization that hosts the electronic version of the novel, is a cooperative that mixes on-the-ground community organization with digital technologies. All content on their website is licensed under an anticopyright.

<sup>200</sup> The Cartonera model has spread from Buenos Aires to the aforementioned site in La Paz, Bolivia, and also to Brazil, Paraguay, Mexico, Chile, Peru (links to each site at <http://www.eloisacartonera.com.ar/amigos.html>). Furthermore, Harvard University has designed a collaborative intercultural art-based curriculum with the collaboration of Cartonera publishing houses and Professor Doris Sommer. See <http://www.worldfund.org/cultural-agents-initiative.html>.

the most beautiful we had a chance to read in our lives, both as publishers as well as readers."<sup>201</sup>

The Cartonera project had its origins in the Argentine economic crisis of 2001-2002, in which political and economic turmoil led ultimately to a devastating currency devaluation, social unrest and widespread economic hardship. One of the figures who rose to prominence during the crisis was the *cartonero*. The *cartonero* is a collector of paper and cardboard. Due to the currency devaluation and a lack of local production facilities, the price of paper goods skyrocketed beginning in 2002; this fact, combined with widespread unemployment, led to a proliferation of families roaming through the streets, collecting paper and cardboard to sell to recycling centers. In 2003, the founders of Eloísa Cartonera partnered with a group of *cartoneros* in order to produce affordable editions of literary texts from recycled paper. Young *cartoneros* painted the cardboard covers—each one unique—of the texts, which themselves varied from stories and short novels from some of the most well-known Latin American authors to new voices and experimental forms. Not only does *Eloísa Cartonera* create affordable editions (averaging around one-tenth of the cost of traditional paperbacks, many of which are imported from Spain), but it also serves as a workshop for poor youth to learn the craft of artisanal bookmaking, along with generally promoting literacy in a community underserved by the State.

Eloísa Cartonera quickly became its own sort of local phenomenon, and their headquarters in La Boca became the center of a significant social movement. The project is not a frontal assault on Romantic conceptions of authorship and originality, but rather a coordinated guerrilla siege on the autonomy of the aesthetic object and the system of value that supports it. Instead of positing a labyrinth of "deliberate anachronism and erroneous attribution" that ultimately results in the self-canceling of authorship, the Cartonera project focuses on collaboration and collective social

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<sup>201</sup> All text from the English-language version of the Eloísa Cartonera website <http://www.eloisacartonera.com.ar/home.html>. Translations slightly modified.

production. This is a realization of literature as a social movement: the text reaches *beyond* itself—in what can be read as instrumental terms—to intervene directly in urban life.

This intervention returns us to Yúdice's concept of managed culture: the Cartonera project makes traditional notions of *value* unmanageable. As far as the beautiful and autonomous aesthetic object: its cover is made, literally, of recycled trash. The only *unique* aspect of the work is the hand-painted cover, while the text contained within flaunts its reproducibility (these texts were originally photocopies, now they are printed on a Multilith 1250 offset printing press). The early texts exploited the name-recognition of famous authors—Ricardo Piglia among them—yet the *originality* of the project resided exclusively in the contribution of the young *cartoneros*-turned-painters. The publishing house overpays for cardboard (at one point they advertised paying five times the market rate) and undercharges for literature (each volume costs at most several dollars), thus flaunting resistance to economic orthodoxy. Expensive trash, cheap literature. A book-object that installs the immaterial *ideas* of creative production firmly in the materiality of the city: the recycled covers have been known to stain the reader's fingers and carry the olfactory residue of their past lives.

Is this an example of the commons of peer production? One is tempted to declare an enthusiastic *yes*. Does Eloísa Cartonera exist in a sphere of production beyond the market? Not as such, but the publishing house certainly challenges the fundamental economic and aesthetic assumptions that support neo-liberal publishing models. The Cartonera publishers do not resolve the impasse between material and immaterial commons, yet their practices certainly *reveal* the impasse: objects of intellectual property find themselves wrapped in the most material and unwieldy of all things: refuse.

Strangely enough, this project would vanish if digitized, and thus it presents a useful check

on Benkler-style celebrations of the unparalleled newness of digital peer production. As it stands, Eloisa Cartonera opens literature beyond the preoccupations that lead authors and critics to fret over the status of authorship and originality. The project does not resolve those concerns; at best, as Di Nucci's case shows, it equalizes the social field, where the author would become one more collaborator in a larger social project that explodes beyond the boundaries of the literary. That, perhaps, is the process of revealing the commons: literature opens beyond itself and touches the material commons of the built environment. The immaterial commons of narrative circulates within the urban sphere, and ephemeral economies of citation resolve themselves into physical networks of recycled materials.

Does this mean that the literary, as such, must disappear to reveal the common? In this particular case, the autonomous literary object recedes, but this does not seem to me to be necessarily so. Some of the authors Ludmer cites in developing her post-autonomous thesis strike me as the most interesting novelists writing in Latin America today,<sup>202</sup> and I think it is still valuable to read such practitioners *as novelists*. Yet it seems that the Latin American author is pulled in two directions; we can describe the two poles as *object* and *process*. Is the point of Di Nucci or Eloísa Cartonera's literary intervention the creation of an aesthetic object, or rather the author's participation in a social process? If *Bolivia construcciones* is a literary object—and it was evaluated as such by the Sudamericana/La nación prize committee—readers can judge it according to whatever familiar methodology of reading they choose (from 'reading for pure pleasure' to formal deconstruction, or any other number of reading strategies). The same applies for an Eloísa Cartonera text. However, if the sequence plagiarism-publication-prize-donation in its entirety is in fact the aesthetic process, would *Bolivia construcciones* have been a failure if the

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<sup>202</sup> Incidentally, many of those authors have also donated otherwise unpublished manuscripts to the Cartonera publishing houses.



plagiarism hadn't been discovered? Would that aesthetic sequence have failed if it hadn't won a cash award, where the failure resides not in any qualitative shortcomings, but rather in its status as an unsuccessful instrument incapable of obtaining its goal? Similarly, or perhaps even more provocatively, does a Cartonera text fail if it, instead of being circulated and read to death among those who can not afford imported texts, the cardboard books end up preserved and displayed in academic libraries and the private salons of wealthy collectors? In other words, how to judge these aesthetic practices that expose the immaterial commons?

Reinaldo Laddaga, who like Ludmer has considered these new aesthetic forms at length, offers a sort of categorical imperative for new aesthetic practices focused on what he calls 'experimental communities': *Act in such a way that the artistic process in which you form part will be compatible with some form of experimental democracy.*<sup>203</sup> Yet this imperative, especially in light of Laddaga's other conclusions, reads like the evaluation of a social engineering project, not an aesthetic practice.<sup>204</sup> If we remove the word "artistic" from his imperative, it quickly becomes simply a political imperative: Act in such a way that the process in which you form part will be

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<sup>203</sup> Laddaga articulates this imperative in various places; see, for example, *Espectáculos de la realidad: Ensayo sobre la narrativa latinoamericana de las últimas dos décadas* and *Estética de la emergencia: la formación de otra cultura de las artes*. It is unclear whether Laddaga realizes the irony of appealing to the Kantian categorical imperative in support of post-autonomous art, when Kant's *Critique of Judgment* contains one of the most philosophically rigorous defenses of the autonomy of the creative-artistic genius. See Sections 44-49 in Kant's Third Critique.

<sup>204</sup> In fact, reading the conclusion of Laddaga's *Estética de la emergencia*, the reader may be shocked at how few traditional "art things" appear in his summation of the projects he has been studying: "De lo que se trata en estos proyectos es de articular en un territorio multiplicado [...] una demanda democrática que no se conforma con la simple afirmación de principios sino que intenta movilizar otros procesos de innovación institucional, organizacional, técnica: de innovación al nivel de las maneras de articular conversaciones, distribuir los espacios y soportes para que se establezcan posiciones, situar esos soportes en espacios particulares y estos espacios particulares en redes [...] desplegar imágenes, textos, arquitecturas del espacio y del sonido, de modo tal que favorezcan la exploración, por parte de colectividades numerosas, de nebulosas sociales nunca condensadas, de sus vehículos, moradas o mundos comunes" (Laddaga, *Estética* 292-3).

compatible with some form of experimental democracy. As nice goal, certainly. But it is hard to accept as a *categorical* imperative for aesthetic judgment, for it would indiscriminately exclude certain practices that one would like to continue considering aesthetic (for instance, an art practice that explores humanity's authoritarian or tyrannical capabilities), along with including many practices that, while certainly comprehensible under the rubric of "experimental democracy," would seem to have no business in the sphere of art (like new forms of voting practices in a labor union).

Claire Bishop, in a series of recent interventions, warns that the tendency to substitute ethical judgment (i.e. Is Eloísa Cartonera an example of a good and just collaboration between artists and the community-at-large in which it operates?) for aesthetic ones (i.e. Does this particular story published by Eloísa Cartonera deserve critical attention, and what are its literary merits)? The problem, Bishop elaborates, is when ethical judgment displaces aesthetic judgment, Authorial intentionality (or a humble lack thereof) is privileged over a discussion of the work's conceptual significance as a social and aesthetic form.

Paradoxically, this leads to a situation in which not only collectives but also individual artists are praised for their authorial renunciation. And this may explain, to some degree, why socially engaged art has been largely exempt from art criticism. Emphasis is shifted away from the disruptive specificity of a given work and onto a generalized set of moral precepts.<sup>205</sup>

Laddaga would rightfully counter that a practice like Eloísa Cartonera or a project like Di Nucci's puts the very autonomy of aesthetics on the table, and thus the critic, when confronted with such

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<sup>205</sup> In "The Social Turn: Collaboration and its Discontents," *Artforum* 44.6. See also her "Antagonism and Relational Aesthetics," and her forthcoming book *Artificial Hells: Participatory Art and the Politics of Spectatorship*.

an object and/or process, cannot act as if the ethical and political valences are not present in his evaluation. (This is, in part, the 'decision' Ludmer refers to, as her entire conceptual apparatus of postautonomy is based on the breakdown of aesthetic autonomy, and thus the postautonomous aesthetic object must be judged by some form of post-Kantian emergent criterion of judgment.)

Both Laddaga and Bishop would agree on the necessity to think the aesthetic and the social/political *together*, instead of simply subsuming all judgment under the category of the ethical. For all of that, Yúdice's underlying point still rings true: the neoliberal order now looks towards culture to step in where government and civil society have failed; it is precisely these acts of *ethical aesthetics*, the creation of experimental communities, that fill the void of the ineffectual State. Furthermore, even though Benkler's conflation of culture and information is spurious, we see an analogous activity in cyberspace: for instance, privately-owned social media companies engaging in international diplomacy, as in the examples of Google and Yahoo's divergent China policies, or Twitter and Facebook's divergent privacy policies in Northern Africa and the Arabian Peninsula. Not that the rise of these community-oriented aesthetic experiments are scorn-worthy. (And here, once again, the problem of judgment returns...) We can say the best of these projects, in their fully complex and contradictory being, present unmanageable solutions to unmanageable problems.

That is, these community-oriented practices address problems that otherwise perplex the neoliberal order. (In our examples: immigration, the free circulation of ideas, geopolitically-based economic and cultural inequalities, systemic urban poverty, etc.) The processes and the objects they produce are themselves unmanageable within that same neoliberal order because of their exposure of, participation in, or connection to the commons.

In this light, perhaps the seeming abyss between material and immaterial commons is not

unbridgeable. The impulses that pull creative practitioners towards, respectively, the all-too-material realm of recycled cardboard, or the immaterial realm of digital networks, are not opposed, inasmuch as both impulses are impulses to reveal the commons. In the next chapter, I will consider the *digital* circulation and distribution of aesthetic, and principally literary, objects.



## CHAPTER 5

### COPYLEFT AS TRAINING GROUND: THE DIGITAL HORIZONS OF INTELLECTUAL PROPERTY

"The alternative of the commons is too horrifying to contemplate." —Garrett Hardin

This, then, will be a horror story. Garrett Hardin's 1968 diagnosis of the "tragedy of the commons" has structured much contemporary Western thought—with the notable exception of certain radical sectors—surrounding the concept of the *commons*. But today, the very definition of the *commons* has become a site of social, political and creative struggle. The concept—arguably as old as our species' relationship with the land itself—has been adopted and reconfigured to operate in the realm of *intellectual property* (IP), especially in connection with the architecture of the Internet and networked society, and in scientific advances in the control and manipulation of genetic material.<sup>206</sup>

This conceptual reconfiguration is not unilateral or monolithic, but it is possible to generalize certain concerns that link the many and diverse thinkers who take the problem of *enclosure* in its technological guise as central to an understanding of contemporary cultural circulation and radical politics. These struggles adopt the language of anti-enclosure to the immaterial realm of ideas and the ever-problematic realm of the genome. Such terms as

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<sup>206</sup> Intellectual Property in the Anglo-American tradition can be subdivided into four separate areas: copyright (which deals with creative/professional expression and will be the main focus of this paper); patent law (which deals with inventions, and raises particular controversy in the realm of biotechnology, pharmaceutical production and genetic engineering); trademark; and trade secrets (this is a catch-all category, but think of a proprietary claim on a soft drink recipe). The Francophone tradition also includes the concept of *author's rights*. The classic introduction is Benjamin Kaplan's *An Unhurried View of Copyright*. For an introduction with an eye towards digital technology and remix culture, see the opening chapter of Siva Vaidhyanathan's *Copyrights and Copywrongs: The Rise of Intellectual Property and How it Threatens Creativity*.

*informational ecology*, *digital enclosure*, and *creative/informational commons* connect contemporary concerns about the status of intellectual property with a longer tradition of questioning private property *as such*, even if these connections are not fully articulated. Indeed, the dominant name for alternative IP schemes is *copyleft*, a tacit acknowledgement that thinkers of copyleft dedicate their energies to constructing a progressive or radical alternative to copyright. In other words: *copyleft* embraces an approach that focuses on re-imagining the legal/juridical structure of *copyright* in a digital/networked age.

The history of the development of the concept of copyleft is well-documented; at this point, the Free Software narrative has become a kind of mythology.<sup>207</sup> This chapter will not retell that story; instead, it will attempt to do two needed and interrelated theoretical tasks: 1) connect the recent enthusiasm around alternative models of *intellectual property regimes*—broadly grouped under the general concepts of *copyleft* and the *creative commons*—to the *ur*-historical struggle centered around the idea of *enclosure* (simply: the process of erasing the commons); 2) to move beyond US Constitutional Law-based critiques of the contemporary IP regime— currently focused around competing interpretations of the meaning of Article 1 Section 8 Clause 8<sup>208</sup>—to an authentically *global* consideration of the implications of the contemporary enclosure of the immaterial world. The fundamental question is: what is the nature of human creativity, and what it can teach us about our concept of property, both intellectual and otherwise?

Asking this question will, I hope, create an opening through which the true history of the concept of the *commons* as a claim of radical inclusion can animate the current debate surrounding digital enclosures. What is at stake is NOT an attempt to create something like a

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<sup>207</sup> See, for instance, Eric S. Raymond, *The Cathedral and The Bazaar*.

<sup>208</sup> The *Intellectual Property Clause*: "To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.

'zone of free play' or a 'creative sandbox' in the heart of the private property regime where artists and creative types can entertain themselves. The stakes are much higher: it is a demand for an inclusive right that may begin at the level of culture and information (against digital enclosures, say), but will expand to encompass a *common, inclusive* demand to the right to the good life.

## **I Authorship and Ownership**

The arguments in favor of a creative commons take several forms. The most prominent proponents within the United States—and an ever-growing network of global affiliates—are tied to the Creative Commons (CC) organization. As this organization grew out of efforts to protect and enhance publicly available creative works *within* the United States, its arguments regarding the status of intellectual property and the commons tend to rely heavily on the US Constitution and relevant case law. The main criticisms about the current IP regime in the United States fall into three broad and overlapping categories: fair use, antimonopoly, and the evolving medium.<sup>209</sup> "Fair Use" argues that there are certain exceptions to exclusive IP rights, and that current right holders are making unprecedented power grabs to regulate uses that were previously considered *fair*: brief quotation, parody, scholarly/education use, etc. This argument also attempts to balance the rights of past and future creators: the current IP regime is biased towards contemporary creators of IP and prejudicial to *future* creators, since restrictive IP regulation denies future

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<sup>209</sup> For a synthesis of these three positions, see James Boyle, *The Public Domain: Enclosing the Commons of the Mind* (New Haven: Yale UP, 2008; also available at james-boyle.com). These criticisms have found global traction, as the US IP regime is affirmed as a model for the international standard through agreements such as TRIPS and the actions of NGOs such as the World Intellectual Property Organization (WIPO, a specialized United Nations agency). See Christopher May, *A Global Political Economy of Intellectual Property Rights* (London: Routledge, 2000).



creators the very building blocks of any new creative works.<sup>210</sup>

The "antimonopoly" argument recognizes that the Framers of the US Constitution were loath to grant any kind of limited monopoly, and that all reconsideration of the IP regime should work to *minimize* (not maximize, as rights holders such as Disney argue) the scope and duration of the noxious yet necessary monopoly.<sup>211</sup> Each of these respective two positions emphasizes a different part of the IP Clause in the US Constitution: "fair use" emphasizes the State's role in promoting "Progress of Science and useful Arts"; "antimonopoly" emphasizes the State's conventional compromise to grant monopoly IP rights only for "limited Times".<sup>212</sup>

Other arguments move away from the specifics of the US Constitution to make historically-supported global claims about technology. As the medium of expression evolves—a product, clearly, of technological change—our concepts of *ideas* and *creativity*, and whatever

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<sup>210</sup> The provision is "Sec. 107 Limitations on exclusive rights: Fair use." See Lawrence Lessig, *Free Culture* and *The Future of Ideas: The Fate of the Commons in a Connected World*. In *Free Culture*, Lessig argues that society is relying upon the conventional "fair use" exemption to copyright to do more and more work in the digital age as previously unregulated activities become regulated thanks to technological advances (for instance: the number of devices on which you can read the e-book you purchased). Lessig wants to make legal adjustments "to restore the balance that has traditionally defined copyright's regulation—a weakening of that regulation, to strengthen creativity" (Lessig, *Free* 169). Thus he argues that the *letter* of today's increased copyright regulation betrays the *spirit* and *intent* of the copyright clause in the US Constitution. There is also a free speech component to the fair use argument based on the First Amendment to the US Constitution; See Yochai Benkler, "Free as the Air to Common Use: First Amendment Constraints on Enclosure of the Public Domain."

<sup>211</sup> See Boyle, *Public Domain*, especially cp 2, "Thomas Jefferson Writes a Letter." This antimonopoly argument also complicates any defense of current IP practices that invokes the "marketplace of ideas": most existing IP regimes are inherently anti-free market, as the regimes rely on a state-granted monopoly. See Boyle, *Public Domain* 198-9.

<sup>212</sup> Another important consideration is the status of "orphaned works," works that are theoretically protected by copyright but practically have no right holder willing or able to enforce his or her claim. Historically, these works would have passed into the "public domain"; today, they make up the bulk of Twentieth century culture: works unavailable in any way for commercial use and in exceedingly limited and restricted ways for noncommercial use. See Benkler, "Free as the Air to Common Use." The status of orphaned works has been one of the main points of disagreement in the Google Books affair.

rights we might attach to them, need to evolve as well. Technology disrupts communication, and out of that rupture, users reconfigure society. Carolyn Marvin summarizes this methodological position: "If it is the case, as it is fashionable to assert, that media give shape to the imaginative boundaries of modern communities, then the introduction of new media is a special historical occasion when patterns anchored in older media that have provided the stable currency of social exchange are reexamined, challenged, and defended."<sup>213</sup> Such thinkers appeal to other historical moments of disruptive technological advances (the most invoked moments tend to be the shift from scroll to codex, the European invention of the printing press and the rise of the Gutenberg Bible—with little or no acknowledgement of early Asian instances of printing—and the video cassette recorder/VCR); they then try to think through the problems of IP from the perspective of the medium itself. Cory Doctorow summarizes this position: "Just as the industrial economy wasn't based on making it harder to get access to machines, the information economy won't be based on making it harder to get access to information."<sup>214</sup>

In the service of these three points (the need to expand exceptions to exclusionary IP rights; the need to limit State-granted IP monopolies; the need to rethink the law to capture the democratic potential of new technologies), Creative Commons carves out a space for a public

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<sup>213</sup> Carolyn Marvin, *When Old Technologies Were New: Thinking About Electric Communication in the Late XIXth Century*. Marvin's text is a key methodological reference point to anyone writing on technology. She reminds us: "The history of media is never more or less than the history of their uses, which always lead us away from them to the social practices and conflicts they illuminate" (Marvin 8).

<sup>214</sup>See Cory Doctorow, *Content: Selected Essays on Technology, Creativity, Copyright, and the Future of the Future*. The essay "Microsoft Research DRM Talk" is a concise statement of his position, while "Ebooks: Neither E, Nor Books" develops an illuminating comparison between Luther Bibles and Ebooks. Doctorow's analogy is as compelling as it is problematic; it must be understood in the larger context of his argument that *information* itself (or "content," as he calls it) is both the product of the information economy *and the mode of production itself*. To complete his analogy, it should be said that while industrial machines work raw materials, in the information economy, information works information. Immediately, two limitations jump forth: *who* does the work? and *how* does this "access" to information spread *materially*?

domain *within* the current copyright regime. This is the idea of *some* rights reserved.<sup>215</sup> The CC license allows users to alienate specific rights from the "bundle of rights" implicit in copyright (for instance: future noncommercial use of a work; future derivative use of a work; attribution) to a general public-at-large of future creators.<sup>216</sup> The Free Software community and its later derivatives have pioneered similar models. But again: these are not fully *alternative* models to copyright, but rather attempts to create something like a commons within a world of exclusionary and seemingly unlimited private IP rights.

Other branches of the loosely-defined copyleft family take a much more radical approach.<sup>217</sup> Those who rally under the slogan "information wants to be free" tend to reject the validity of copyright as such, and they view tools such as the General Public License (GPL) as "legal hacks" that begrudgingly mobilize copyright to "counterfeit" the phenomena of anarchism.<sup>218</sup> In this sense, the GPL still represents a "use of intellectual property rules to create a commons in cyberspace", but those in the Free Software movement affirm the moral imperative of a commitment to anarchist production, and they express optimism that anarchism will triumph in the digital age.<sup>219</sup> These arguments tend to be nested in broader anarchist theories.<sup>220</sup> Such

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<sup>215</sup> I have yet to see persuasive argument for commons based on the "author's rights" model; as this model grants the author unlimited and exclusive individual rights, this might account for its lack of traction in the global copyleft movement.

<sup>216</sup> For a concise definition, see [www.creativecommons.org](http://www.creativecommons.org).

<sup>217</sup> I assume that commercial bootleggers (who earn a livelihood from the willful infringement of copyright) do not present compelling moral justifications for their behavior, although I have heard a rather twisted argument that piracy in developing nations should be encouraged and looked on as part of US foreign policy (the soft colonizing power of popular culture).

<sup>218</sup> On the GPL, see Eben Molen, "Anarchism Triumphant: Free Software and the Death of Copyright."

<sup>219</sup> The arrival of this triumph has recently experienced a setback: A Swedish court found the founders of the Pirate Bay website—the focal point of the global community of file sharers—guilty of copyright infringement. See <http://torrentfreak.com/the-pirate-bay-trial-the-verdict-090417/>.

critiques point to the danger of simply carving out a 'zone of free play' or a 'creative sandbox' at the heart of the private property regime where artists and creative types can entertain themselves. For there will always be bullies around the edge of that sandbox lying in wait to snatch up—that is, appropriate—anything they deem of value. This line of criticism has also been developed by contemporary Italian thinkers of the common, of which more below.

What all of these positions share is a deep suspicion of Romantic models of authorship and human creativity.<sup>221</sup> In this connection, the thinkers of copyleft form part of a genealogy that passes near or through—in most instances—a specific debate about the status of the author in post-structuralist thought, a debate that centered around questions of the "death of the author", the "author function," or the author's "ghost-like" persistence.<sup>222</sup> The suspicion of the genius author

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<sup>220</sup> This position has been most passionately stated by Moglen: "Moglen's Metaphorical Corollary to Faraday's Law says that if you wrap the Internet around every person on the planet and spin the planet, software flows in the network. It's an emergent property of connected human minds that they create things for one another's pleasure and to conquer their uneasy sense of being too alone. The only question to ask is, what's the resistance of the network? Moglen's Metaphorical Corollary to Ohm's Law states that the resistance of the network is directly proportional to the field strength of the 'intellectual property' system. So the right answer to the econodwarf is, resist the resistance" (Molen 4). As Juan Manuel Espinosa points out, this metaphorical corollary implies a mapping of a mathematical equation (Ohm's Law) onto a social world (the emergent Internet); such a move requires ontologically constant patterns that should give us pause. Also note the usage of mathematic formulas to talk about social phenomena; this is a frequent occurrence amongst the *digital commoners*: substituting abstract mathematical formulas for historical and material analysis of social, political and economic struggles.

<sup>221</sup> For an authoritative account of the Romantic theory of composition, see Edward Young, "Conjectures on Original Composition. In a Letter to the Author of Sir Charles Grandison." For an indispensable critical reading of that theory that straddles cultural and legal studies, see Martha Woodmansee, *The Author, Art, and the Market: Rereading the History of Aesthetics*.

<sup>222</sup> See, respectively, Roland Barthes, "The Death of the Author"; Michel Foucault, "What is an Author?"; Jacques Derrida, *Specters of Marx*. These foundational critiques of authorship remain surprisingly confined to matters of *literary* creation (as opposed to a less medium-specific investigation into the manifestations of human creativity; although Foucault and Derrida would open their respective orientations to considerations of media itself later in their lives, and their students continue this trend). These seminal critiques of the Romantic Genius model are essentially *literary* rebuttals to a literary model of authorship. In the current literature, many

also found expression in much 20<sup>th</sup> century creative work: Borges, Pessoa, Dada, Pirandello in the first half of the century; and in fields as diverse as computer programming, scientific research (especially with multi-author collaborative work), visual art, and music in the second half.<sup>223</sup>

What unifies the critique is a rejection of the "solitary genius" vision of human creativity.

Computer programmers, musicians and legal theorists argue that the logocentric (i.e. focused on the author's written word) vision of authorship is inappropriate for a digital age of remix culture; literary theorists and philosophers argue that a logocentric vision of authorship is not even an appropriate model to think *literary* creation itself. All parties would agree, however, that these problems of *authorship* showcase the impoverished nature of our legal understanding of human creativity. But the reason dominant conceptions of IP gravitate towards the Romantic Genius model is because it—as an account of the creative process—most clearly maps onto the dominant modes of understanding property as rights to material land and things. A Genius can be uniquely identified as the sole party responsible for creating a particular idea; the ownership of that idea can then be attributed to him with no limits or remainder. As the many and varied attacks on the concept of absolute/unlimited creativity and the solitary genius creator have demonstrated, the Genius is a patchwork concept whose survival should be attributed more to expedience than to any deep understand of the process of creative and/or artistic work. In this sense, perhaps the Romantics themselves give us the most proper metaphor for confronting their own myth of the

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thinkers have moved beyond a purely *literary* critique of authorship to include examples of non-literary models of cultural production, namely: software and music. For instance, after demonstrating how Ray Charles's music is at once undoubtedly creative and undeniably derivative, and possibly an example of multiple instances of copyright infringement, Boyle summarizes his position: "If [Ray] Charles's songs do not fit our model of innovative artistic creativity, perhaps we need to revise the model—at least for music—rather than devaluing his work" (Boyle, *Public Domain* 135). In other words: "Our theories of aesthetics are poorer than the creativity they seek to describe."

<sup>223</sup> For a panorama of contemporary cultural practices the play with the idea of authorship, see Emily Apter, "What is Yours, Ours, and Mine: Authorial Ownership and the Creative Commons."

Genius Author: Frankenstein and his monster. The Genius author now stalks the world, a strange and unnatural hybrid that has escaped the control of its maker and threatens, in the words of one prominent thinker, the future of ideas themselves.

## II Ideas, Things and Rights

Intellectual property is, of course, a concept on metaphorical loan from our understanding of material property, or property as such. The status of *ideas* has always presented a challenge for the Western liberal conception of property, although the nuanced distinction between an *idea* and the *expression* of that idea (or the *thing* of the idea) in creative works has not been a historical concern of pressing social importance outside of narrow philosophical and legal circles. Whether an owner's IP rights referred to the pages of the book, to the particular pattern of ink on the paper, or to something else entirely didn't become a mainstream concern until the means of printing became commonly available; similarly, record labels did not worry about pirated vinyl. But as the *immaterial* world of ideas takes an ever-more *material* form—i.e. the ones and zeros of binary code—we find the traditional objects of IP forced out of their cozy metaphorical slumber and into the world of tangible things: the digital file, the sequenced genome, the archives of traditional knowledge. As *ideas*, these artifacts are non-rivalrous and non-excludable: as Jefferson famously said: "He who receives an idea from me, receives instruction himself without lessening mine; as he who lights his taper at mine, receives light without darkening me."<sup>224</sup> What the growth of

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<sup>224</sup> In Jefferson's letter to Issac McPherson. August 13, 1813. "If nature has made any one thing less susceptible than all others of exclusive property, it is the action of the thinking power called an idea, which an individual may exclusively possess as long as he keeps it to himself; but the moment it is divulged, it forces itself into the possession of every one, and the receiver cannot dispossess himself of it. Its peculiar character, too, is that no one possesses the less, because every other possesses the whole of it. He who receives an idea from me, receives instruction himself

digital technology and networks adds is that now—as *things*—these artifacts are also non-rivalrous and non-excludable: they can be copied for near-zero cost and distributed simultaneous to any user with capable technology.

Before the *things* of IP were digital—that rosy dawn when books were bound in leather—content producers liked the notion of a particular expression of an idea *trapped* in a material form. This allowed legal theorists to posit the object of intellectual labour: *she wrote a book*. This reasoning is analogous to that expressed in the sentence: *he plowed this field*. Both set up a workmanship model of production. As the Romantic Genius pours his labour over the seedling of his idea thus allowing it to flower, so the farmer tends the field to produce the melons he will harvest. Both farmer and Genius produce things—objects—that will ultimately be sold in a market.<sup>225</sup>

As this model breaks down—when it is no longer possible to posit objects of IP as tangible *things*—two errors rise into our field of understanding. First, the workmanship model proves to be an uncomfortable fit with creative production: it is blind to processes of collaboration, the re-imagination of tradition, parody, and other such issues that emerge immediately when one considers the act of creative work. To return to our farmer: when he goes to the fountain to draw a pitcher of water (John Locke's favorite example), the liquid in the

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without lessening mine; as he who lights his taper at mine, receives light without darkening me. That ideas should freely spread from one to another over the globe, for the moral and mutual instruction of man, and improvement of his condition, seems to have been peculiarly and benevolently designed by nature, when she made them, like fire, expansible over all space, without lessening their density at any point, and like the air in which we breathe, move, and have our physical being, incapable of confinement or exclusive appropriation" (*The Writings of Thomas Jefferson*).

<sup>225</sup> For a very different meditation upon the status of creative *things* (namely, artworks and architectural features), see Martin Heidegger, *Poetry, Language, Thought*. Heidegger's concept of the *thing* is a much more compelling account of human creativity than the idea/expression divide that dominates the Anglo-American juridical sphere; this is perhaps because *gathering* as a concept does not lend itself to juridical ontology.

fountain is common, but that captured in his pitcher is his own. But when our Genius dips his pen into the river of stories—mankind's common cultural patrimony—the case is not so clear: how does the story become his own?<sup>226</sup> Now that creators manipulate the very material expression itself—the digital file in binary code—we see the creative process revealed as a web of connected iterations of reinterpretation. Thus the displacement of *ideas* by *things* is an awkward fit when talking about the objects of IP, given that these *things* are no longer singular objects invested with an "aura", but rather infinitely and simultaneously reproducible manifestations of creative work. Large content owners have historically utilized this ambiguity to their advantage: when a consumer purchases an album, she is actually purchasing a license to use the content under exceedingly restrictive terms. One such term is that the work itself cannot—for all practical intents and purposes—enter into the commons or the public domain. An increased interest in "remix" culture has exposed the fallacy in this position: any license that includes within its terms a blanket restriction on future use is fundamentally incompatible with the human creative process, a process that is based on reuse and reinterpretation, not creation *ex nihilo*.

This brings us to the second problem that surfaces when we consider the property status of creative works. The record label that distributes its products under restrictive licenses highlights a prior confusion in the concept of property. The workmanship model *itself* conceals an earlier conceptual displacement: from *rights* to *things*. A "property" is actually a set of enforceable claim

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<sup>226</sup> The conventional answer in Anglo-American law has been to divide an idea from its expression: the idea circulates freely, while any expression fixed in a determined medium enjoys legal protection. Much of the Anglo-American criticism on authorship focuses on the problematic interpretation of this divide, including many of the texts cited in the present article. For a fascinating interdisciplinary approach to these problematics (with a sharp eye for the effects of legal interpretations of this divide on culture and identity), see Rosemary J. Coombe, *The Cultural Life of Intellectual Properties: Authorship, Appropriation, and the Law*.



rights: my property rights in this land allow me to exclude others.<sup>227</sup> When we equate property with *things*—as happens across the entire social spectrum, from water coolers to courtrooms—we miss the most foundational idea for the concept of property. Macpherson explains: "To have a property is to have a right in the sense of an enforceable claim to some use or benefit of something, whether it is a right to a shore in some common resource or an individual right in some particular things. What distinguishes property from mere momentary possession is that property is a claim that will be enforced by society or the state, by custom or convention or law" (Macpherson, *Property* 3).<sup>228</sup> Thus, talk about IP is actually talk about rights claims in ideas. When we put the concept of intellectual property into question, we should not ask, "Who owns ideas?" but rather, "What kinds of right claims can we make about ideas?" When we talk about *private* property, we talk about *exclusive* rights; when we talk about *commons*, we talk about *inclusive* rights. That is the commons: the claim of an *inclusive* right. It is clear, then, that only when we start with a concept of property as rights (and not as things) can we begin to understand what something like a *commons* would look like. Otherwise, we are simply trying to carve out a public domain *within* a private property regime, instead of asserting an *alternative* concept of

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<sup>227</sup> Macpherson argues this case most clearly: "In the seventeenth century, the word property was often used, as a matter of course, in a sense that seems to us extraordinarily wide: men were said to have a property not only in land and goods and in claims on revenue from leases, mortgages, patents, monopolies, and so on, but also a property in their lives and liberties [...] Clearly that wide sense is only intelligible while property *per se* is taken to be a right not a thing " (Macpherson, *Property* 7).

<sup>228</sup> Macpherson further elaborates how this confusion—mistaking property as *things* instead of as *rights*—grows out of the shift to market-based capitalism: "It appeared to be the things themselves, not just the rights in them, that were exchange in the market. In fact the difference was not that things rather than rights in things were exchanged, but that previously unsaleable rights in things were now saleable; or, to put it differently, that limited and not always saleable rights *in* things were being replace by virtually unlimited and saleable rights *to* things [...] The state's protection of the right could be so much taken for granted that one did not have to look behind the thing to the right. The thing itself became, in common parlance, the property" (Macpherson, *Property* 7-8).

property: instead of saying "these exclusive things are held in common", we ought to say "we have an inclusive right to the commons." When we understand the commons not as a group of exclusive *things*, but rather a demand for an *inclusive* right, our language begins to sound a lot more like those radicals of the English Revolution from whom the copyleftists borrow their vocabulary. So it is fitting that the most potent conceptual tool in the resistance to new *digital* and *biological* enclosures is on metaphorical loan from an older and continuing critique of private property.

### **III Inclusion or Enclosure?**

As stated above, there are compelling arguments—mostly based on Thomas Jefferson's interpretation of Lockean property as it pertains to ideas—that signal the category error of applying a concept of tangible private property to the realm of ideas. I do not reject these arguments, but such arguments, as they rely on the contours of the US Constitution, positive law, and judicial decisions, do not provide a sound universal basis for the insistence on a natural right to the commons. A key fact that is often lost by those who appropriate Lockean language (labour mixing with commons and thereby subtracting the made object from the commons) to justify expansive IP laws is that John Locke—the key thinker of the Western liberal concept of property—developed his justification of private property during an intense moment of public concern over the enclosure of common lands. In fact, Locke's *Second Treatise* is first published in 1681, the same year that a third attempt to legalize non-consensual enclosure failed in the House of Commons.

Several of Locke's twentieth century readers have attempted to historicize and contextualize Locke's concept of property. This has led to a debate over Locke's status as *the*

liberal theorist of private property. Thinkers such as C.B Macpherson interpret Locke by looking forward in time to the development of the unlimited exclusionary property right that nascent capitalism will need to realized itself, while James Tully attempts to situate Locke's thought historically and thus reads Locke as a natural-rights communitarian (with Suarez and other precursors) and against his contemporaries such as Filmer. Although both Tully and Macpherson agree on the need to reassert inclusionary property rights, they disagree on the moment in which *exclusionary* rights came to be read—in common usage—as the only and natural relationship man could have with property. In essence, Tully charges that Macpherson "redescribes Locke's master-servant relation as a capitalist-worker relation" when "the capitalist not only never appears in the *Two Treatises*; there is no place for him to appear" (Tully, *Discourse* 137-8).<sup>229</sup> Tully, along with Richard Ashcraft, wants to reinsert Locke firmly in the camp of the radicals of the English Revolution, and he finds the *Two Treatises* to be the *ex post facto* theoretical foundation for the views advanced by Lilburne and Overton in their Leveller tracts.<sup>230</sup> Yet it seems that Christopher

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<sup>229</sup> This is most clearly articulated in Tully's gloss on Locke's "Turfs" passage (see Tully, *Discourse* 136-43). Also see Richard Ashcraft, *Revolutionary Politics and Locke's Two Treatises of Government*.

<sup>230</sup> "The only form of property in land which he endorses in the *Two Treatises* is the English Common. Locke's theory is consistent with the proposals put forward by John Lilburne (1615-67) in *England's Birth-Right Justified* (1645) and by Richard Overton (?1600-?1660) in *An Arrow Against all Tyrants* (?1646)" (Tully 169); Tully goes further to equate Locke with William Petty at Putney: "With the *Two Treatises* the theoretical foundation for the view advanced by Petty is firmly laid; and revolution to reconstitute society accordingly is equally firmly justified" (Tully, *Discourse* 175). Linebaugh and Rediker have a harsher view of Petty, and view his ties to Locke through Petty's proto-labour theory of value and his endorsement of transatlantic slavery through "scientific racism": "Petty thus originated the labor theory of value by refusing to think of workers in moral terms; he preferred the quantifiable approach of number, weight, and measure. His method of thinking was essential to the genesis and the long-term planning of the maritime state" (Peter Linebaugh and Marcus Rediker, *The Many-Headed Hydra* 147; see also 138-9). Linebaugh and Rediker, following Macpherson and Hill, read Locke as representative of the Leveller tradition that insisted on the "immutability of existing property relationships" (Christopher Hill, *The World Turned Upside Down: Radical Ideas During the English Revolution* 121); this position is contrasted with other English Revolutionary groups such as the Diggers who believed, following Winstanley's slogan, *There cannot be a universal liberty till [...] universal community*

Hill has the most straightforward assessment of Locke's rather expedient position: a "world in which kings ruled by the grace of God but could be turned out if they did not rule as the men of property wished" (Hill, *World* 393).

It is not the Levellers—with whom Tully strains to establish Lockean connection—but the Diggers and Gerard Winstanely who articulate the most passionate and developed defense of the commons. James Holstun sketches the fault lines of the conflict between nascent liberals and communitarian radicals in the English Revolution:

It might be more accurate to describe the conflict over enclosure as a struggle between rival models of the human relationship to the land: between a rights-based model that gave the direct producers some measure of immediate access to the agrarian means of production, and a model of absolute property that gave them such access only through the mediation of the capitalist wage form (*Holstun* 378).

Present-day opponents of "digital enclosures" may find an analogy with the XVIIth Century process of agrarian enclosure, as concepts such as "net neutrality" and "open access" also seek to provide—although in the realm of communications as opposed to agricultural infrastructure—some form of direct connection between users and the network. "Open" and "free-libre" (not free-gratis) have been the communal and customary forms of regulating Internet communications technology since the early days of primitive DOD/university-based computer networks. And thus it is necessary to remind ourselves of the stakes of the enclosure debate as it developed around and in the aftermath of the English Revolution:

What is significant about the enclosure movement as a whole is the elimination of the communal and customary forms of regulating agrarian production. It is in this

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*be established* (Hill, *World* 332).

sense that enclosures, as a means of *literally* enclosing a portion of the demesne by erecting hedges or fences, were less significant for the development of agrarian capitalism than were enclosures as a means of 'freeing' the land from the collective decision-making processes and communal regulation of the peasant community. Enclosure, therefore, was less about engrossing disparate plots of land, but rather, dissolving the communal regulations of production or customary tenancies and subjecting agricultural production to market competition between producers holding commercial leases, thereby stimulating a compulsory dynamic of agrarian 'improvement' (Kennedy 75-6).

But there is more to the current situation than just that. Certainly we are living through an attempt to neutralize certain elements of digital culture than had been implicitly understood as foundational, namely: the open and relatively non-commercial infrastructure that in turn gave rise to an incredible proliferation of experimentation. If we call that process of neutralization "enclosure," we are mobilizing a historical defense of *inclusive* property rights that precede any exclusive property right. In this case, since we are speaking of "digital enclosures," the properties in question happen to be immaterial. There seems to be something in the new technology we label "the Internet" that exposes the inclusive nature of such immaterial property in ways that were previously hard to see. Yet much of the rhetoric surrounding the "new digital enclosures," especially that coming out of the liberal FreeCulture movement, focuses its critical attention on the technology itself and not that which it exposes.

This, then, is the critique of FreeCulture and Creative Commons: the legal "work-arounds" may carve out a space *within* the liberal order of private property—an ecological preserve in which ideas may *appear* to be in their natural habitat—but such a space looks

suspiciously like an enclosed zoo. This problem only becomes more pronounced with the global expansion of IP discourse that has accompanied the spread of new information technologies. When other countries adopt a Creative Commons model of resistance, one of the first tasks is to 'port' the CC licenses into the local legal code. Yet the local legal code, in many instances, has already been itself translated or 'ported' so as to conform with World Intellectual Property Organization (WIPO) and other supranational norms, most likely as a baseline condition for further participation in some form of international trade agreement.<sup>231</sup> In other words, the adoption of the liberal Creative Commons model of resistance in the global South forecloses more radical positions; as FreeCulture models take US-style IP law as a given and then seek to reform it, this leaves little room for a critique of international IP regimes as such. As such, the FreeCulture-based resistance of international IP regimes itself replicates its constitutive liberal assumptions of the very object of its critique, namely, the assumption of possessive individualism.

Matteo Pasquinelli has diagnosed this problem. In his reading, the globalization of the FreeCulture position sets up an ideological trap: FreeCulture proposes software as a universal model for politics (Pasquinelli, "Ideology" 5).<sup>232</sup> Projects such as Wikipedia and Linux-based operating systems become the ideal form of human participation and organization. Pasquinelli, however, rejects these models of human subjectivity (the neo-liberal incarnation of the economically maximizing possessive individual) and the vision of human creativity it posits. FreeCulture looks to *incentivize* creativity in a market setting; Pasquinelli's position is that creativity is the very form of human life. This leads Pasquinelli to assert a constitutive surplus: human creative practice will always produce a natural surplus because that is the nature of life, and this surplus must be *managed* rather than incentivized. It is the very models of incentivization

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<sup>231</sup> See, again, May's *A Global Political Economy of Intellectual Property Rights*.

<sup>232</sup> See also his *Animal Spirits: A Bestiary of the Commons*.

themselves that participate in enclosing—that is, appropriating—the surplus. Pasquinelli proposes an *autonomous commons* that would be founded on the rejection of market incentivization and protected from capitalist appropriation; any non-autonomous form of the commons (or what he terms "Creative Anti-Commons") is merely Capital's ideological masking of the extraction of rent on the human surplus of creativity. Collective, autonomous human activity may build a free operating system, but once IBM installs that OS on their servers, the surplus of human creativity finds itself enclosed within a cycle of capitalist appropriation.

There is an irony in Pasquinelli's anti-corporate, pro-worker stance: the nebulous anti-monopoly position that he sketches is actually one of the main points of attack in the Creative Commons Constitutionalist-based critiques of copyright. CC and Pasquinelli both identify unlimited corporate monopoly as the enemy, and both propose some kind of autonomous subject as the solution to the problem. They differ in this: while Pasquinelli would install an autonomous worker monopoly, the liberal CC position prefers the "autonomous entrepreneur," a subject still profoundly marked by possessive individualism. Furthermore, Pasquinelli does not spend much time thinking about the systems of enforcement that will guarantee the continued existence of his autonomist, anti-corporate commons. Yet his attention towards the questions of creative production, surplus, and the commons is important, as is his critique of the universalization of software-as-model. He warns us of the tendency to replace faith in politics with faith in technology.

In his own way, Pasquinelli forces those who appropriate terms such as "commons" and "enclosure" to reckon with the radical content of the history they attempt to instrumentalize. If taken seriously (and not ironically), terms such as "commons" find their strength in a demand for an inclusive conception of property, prior to any individualization. In other words: the priority of

community.<sup>233</sup> Thus, the demand for the "commons" is a productive paradox: it is a demand articulated by an individual, coded in the language of individual rights, that in fact insists on something prior to that individual's subject formation: the right to the commons.

#### IV Copyleft as Training Ground

If we connect such ideas to contemporary calls for a creative commons, we can understand these calls as the demand for some prior inclusive right to culture. When commoners frame the question in these terms, it allows them to make claims that explode reformist negotiations about incentive structures that seek to balance competing exclusive claims; the power of the commons lies in its ability to put the question of property itself in relief.<sup>234</sup> Furthermore, the commons—as a concept—creates a natural linkage between critiques of authorship, which play out in the legal field of copyright, and critiques of *biopolitical* enclosures such as the human genome, which play out in the legal field of patent law.<sup>235</sup> Those two critiques, in turn, find resonance in resistance movements that defend indigenous knowledge traditions from exploitation by, for instance, North

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<sup>233</sup> In this line of reasoning, the primary assertion is that of an inclusive right; whether a resource is rivalrous or nonrivalrous, excludable or nonexcludable are distinctions that occur later. Asserting an inclusive right to information does not immediately suggest any particular economic model to be applied, although it does set a standard against which any legal, political, economic, or social structure that impedes that right must be deemed unjust.

<sup>234</sup> The Access to Knowledge (A2K) project is a good example of the failure to make this connection. Although A2K represents an exciting and promising global challenge to the TRIPS consensus, its platform insists on the unique nature of IP: "Knowledge goods are also fundamentally different from physical goods and services. They can be copied. They can be shared. They do not have to be scarce." (Available at <http://www.cptech.org/a2k/>) By demanding that the singular nature of IP—non-rivalrousness and non-exclusivity—be recognized in international norms, A2K immediately forecloses any radical option to critique property regimes as such. The project is a tentative first step, saying 'Property as we understand it makes sense; it's just that *this* particular kind of property is special' instead of 'Our new understanding of IP in a digital age underlines how tenuous our very concept of *property* is. Perhaps these changes in our understanding of how IP functions point to a more fundamental and pressing need to reconsider our current regime of social property relations.'

<sup>235</sup> See Vandana Shiva, *Biopiracy: The Plunder of Nature and Knowledge*.



American and European pharmaceutical corporations. In fact, we see the idea of *commons* bubbling up in some form or another in almost all critical investigations into the nature of IP. This understanding opens up a space for a more fundamental critique: that of property as such. The struggles surrounding IP, then, can be thought of as the training ground for struggles over property.

I take the idea of a "training ground" from Walter Benjamin's 1935 essay "The Work of Art in the Age of Mechanical Reproduction."<sup>236</sup> Mobilizing Benjamin's "now of recognizability," we can—indeed, Benjamin would state that we *must*—connect contemporary struggles over the "creative commons" with historical struggles about the commons as such. We could phrase this another way: organizations such as Creative Commons resemble the first electric lights that appeared in the Parisian Arcades. As Benjamin notes, these light bulbs took on a peculiar shape: that of the flames produced by the old gaslights the electric bulbs had replaced. The electric lightbulb was undoubtedly a technological innovation, but this first blind step of a new technology reaches back to the past even while it announces the future: lighting will *resemble* fire even when we assert that we have progressed *beyond* fire. We find ourselves in an analogous position today: we recognize the revolutionary potential of the Internet, but we are still groping about in the dark, hanging old models onto that which is new. But by tapping into the historical truth of the commons, we avoid such fetishization: a public domain carved out merely *within* private property is a light bulb imitating a gas light; the assertion of the *right to commons* and the *right of the commons* connects the *nowness* of the Internet with the ur-historical struggle for

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<sup>236</sup> Walter Benjamin, "The Work of Art in the Age of Its Technological Reproducibility: Second Version," *Selected Writings Volume 3, 1935-1938* and "The Work of Art in the Age of Its Technological Reproducibility: Third Version," *Selected Writings Volume 4, 1938-1940*.

inclusive rights.<sup>237</sup>

Benjamin thought that mechanical reproduction, as a fundamental change in the means of artistic production, could provide a tool for, as he says, "neutralizing" the conceptual framework that makes something like an 'aura', or a 'genius creator', or a mythical valorization of art, possible. Film is what, to Benjamin, could serve as a "training ground" to teach human beings "that technology will release them from their enslavement to the powers of the apparatus" BUT "only when humanity's whole constitution has adapted itself to the new productive forces which the [...] technology has set free" (Benjamin, "Artwork: Second Version" 108).<sup>238</sup> Benjamin is interested in the emancipatory potential contained within the new developments of artistic production. His project is not, however, a simple affirmation that the medium is the message. It is rather the tracing of the constellation shining in the now of recognizability: ur-history colliding with current innovations that gesture towards the unfulfilled promise of human liberation. This constellation crystallizes in the "dialectical image:"

In the dialectical image, what had been within a particular epoch is always, simultaneously, 'what has been from time immemorial.' As such, however, it is manifest, on each occasion, only to a quite specific epoch—namely, the one in which humanity, rubbing its eyes, recognizes just this particular dream image as such (Benjamin, *Arcades* [N4,1] p. 464).

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<sup>237</sup> Historians will most likely recoil at the appeal to a concept of *ur*-history, but my appeal to the radical thought of the English revolution is not a *historical* argument per se. When I connect contemporary struggles around the commons to, for instance, sixteenth century English radicals, I am, following Walter Benjamin, *appropriating* that past in order to *animate* the current discussion. Obviously, Gerard Winstanely, for instance, operated under different historical and economic conditions, and I am in no way claiming that the specifics of Winstanely's demands correspond in any one-to-one fashion with the demands of today's digital commoners. What is important to recognize, however, is that Winstanely's demands and the demands of digital commoners do share some *kernel*: the demand for an *inclusion* that precedes any and all *exclusion*.

<sup>238</sup> This line is absent in the Third Version.

"That which has been from time immemorial" is nothing other than the common pool of human creative power.<sup>239</sup> When we think critically about IP, when we arrive at copyleft, we are connecting our current practices with an ur-historical image that we reclaim through experience. That image takes the name of the commons, and thus humans can reappropriate what they never really gave away in the first place: the collective of human knowledge.<sup>240</sup>

As we fill in the constellation, surprising new connections emerge. As this constellation reveals itself in our contemporary moment, we find ourselves witness to a possible mental opening, a moment of imagination that grasps—childlike—at its hazy indeterminate form. This is the newness of copyleft: it lays bare the digital architecture of our informational ecosystem. Infrastructure decisions have always been political: they are made by political bodies and they determine the very fabric of social life. Those who insist on enclosing that ecosystem—those who insist on the priority of exclusive rights claims—are clearly unwilling to consider or critique the fundamental social and political infrastructure established by a private property regime. Yet there are moments in history when such questions have presented themselves in a manner impossible to ignore. That we are living such a moment further emphasizes the imperative that we activate the historical constellation beneath the fight against digital enclosures. Indeed, the common connection to land serves as a safeguard against technological fetishism: the dream of a true commons propels us forward, urging us ever closer to a *practical* critique of intellectual property and, in turn, property in *general*. Digital technology has not yet lived up to its promise; it is the

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<sup>239</sup> The legal scholars recognize this as well: "The importance of open source software is not that it introduces us to a wholly new idea. It is that it makes us see clearly a very old idea" (Boyle, *Public* 193).

<sup>240</sup> On Benjamin and the dialectical image, see Susan Buck-Morss, *Dialectics of Seeing: Walter Benjamin and the Arcades Project*. These lines are my own appropriation of her words.

*mean* to actualize the common dream, not the end itself. As Benjamin reminds us, the hour of full satisfaction, the hour of true reappropriation still remains elusive.<sup>241</sup>

What will this moment look like when it arrives? Christopher Hill reminds us of the radical slogan of the English Revolutionaries: The world turned upside down. Today's "now of recognizability" allows us to complete the slogan. In the enclosing world, we must ask the question of what a world turned *inside out* would look like. The world can spin on its axis, and today's "right side up" will be tomorrow's upside down. Yet until we open that world—turn out the enclosures and rip down the fences—we will be no closer to realizing the commons.

That does not mean such an opening is without its challenges. Fetishization—substituting technology for politics itself—is a constant and proximate danger. There are two other challenges that thinkers of the common must grapple with: the question of surplus (as touched on above) and that of essence.

## **V Surplus and Essence**

Although Roberto Esposito's *Communitas: The Origin and Destiny of Community* does not directly address the question of digital technology and information enclosure, he does present a framework for a *common* imagined beyond the limits of possessive individualism and liberal social contract theory.<sup>242</sup> Esposito's basic argument is that the modern 'absolute individual' has freed himself from the debt originally implied by community; this argument is in part etymological, as Esposito reads 'gift' and 'obligation' into the semantic concept of community.

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<sup>241</sup> "It has always been one of the primary tasks of art to create a demand whose hour of full satisfaction has not yet come" (Benjamin, "Artwork: Second Version" 118). On the risk of technological fetishization, see Buck-Morss, *Dialectics of Seeing* 118-20.

<sup>242</sup> For a reading of the different contemporary invocations of the commons or the commons (singular or plural), see chapter four, "The Commons, Between Literature and the City."

This 'freeing' Esposito calls *immunity*, as in an immunity from the contagion of the relationship with others. The gift/obligation (the 'munis' in *communitas*) is neutralized by the Hobbesian contract. That is to say: under Hobbes' sovereign, individuals are released from their debt to the community; they are immunized in such a way that negates the very idea of human community in the interest of individual survival.<sup>243</sup> (This argument parallels Macpherson's concept of possessive individualism in Hobbes.) Esposito contrasts this position with one he develops based on the thought of Martin Heidegger and George Bataille.

If Hobbes proposes a negative immunity that disintegrates community, Bataille—according to Esposito—locates community precisely in contagion and the mutually infecting wounds of human existence. Esposito contrasts the two positions: Hobbes conceives of man as a naturally *wanting* being, and man compensates for this weakness with the prosthesis of the *contract*. The contract—the basis for the 'absolute' individual's modern immunity to communal obligation—is guaranteed by the fear of the sovereign. While Hobbes' metaphysics is founded on fear and want, Bataille proposes one founded on surplus, desire, and gifts. There is no immunity in Bataille's community: instead, it is the universal and specifically human superabundance of energy destined to be unproductively consumed and wasted without limit. In short, Esposito suggests that life *within* Hobbes' state of nature is closer to a true community, and it is the Leviathan itself which makes life atomized, alienated, and miserable.<sup>244</sup>

Once again, *surplus* is a problem that must be reckoned with. Esposito's Bataillean-influenced metaphysics operates in a different register than Pasquinelli's ideology critique of FreeCulture. But still: both point towards a fundamental instability in the unenclosed commons. If the current IP scheme can only account for creative or immaterial labour—the work involved in

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<sup>243</sup> See especially the chapter "Fear," which focuses on Hobbes.

<sup>244</sup> See chapter five, "Experience," of Esposito's *Communitas*.

producing intellectual property—in a negative fashion via enclosure and appropriation of the surplus, a true commons that affirms the productive creativity of humanity must remain precariously open and permanently hostile to enclosure. Yet this task demands that we take account for a surplus—the productive, desiring energy of human life and creativity—that is constitutively uncountable. It is, after all, a pure surplus of energy. How, then, to enforce an inclusive right to the commons—be it material or immaterial—when part of what is to be included is pure excess?

Elinor Ostrom's work attempts to provide an answer to that question from within economics and social policy analysis. It would be fair to say that Ostrom's entire opus is directed against Garrett Hardin's "Tragedy of the Commons."<sup>245</sup> She attacks two of Hardin's underlying presuppositions: 1) that human rational decision making always functions in the logic of a Prisoner's Dilemma;<sup>246</sup> 2) that the only two possible solutions to managing resources are either a

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<sup>245</sup> Ostrom gives the following summary of Hardin's argument: "Biologist Garrett Hardin created a memorable metaphor for overpopulation, where herdsmen sharing a common pasture put as many cattle as possible out to graze, acting in their own self-interest. The tragedy is expressed in Hardin's famous lines: 'Ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all.' [...] Hardin's vivid narrative contains a number of contentions that commons scholars have repeatedly found to be mistaken: (1) he was actually discussing open access rather than managed commons; (2) he assumed little or no communication; (3) he postulated that people act only in their immediate self-interest (rather than assuming that some individuals take joint benefits into account, at least to some extent); (4) he offered only two solutions to correct the tragedy—privatization or government intervention. [...] There may be situations where this model can be applied, but many groups *can* effectively manage and sustain common resources if they have suitable conditions, such as appropriate rules, good conflict-resolution mechanisms, and well-defined group boundaries" (Hess and Ostrom 10-11).

<sup>246</sup> Ostrom explains the prisoner's dilemma: "Another frequently used model in commons analysis is the prisoner's dilemma (PD), developed in the early days of game theory in 1950 by mathematician A.W. Tucker at Stanford. The original narrative of the two-person, noncooperative, non-zero-sum game concerns two criminals who are interviewed separately about a crime. Each is given a strong incentive by the prosecutor to inform against the other. The prisoner's dilemma has remained popular perhaps because it is one of the simplest formal games to understand and can quickly illustrate the problems of collective action and irrational group behavior when trust and reciprocity have little opportunity to develop and be expressed" (Hess

Leviathan-like absolute sovereign or the unlimited private property rights of total privatization. Against these assumptions, Ostrom advances empirical studies of common-pool resources that are in fact *managed* by the members of their respective community. From these studies, she— along with the research group of which she forms a part, the International Association for the Study of the Commons—has proposed a third type of good as a supplement to the two traditional goods exchanged in contemporary economic theory: in addition to public goods and private goods, she adds common-pool resources. (In this sense, her account of property is much closer to Macpherson's than any other scholar working in mainstream liberal economic theory.)

In other words, one cannot theorize the social with baseline assumptions about human subjectivity that are fundamentally hostile and opposed to the very *idea* of society. Humans can and do cooperate empirically, thus any model of human behavior that *only* allows for a tragic social outcome must be rejected. Harin's concept of the "tragedy of the commons" represents a *theoretical failure* which ignores the empirical existence of common-pool resources that are effectively managed, for instance, groundwater basins, fisheries, forests, or irrigation systems. Thus, "What is missing from the policy analyst's tool kit—and from the set of accepted well-developed theories of human organization is an adequately specified theory of collective action whereby a group of principals can organize themselves voluntarily to retain the residuals of their own efforts" (Ostrom, *Governing* 24-5).

Ostrom's conceptual shift from *owning things* to *managing common resources* is welcome, but it still does not account for *surplus*. As I have argued throughout this project, there is something fundamentally *unmanageable* about human creativity. According to Ostrom, well-managed common-pool resources almost always share two key characteristics: small number of

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and Ostrom 11).

users, and well-delineated and stable boundaries. Common-pool resources with indefinite boundaries and near-unlimited numbers of users pose a profound problem to management regimes: think of air quality or ocean temperatures on a planet-wide scale, for instance. This problem is only compounded when the resource in question—in the case of intellectual property: knowledge, creativity, or information—is itself constituted by excess and surplus. Again, the question crashes upon the logic of inclusion: how to include the surplus of human creativity in a well-defined and bounded management regime? Or, in more direct terms: how to manage the unmanageable?





## EPILOGUE

### TRAINING GROUNDS AND AMUSEMENT PARKS

The question of inclusion is not limited to the surplus production of human creativity. There is also the question of *who* makes inclusive demands to the commons. If the commons is an inclusive demand, or rather a demand of inclusion, then the community it defines must be open and inclusive as well. This at once poses a paradox: how to circumscribe—that is, to define—a commons which must remain open and contingent?<sup>247</sup> Jean-Luc Nancy meditates upon this problem in his *La Communauté désœuvrée* (*The Inoperative Community*, 1982). The true risk in thinking the common, he argues, is that of falling into essentialism. Community cannot be a single thing; Nancy warns: "The community that becomes *a single* thing (body, mind, fatherland, Leader...) necessarily loses the *in* of being-*in*-common" (Nancy, *Community* xxxix). Running beneath Nancy's thought, of course, are the many twentieth century examples of exclusively-defined communities which culminated in persecution of minorities, wars, and even genocide. Thus he focuses on the issues of identity in defining community. He explains:

I start out from the idea that [...] the thinking of community as essence [...] is in effect the closure of the political. Such a thinking constitutes closure because it assigns to community a *common being*, whereas community is a matter of something quite different, namely, of existence inasmuch as it is *in* common, but without letting itself be absorbed into a common substance. Being *in* common has nothing to do with communion, with fusion into a body, into a unique and ultimate identity that would no longer be exposed. Being *in* common means, to the

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<sup>247</sup> For a more empirical treatment of this problem, see chapter two, "Appropriation and Enclosure in the New World."

contrary, *no longer having, in any form, in any empirical or ideal place, such a substantial identity, and sharing this (narcissistic) 'lack of identity'* (Nancy, *Community* xxxviii).

In Nancy's thought, "being-in-common" is ontological; it is "in no way 'added onto' the dimension of 'being-self,' but is rather co-originary and coextensive with it" (Nancy, *Community* xxxvii).

Furthermore, it is opposed to any and all thinking of community as a being-togetherness, because that path leads straight back to an essentially defined community—that is, a community defined by the assumption of the *one essential thing* that ties an "us" together—which posits a fusional assumption of a group of *I*'s into some collective hypostasis (Nancy, *Community* 14).

And yet there is *one thing* to which community pertains: death. For Nancy, death can also be understood as the impossibility of immanence; around the figure of death, community crystalizes and reveals itself. Community, then, is the togetherness that reveals our ultimate isolation in death. His emphasis on death puts Nancy in a strong position to reject any view of community based on a Golden Age. Community cannot be apprehended via some retrospective consciousness of a lost utopia; on the contrary, Nancy provocatively advances, "Community has not taken place." He continues, "*Society* was not built on the ruins of a *community*. It emerged from the disappearance or the conservation of something—tribes or empires—perhaps just as unrelated to what we call 'community' as to what we call 'society.' So that community, far from being what society has crushed or lost, is *what happens to us*—question, waiting, event, imperative—in the wake of society." (Nancy, *Community* 10-11)

Nancy thus poses the question of a contingent, open community—the philosophical equivalent of a commons—in these terms: "How can the community without essence (the community that is neither 'people' nor 'nation,' neither 'destiny' nor 'generic humanity,' etc.) be

presented as such? That is, what might a politics be that does not stem from the will to realize an essence?" (Nancy, *Community* xxxix-xl)

It is this deferral and openness that allows Nancy to affirm, "Community cannot be presupposed, it is only exposed" (Nancy, *Community* xxxix). It is exposed through the singular plural: there is no singular being without another singular being (Nancy, *Community* 28).<sup>248</sup> Through the immanent, emergent meeting of two beings, community exposes itself as being-in-common. In a less philosophical register, we can ask: is there something particular about new communications technology that alter the process of this exposure, the presentation of community to its constituent members?

In effect, Nancy answers his question by separating the *articulation* of a community from its *organization*; it is this process of thinking which *exposes* community not as a pre-existing, self-sufficient, autonomous essence, but rather as being-in-common (Nancy, *Community* 75). We could translate this to say that there *does* exist a community, or commons, that precedes any political form of enclosure; to return to the language of the second chapter of this project, the *ontological* name for Fence is *death*. In other words: the only ontological *enclosure* that precedes community, following Nancy, is the closure brought about by death itself.

While the distinction between the *articulation* and the *organization* of a community may carry a certain philosophical weight, it is little use when considering the problem of the *management* of any particular commons. In that sense, we must ask: doesn't Nancy's reading simply *postpone* the political moment of organization? Even if we concede that articulation in fact precedes organization (a point on which he is philosophically convincing), the next question that poses itself with great immediacy would be: has there ever been an empirical community that

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<sup>248</sup> See also Nancy's *Being Singular Plural*.

resides in pure articulation, without self-organizing around some essential identity? In a word: without *enclosure*?

Nancy's own answer to that question, an answer that appears yet another deferral of political considerations, is called 'literary communism.'<sup>249</sup> Literary communism, as the inscription of infinite resistance at the limit of any possible community, posits literary creativity as that *thing* capable of escaping the logics of essentialism, enclosure, and appropriation. The only way for Nancy's formulation to have any concrete meaning, beyond being a mere rhetorical suspension between the articulation and the organization of a community, is via an appeal to literature's exceptional nature. Somehow, literature escapes all of those thorny pitfalls of essentialism that frustrate every other possible articulation of community. Yet is this not simply a dressing-up of the so-called 'cultural exception'? It seems as if any gesturing towards the privileging of literature (or culture in general) can only occur over a background of retrograde Romanticism. In other words: Nancy's view of literature as the non-essentialist space of freedom rests upon the uninterrogated foundation of Romantic Genius that so much contemporary literary production has worked to unsettle!

"Literary communism" would then be the name for the cultural amusement park, fenced in by a cultural exception, in which Genius-Authors can persist in a pre-political, pre-organizational state of pure articulation. Yet it is precisely *not* an amusement park we want. The demand is *not*

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<sup>249</sup> Nancy explains: "This [understanding of community] does not determine any particular mode of sociality, and it does not found a politics—if a politics can ever be 'founded.' But it defines at least a limit, at which all politics stop and begin. The communication that takes place on this limit, and that, in truth, constitutes it, demands that way of destining ourselves in common that we call a politics, that way of opening community to itself, rather than to a destiny or to a future. 'Literary communism' indicates at least the following: that community, in its infinite resistance to everything that would bring it to completion (in every sense of the word '*achever*'—which can also mean 'finish off'), signifies an irrepressible political exigency, and that this exigency in its turn demand something of literature, the inscription of our infinite resistance" (Nancy, *Community* 80-81).

for a sandbox set off from politics and the world with a fence of cultural exception; the demand, indeed, is for a commons. This is why copyleft works as a training ground: the very concept of copyleft puts any boundary or fence whatsoever in question.

Within the amusement park, the cloistered Geniuses practice autonomy, enclosure, and exception. Even so, the amusement park turns in upon itself. It is an enclosed zone of officially sanctioned inversion: the world turned upside-down only in the loop of a roller coaster's tracks. On the training ground, however, commoners struggle, collectively and in the open. Even the very act of *naming* a ground 'training ground' begins the process of tearing down Fence. For the only thing commoners train our themselves: training to turn the world inside out.

This is all to say: "training ground" is a key concept because the ontological problem of community can never be separated from the political problem: if politics is to exist at all, it must be premised on some form of organization. Contemporary struggles over intellectual property actually *expose* the inexorable connection between the ontological and the political problem of community. This is why copyleft becomes the training ground for all future struggles against property as such: the new technological advancements of the "digital age" cast the problem of the commons in relief; our task then become that of thinking the commons in its material *and* immaterial manifestations. It is a question of both access to infrastructure—the economic and social conditions that permit or exclude access to the commons—and of the status of creative human activity.

Indeed, it is the perspective that views the problem of the commons as at once a material and immaterial problem that separates the liberal from the radical thinking of the commons. There are plenty of techno-utopians who tirelessly celebrate online collaborative projects as examples of

emergent communities joined in the creation of what is common, but rarely would someone like Yochai Benkler articulate that process as *finite existence exposing itself to finite existence*. The concept of *exposure* is quite relevant, and one way to frame the question becomes *what is it that the Internet exposes?* When we understand that question within the parameters of Walter Benjamin's formulation of the *newness which exposes that which has always been*, we begin to see the commons, exposed. Our task now is to reconceptualize our relationship to ideas, creativity, production, subjectivity, and ownership in a way that conforms with this exposed commons, with this world turned inside out. And, in doing this, we must always keep the questions of surplus and essence on the horizon of our thought.

Commoners, then, ought support the work of organizations such as Creative Commons; indeed, as creators, we should embrace open content licensing as the best practical solution for our own production. But we must recognize such work as the *training ground* it is. The theoretical, historical and philosophical task for which we train lies in connecting copyleft projects to other radical struggles that insist on an inclusive commons over and above exclusive private property rights. By insisting on the centrality of the commons, progressive thinkers—and we can all be thinkers—activate a secret history of struggle. But there is no need for this history to be secret. The struggle over intellectual property is the struggle over the very meaning of the concept of *property*. When we demand a commons, those who have fought enclosure in all of its forms march behind us. To keep their dreams and struggles alive, we must do what that most holy parodist of enclosure—Thomas More—did: imagine another possible world. And that world will be a world *turned inside out*.

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