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SPACING ABSTRACTION

Capitalism, Law and the Metropolis

David Cunningham*

In considering contemporary accounts of the interrelations of economic, legal and urban forms of social relations in the emergence of a *global* capitalist modernity, this paper argues that politico-juridical imaginaries of new forms of transnational universality have tended to be limited by virtue of both an anachronistic recourse to spatial models of the *polis* and a failure to confront the ineliminability of abstraction to any idea of global social interconnectivity. In such terms, it argues, Lefebvre's famous call for a 'right to the city' needs to be reinscribed as a properly modern right to the *metropolis*; one that would allow us to conceive of the possibility of new kinds of relation *between* individual and collective subjectivity and the development of abstract social forms.

The precise relationship between the emergence of modern law and the formation of capitalism has long been a central question for social, political, economic and legal theory. Classically, much Marxist thought has tended to relegate law to a mere question of ideological 'superstructure', while other veins have suggested a far more fundamental or 'infrastructural' connection between the development of modern legal forms and the establishment of distinctively capitalist commodity-exchange relations. Either way, at issue has been an ongoing question of how to understand the relationship between two forms of social relation that are generally taken to be definitive of modernity *per se*: the *economic* and the *juridical*. Today, it is the new claims to *universality* of such forms, in terms of their potential social significance and reach, that intersect with a massive surge of interest in the nature of *international* law, and in its role within an increasingly globalised capitalist modernity. For, while there are no doubt a number of more specific historical and political reasons for such a surge — the 'war on terror', the United States-led invasions of Afghanistan and Iraq, the celebrated Pinochet and Milosevic cases — it equally reflects the growing importance, across the humanities and social sciences as a whole, of some more fundamental questions about the form taken by the universality of the putatively 'international' (or, perhaps more properly, 'transnational') itself within 'our' contemporary global moment.¹

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¹ This surge of interest, then, is not confined to lawyers. Indeed, its most important aspect is precisely that it is *not*, but has rather taken on a profoundly cross-disciplinary character — something already apparent in its increasing presence in the work of writers like Jürgen Habermas and John Rawls at the end of the 1990s.

In this article, I consider this in relation to some arguments concerning the specific role played by the *urban* in such processes of internationalisation, and hence raise certain questions about what implications its changing form may have for our understandings of legal and juridical space. As I argue below, much contemporary theory concerning the development of transnational structures has been marked, *spatially*, by what risks in fact being an anachronistic persistence of the idea of the *polis* in efforts to articulate, conceptually, emergent ‘real’ or ‘speculative’ forms of universality or collectivity today. Politically, this has meant that attempts to mobilise — as a counter-force to current developments in international law and its accompanying conceptions of some (implicitly imperialist) ‘form of supra-state planetary authority’² — the possibilities of a demand for something like a more radical, transnational *right to the city* have risked, at the same time, resorting to fundamentally *arrière-garde* (or at least merely romantic anti-capitalist) notions that fail to acknowledge the changing formations of the urban itself.

Transnationalism, the Metropolis and Capital

It is one of the key lessons of the work of Henri Lefebvre that a defining aspect of any new form of social relations is that it must precisely *produce* some new space. While, in principle, the speculative (and partially ‘real’) universality of international law is organised around the now potentially ‘limitless’ spatial reach of its jurisdiction, the possibility of a space of the ‘international’ which it presupposes is thus, by this account, a space which must itself also be (and have been) produced. Given its claim to universality, this might be usefully considered in relation to certain issues raised by one of Lefebvre’s own most influential concepts: the concept of *abstract space* — insofar as it is this concept that names the dominant spatial form of production of capitalist modernity in general, a social world that is, as Peter Osborne remarks, ‘constituted through abstraction to a hitherto unthinkable extent’.³ For while such abstraction is most definitively associated with what Marx terms the ‘real’ abstraction of the exchange value form, it is in principle no less relevant to an account of both the interrelated *legal* and *urban* spatial aspects of social modernity.

Of course, at one level political, urban and legal form are, for a well-established tradition of thought, inseparable. There is no law or politics *without* the city, insofar as it is, as Jean-Luc Nancy notes, ‘to the *polis* itself that the determined establishment, formulation, observation and improvement of law belongs’.⁴ Yet, if we follow Lefebvre himself, it is in fact historically more specifically Rome, not Athens, that via the ‘imposition of its juridical law (the Law) ... [first] promoted abstraction to the rank of a law of thought’, thus uniquely providing a basis for its later ‘rediscovery’ as one key element in the formation of capitalism’s *own* abstract “space of accumulation”, in the

² See Gowan (2001), p 81.

³ Osborne (2000), p 18.

⁴ Nancy (2007), p 6.

replacement of “customs” by “contractual (stipulated) relationships”.⁵ In these terms, the Roman precedent simultaneously suggests both a complex and reciprocal *interdependence* between the real abstraction of the value form and certain forms of (re-)production of legal and urban reality, and indicates the obvious limits that must be set to any theoretical attempt to reconstruct the spatiality of modern law around the historically specific urban form of the *polis*. For while, in its production of a new ‘codified, law-based spatial practice’, Roman urban society may well have acted as ‘the generator of a new space ... with a great future in Europe’, this could only manifest itself as a ‘necessary’ but not a ‘sufficient’ condition of later forms with the development of *capitalist* modernity proper.⁶

For a dominant tradition of politico-juridical analysis, it is fair to say that a certain ‘abstraction’ is, of course, intrinsic to the social formation of modernity more generally. The emergence of a distinctively modern model of citizenship organised around the twin principles of universality and the individual citizen or human being — as opposed to the ancient (more or less mythical) model of the *polis* structured by ‘concrete’ and ‘particular’ communal affiliations — is thus often understood to have as its corollary the formation of an entirely new *culture* of abstraction, with the ‘abstract individual’ and his/her set of ‘abstract rights’ at its centre. The projected space of international law, the space that it *produces*, would thus certainly seem to be, in this sense and in exemplary fashion, that of *abstract space*. And if this allows, fairly obviously, for a linkage between the spatial forms of the abstraction of the law and that abstraction intrinsic to the dominance of commodity-exchange relations, it also engages the further question of the role played by the production of a certain form of specifically *urban* spatiality in the development of such processes today (a question worth posing if only as the basis for considering a different prism, through which to look at such processes, than that customarily provided by analyses of either new post-national *state* forms or forms of global ‘civil society’). For, in the famous account given by Simmel in 1903, it is above all in the modern *metropolis* that the ‘reality’ of modern forms of abstraction is manifested in an actual spatial form, as a ‘hollow[ing] out [of] the core of things, their individuality, their specific value, and their incomparability’, resulting from its domination by the money economy.⁷ The concept of metropolis thus appears historically here, not as a simple synonym for the city or *polis*, or the ancient lineage it represents, but on the contrary as the manifestation of a distinctively modern spatial-productive logic (of abstraction) which opposes and unsettles it.

Pursuing this analysis today, two of the key issues at stake above might then be further developed as follows.

⁵ Lefebvre (1991), pp 246, 110, 290, 263. Interestingly, a similar claim is made by Lukács, with regard to Roman Law’s prefiguring of capitalist ‘legal patterns’. See Lukács (1971), p 97.

⁶ Lefebvre (1991), p 252.

⁷ Simmel (1997), pp 176, 178. For a further elaboration of this, see Cunningham (2005).

The first issue concerns the role played by urban ‘centres’ within the global space of accumulation as a single, integral global economic *network*, and thus their relation to new politico-juridical spatialisations. As Saskia Sassen argues, while the ‘current phase of the world economy is in many respects discontinuous with the preceding periods’, spatially this qualitative transformation should not be ‘conceptualised’ *only* ‘in terms of the duality national-global where the latter gains at the expense of the former’.⁸ For if contemporary developments suggest ‘an incipient unbundling of the nation-state’s exclusive authority over its territory’, Sassen’s own concept of the ‘global city’ insists, nonetheless, upon the need to analyse *new* forms of the localisation of the spatial formations of globalisation on the terrain of the metropolis, which are ‘crucial in the valorisation, indeed overvalorisation, of leading sectors of capital’. This requires us both ‘to specify a geography of strategic places at the global scale, places bound to each other by the dynamics of economic globalisation’, and to recognise the emergence of ‘new legal regimes’ that create ‘operational and conceptual openings for other actors and subjects’.⁹ It is in light of the latter, Sassen argues, that some new ‘type of transnational politics is being localised in these cities’, which thus function as one of the key ‘nexuses where the formation of new *claims* materialises and assumes concrete forms’.¹⁰

Yet the development of such a geography also revives the old question of the role played by the city in the ‘origins’, consolidation and spread of capitalism itself. Current speculation regarding whether ‘in a new phase of the world economy rival state structures to that of the nation-state are not tending to form again’, has thus — understandably — served to re-focus attention on earlier ‘transnational politico-commercial complex[es], centred around one or more cities’, such as the Hanseatic League.¹¹ The contemporary production of new forms of transnationality similarly recalls our attention to the universalisation *inherent* in the value-form of capital itself — one that has, if we follow Simmel, a fundamental connection to the spatial production of the specific urban form of the metropolis — and to the fact that, from its beginnings, capitalism projected an ‘abstract space’ of the accumulation of value, of the ‘world market’, which has *always* been global in form. In the famous, and recently much quoted, words of *The Communist Manifesto*:

⁸ Sassen (1999), pp 86, 87. See also Sassen (1991), various essays in Knox and Taylor (1995) — in particular, the pivotal essay on ‘The World City Hypothesis’ by John Friedmann — and in Cox (1997). For a more recent study, see Massey (2007).

⁹ Sassen (1999), pp 86, 92, 87, 88.

¹⁰ Sassen (1999), pp 86, 87 [emphasis added].

¹¹ Balibar (1991), pp 91, 89. As Balibar puts it elsewhere: ‘[T]here have in history been *other* state *forms* [than the nation-state] and even, potentially, other “bourgeois” state forms (such as the city-state or the Empire). And the problem of such alternative in no sense belongs to the past: the same forms, transformed to a greater or lesser extent, are reappearing today as “meta-national” forms.’ Balibar (2002), p 64. See also, for example, the vision of some ‘New Hanseatic League’ connecting together a globally dispersed network of ‘world city-states’ in Petrella (1991).

The need of a constantly expanding market for its products chases the bourgeoisie over the whole surface of the globe. It must nestle everywhere, settle everywhere, establish connexions everywhere. The bourgeoisie has through its exploitation of the world market given a cosmopolitan character to production and consumption in every country. ... In place of the old local and national seclusion and self-sufficiency, we have intercourse in every direction, universal inter-dependence of nations. And as in material, so also in intellectual production.¹²

This intrinsic compulsion to transcend the borders of the national is one that the period 1917–89 may now seem only to have obscured. Nonetheless, it is also true that the material possibilities of this universalisation have clearly been intensified and extended by their intersection with what *is* undoubtedly a qualitatively new spatial form — that of what Manuel Castells calls the ‘space of flows’, based in the new electronic communications and informational technologies.¹³ Not only is this ‘practically’ dependent on the new kinds of metropolitan form that Sassen defines — as necessary ‘nodes’ in the spatial distribution of a global economic and communicational network — but the emergence of this new spatiality *itself* appears to assume a kind of extended metropolitan form in its transcendence of ‘national seclusion and self-sufficiency’. (It is not, I think, coincidental, in this sense, that the internet — with its IP addresses and network architecture — should continue to be imaged, as a form of space, in primarily urban terms.) Hence, for example, Deleuze and Guattari’s suggestion that ‘if it is the modern [nation] State that gives capitalism its models of realisation, what is thus realised is an independent, worldwide axiomatic that is like a single City, megalopolis, or “megamachine” of which the States are parts, or neighbourhoods’ — a suggestion that rests upon a definition of the urban as that which, in its modern form, ‘exists only as a function of circulation and circuits ... a phenomenon of *transconsistency*’.¹⁴

Today, then, the reconfigured urban form of the metropolis may be understood to ‘appear’ in two different forms, and at two different (but interrelated) levels: on the one hand, as the dispersed elements of a global interconnected network — a network that is constitutive of the particular form and ‘experience’ of any particular urban centre — and, on the other, as providing the basic, generalised form of that network itself, which is conceptually shaped as an historically new kind of, universally radiated, *virtual* metropolis (to borrow a phrase from the architect Rem Koolhaas). It is the reciprocal play between these different levels that defines the global urban problematic today, and thus the spatiality of any emergent ‘transnational politics’ organised around the urban as a theorist like Sassen defines it.

Yet if the historical specificity of the metropolis is to be defined primarily in terms of its status as that which is ‘dominated’ by ‘the money economy’, this is not only a question of it providing something like the material support of

¹² Marx and Engels (2002), p 223.

¹³ Castells (1989).

¹⁴ Deleuze and Guattari (1987), pp 434–35, 432.

monetary exchange, the necessary primary space ‘in’ which exchange takes place. This much is fairly obvious, and may be understood as the continuing basis, at a now more radically transnationally networked level, for someone like Sassen’s discussion of the global city. More than this, the metropolis must also be understood to designate the potentially universal processes by which *space itself is produced* by exchange. If money is the dominant modern form of the abstraction of social relations and contemporary experience, then the metropolis is not only its ‘backdrop’ or ‘setting’, but its socio-spatial *equivalent* or *correlate*. A certain abstract form of social relationality would, in this sense, simply *be* abstract space’s *real* ‘content’: the condition of a new urban-spatial logic of social connectivity and being-in-common — a ‘common content’ that is not pre-given (a simple abstraction *out of* what is there), but that is rather itself a kind of introjection and instantiation of this abstract form. Of course, as such it can still only attain ‘real existence’, and thus both specific and *variable* ‘form’ and ‘content’, by virtue of the specific spatial production of its open and dispersed totality of material assemblages. But, by contrast to the earlier forms of what Lefebvre terms ‘absolute’ and ‘historical’ space — in which, as in the *polis*, the ‘incomparability’ of the intrinsic qualities of certain sites remains seemingly essential — ‘specific values’ are no longer in the metropolis, in themselves, definitive of the urban as such, and are constitutively mediated by a pure form of exchangeability. This raises some key questions with regard to the kind of new transnational urban politics that Sassen envisages. For, from such a perspective, *all* politico-judicial demands for an effective restoration of the *polis* — as opposed to the metropolis — can thus appear only in the guise of a recourse to the residual oppositionality of so-called *pre-capitalist* cultural and social forms — the formation of a ‘rearguard’ action in the face of historical transformations in the reality of the urban itself.

Capitalism and the Space of the Law

There can be little question that it is the socio-economic processes of capitalist relations of production and exchange that have historically constituted, and continue to constitute, a specifically metropolitan spatiality. Nor is there any doubt that it is, in the context of ‘globalisation’, this general *actuality of abstraction* in the metropolis that is being universalised today, both by the emergence of a genuinely global ‘urban problematic’ such as Lefebvre already envisaged in the early 1970s — we inhabit a world in which more than 50 per cent of people now live in some form of urban space — and, more ‘immaterially’, by the emergence of the new economic and communicational networks productive of a ‘virtual’ transnational metropolitan space, forming an emergent, immanently differentiated *total* process of urbanisation.

Yet if the ongoing unfolding of this global ‘urban problematic’ continues to develop under the hegemony of capital, we should equally recognise that such hegemony is never, in itself, total or complete, and it is here that more specifically political and juridical issues begin to re-emerge. The more precise question needing to be asked thus concerns the relationship between the universality of the ‘real’ abstraction of the value form — as apparently *the* structuring abstraction of capitalist modernity — and the developing spatial

forms of both the modern metropolis and a speculative juridico-political horizon of the ‘international’ today, given the level of abstraction which would also seem intrinsic to both. If it seems clear at least that capital is, in Hegelian terms, something like ‘the “concrete universal” of our historical epoch’, in ‘that, while it remains a particular formation, it overdetermines all alternative formations, as well as all noneconomic strata of social life’,¹⁵ this universality, and the specific forms of real abstraction intrinsic to it, should not be mistaken for a simple process of *homogenisation*. In fact, it relies upon a certain immanent generation of difference internal to the production of abstract space itself, insofar as it must also spatially instantiate (crucially, through politico-juridical means) those economic relations of difference essential to the accumulation of value. Both what Mike Davis terms a ‘planet of slums’, and what others have commented upon under the (now somewhat anachronistic) notion of a distinctive ‘third world’ city space, are as much an outcome of this process as are Sassen’s global cities.¹⁶ This entails a recognition that if the current ‘planetary’ space of the international is not, finally, ‘a single world of human subjects’, but ‘solely one of things — objects for sale — and monetary signs’, then, as Alain Badiou has argued, the ‘overwhelming majority of the [global] population have at best restricted access to this world. They are locked out, often literally so.’¹⁷ But it also means that it would be wrong to thereby view the contemporary manifestation of, for example, the slum as a merely de-linked *residue* of some simple ‘space of place’, ‘left behind’ by the deterritorialising axiomatics of capitalist modernity.¹⁸ For the new proliferating slums of the global South are precisely linked to, and produced by, regimes of capital accumulation which have their ‘centres’ elsewhere, in New York, London or Tokyo. And what can (not always very accurately) often be regarded as a certain ‘lawlessness’ internal to such impoverished spaces — from the lack of clear property rights to the absence of a police force and effective judicial processes — is nonetheless determined and reproduced by a range of legal structures through which the ‘flows’ of urban form and life are regulated at another level, one which both builds the ‘walls’ guaranteeing the exclusion of an ‘overwhelming majority’ from an unstriated international space, and establishes and upholds, within that space itself, the ‘universal medium’ of ‘a legally regulated market in which contracts are respected, and their breach punished’.¹⁹ Exclusion here is less ‘external’ — as Badiou’s metaphor of ‘locking out’ might suggest — than it is ‘internal’ or immanent (a ‘locking in’), part of the production of new global

¹⁵ Zizek (2004), p 185.

¹⁶ See Davis (2006). At the very least, an insistence upon such immanent difference constitutes an important corrective to the preoccupation of Sassen and others with the ‘global city’ as *the* conceptual frame for theorising the distinctive character of advanced capitalist urban form. For a more radical argument concerning the need to overcome the very theoretical division often made between Western and ‘Third World’ cities, see Robinson (2005).

¹⁷ Badiou (2008), p 38.

¹⁸ See Cunningham (2007).

¹⁹ Zizek (2004), p 197.

economic and social divisions within what is increasingly a single system or formation. (Such ‘immanence’ relates, of course, also to what Sassen, for one, has increasingly stressed as the importance of ‘the Third World city imported via immigration and located in dense groupings’ *within* the space of the global city itself, and hence of new forms of what Castells describes as an internal ‘urban dualism’ in contemporary metropolises such as Los Angeles, New York or London.²⁰) Thus, the political question that arises has to do less with these ‘real’ forms of universality, or with their historical genealogy, than with the question of the speculative forms of universality that, from the ‘site’ of contemporary immanently differentiated metropolitan space, might be imagined as the basis of some transnational social interconnectedness in *non-economic* terms. This is, it seems to me, precisely *the* political question — indeed, the question of (the possibility of) politics — today, and one which partly explains the surge of interest in international law that I began by noting.

As Balibar argues in *Politics and the Other Scene*, at least one way of defining what is at stake in something like an actual *right* to politics here — which, in a moment, I want to place alongside Lefebvre’s famous ‘right to the city’ — would be in terms of a familiar set of problems associated with the idea of *citizenship*. As Sassen argues — going on to situate this in terms of a capacity, via international law and human rights discourse, for ‘individuals to make claims on grounds that are not derived from the authority of the state’ — the emergence of a ‘new geography’ of global processes could well provide an opening for new forms of ‘citizenship’:

The city has indeed emerged as a site for new claims, not only by global capital which uses the city as an ‘organizational commodity’, but also by disadvantaged sectors of the urban population, frequently as internationalised a presence in large cities as capital. The de-nationalising of urban space and the formation of new claims by international actors, raises anew the perennial question, ‘Whose city is it?’²¹

Yet the link between changes in urban form and possible new forms of citizenship takes on a broader significance here also. For, as Balibar argues, it would seem that, to some degree by definition, ‘citizenship can exist *only* where we understand a notion of city to exist — where fellow citizens and foreigners are clearly distinguished in terms of rights and obligations in a given space ... In this respect, the modern *nation* is still — and must still consider itself — a *city*’.²²

This seemingly ineradicable persistence of the spatial model of the *city* suggests, at this level, a *continuity* (conceptually imagined, at least) between ancient and modern ideas of citizenship, precisely formed around a certain

²⁰ Saskia Sassen, ‘New York City’s Informal Economy’, cited in Castells (1989), p 215. On the so-called ‘dual city’, see Castells (1989), pp 224–28, and for a more recent study focused specifically on London, see Massey (2007).

²¹ Sassen (1999), pp 89, 88.

²² Balibar (2002), p 108 [first emphasis added].

principle of *exclusion* as definitive of a 'given space'. The ongoing political and social implications of this are, as we have seen, obvious. But it also raises some particularly difficult questions about our very contemporary capacity to 'imagine' properly transnational forms that could (*even* speculatively) operate at the same level of universality as the real abstraction of the value form, of the 'single world' of 'things' and 'monetary signs'. For if the nation still, in some sense, conceives of itself as a *city (polis)* — if this continues to mark a certain *limit* to what can be imagined for any 'imagined community' — then equally, as Balibar again observes: 'Very often, the idea of supra-national citizenship has no meaning other than the displacement to a "higher" order of the very characteristics of national citizenship.'²³ Which means that the 'world' must itself become a 'city' when viewed from the perspective of anything like a putative *transnational* citizenship constituting 'a single world of human subjects'. Hence the degree to which professedly 'postmodern' urbanist conceptions of something like a coming *cosmopolis*, and the primary legalistic conceptions of liberal cosmopolitanism accompanying them, often seem themselves little more than an incoherent fantasy of a mythical *polis* 'universalised' to some 'cosmic' level?²⁴ At the very least, we would have to bear in mind here Marx and Engels' words (cited above) that it is, above all, *capitalism* that has 'given a cosmopolitan character to production and consumption in every country'. How to distinguish between the 'cosmopolitanism' projected by some post-Kantian (or 'post-structuralist') global politics of difference and the 'cosmopolitanism' of capital itself, as manifested most intensely in the contemporary formation of the global metropolis, becomes a key question at this point. For it seems clear that while any 'radical democracy' today must seek to project some New International(ism), as Derrida calls it, the construction of a truly "borderless world" in the juridico-political sense of the term' would indeed, as Balibar argues, 'run the risk of being a mere arena for the unfettered domination of the private centres of power which monopolise capital, communications and, perhaps also, arms'.²⁵

This opens up a problem familiar from debates surrounding international law: the absence (perhaps *essential* structural 'lack') of any over-arching sovereignty through which some new transnational form of citizenship and juridico-political space might obviously be 'grounded', some 'equivalent to the state and its *Sittlichkeit* [Hegel's "ethical life"]'.²⁶ If it is 'to the *polis* itself that the determined establishment, formulation, observation and improvement of law [*loi*] belongs', what does this mean for the possibility of 'law' in a globalised *metropolitan* world at the level of the global itself? (This, finally, is the question that Sassen's own formulation of some new politics of the city fails to engage.) At the same time, the very persistence of the 'model' of the *polis* itself in the

²³ Balibar (2002), p 107.

²⁴ See, for example, Sandercock (1998); Isin (1997).

²⁵ Balibar (2002), p 85. Or, as Deleuze and Guattari put it: 'Never believe that a smooth space will suffice to save us.' Deleuze and Guattari (1987), p 500.

²⁶ Balibar (2002), p 32.

contemporary political, philosophical and spatial imaginary of ‘the global’, raises the — to my mind — pivotal question of to what degree certain hegemonic conceptions and imaginaries in these kinds of debates about international law and citizenship are marked, fatally, by a profound failure to face the *irreversible* transformations in urban form and experience themselves designated by the concept of metropolis, as the name for a certain *reality* of abstract social form.

The Right to the Metropolis

It is in such terms that Lefebvre’s extraordinarily influential conception of a ‘right to the city’ requires some fairly sober contemporary reinterrogation. What kind of *right* is this? What would be the ‘political’ and/or ‘legal’ form of those apparently new claims made by ‘city users’ or ‘urban actors’ who, as Sassen puts it, ‘struggle for recognition and entitlement’?²⁷ Lefebvre is certainly clear that this can be regarded neither, in legal terms, as a natural nor as a contractual right:

In the most ‘positive’ of terms it signifies the rights of citizens and city dwellers, and of groups they (on the basis of social relations) constitute, to appear on all the networks and circuits of communication, information and exchange ... The *right to the city* legitimates the refusal to allow oneself to be removed from urban reality by a discriminatory and segregative organisation.²⁸

But if the right to the city is not to fall into the problems of a ‘right to politics’ organised around a particular model of ‘citizenship [that] can exist only where we understand a notion of city [*polis*] to exist’, the right to the city equally cannot be conceived of as ‘a simple visiting right or as a return to traditional cities’. Rather: ‘It can only be formulated as a *transformed and renewed* right to urban life’ as such where what is at stake is the possibility of *new* ‘places of simultaneity and encounters, places where exchange would not go through exchange value, commerce and profit’.²⁹ Despite frequent misunderstanding, then, Lefebvre’s right to the city is, on his own terms, not one that can take the spatial model of the protected *enclave* — not a simple ‘city of refuge’, conceived of as a bulwark against the encroachment of the abstractions of exchange value or state power. For: ‘If it is true that the words and concepts “city”, “urban”, “space”, correspond to a global reality ... the *right to the city* refers to the globality thus aimed at.’³⁰ That is to say, it is the political and juridical horizon of the *global* that constitutes its fundamental *metropolitan* shape and problematic. Certainly this converges with Sassen’s more recent assertion that it is the ‘space constituted by the worldwide grid of global cities’, precisely by virtue of its ‘loosening of identities from what have been their

²⁷ Sassen (1999), p 103.

²⁸ Lefebvre (1996), pp 194–95.

²⁹ Lefebvre (1996), pp 158 [emphasis added], 148.

³⁰ Lefebvre (1996), p 194.

traditional sources, namely the nation or the village' — and, I would add, the *polis* — 'that is today one of the most crucial spaces for the formation of transnational identities and communities'.³¹

'New social relationships call for a new space', as Lefebvre famously asserts. As a form of 'globality' that is 'aimed at', the right to the city must then be governed by the possibility of a qualitatively different non-capitalist form of social-spatial relationality. This is the vision elaborated in what, of course, he terms *differential space*: the 'seeds of a new space' harboured by abstract space's 'specific contradictions'. As the legal theorist Chris Butler summarises: 'The characteristic of the urban as a space of encounter [for Lefebvre] allows differences to flourish and generates the contemporary conditions for creative human communities. Groups and individuals who are prevented from participating in this collective, creative act, are denied the right to the city.'³² The contemporary metropolis, globally, is in this sense the 'site' of a necessary and irreducible conflict, in which forms of social struggle increasingly find themselves organised around a will 'to differentiate, to generate differences which are not intrinsic to economic growth *qua* strategy, "logic" or "system"'.³³ It is this, for one thing, that would lend a new significance to Deleuze and Guattari's suggestion, already cited, that 'if it is the modern [nation] State that gives capitalism its models of realisation, what is thus realised is an independent, worldwide axiomatic that is like a single City, [a] megalopolis'.

Yet if such realisation is — barring global environmental catastrophe — strictly irreversible, this also surely raises the question of whether 'abstraction' itself can be thought so clearly as what should be speculatively *overcome* in contemporary struggles, as Lefebvre can tend to imply, or whether this simply leads one into a kind of logical and political incoherence. For, as I have suggested elsewhere, the real question today, both for practical politics and for legal theory, might be one of whether it is possible to conceive of an alternate relationship *between* difference and abstraction than that constituted by the value form as it is manifested on the terrain of contemporary metropolitan life.³⁴ For would not a certain abstract space be *itself* the condition, or indeed necessary *form*, of such a differential space? Indeed, without certain structures and experiences of abstraction, would any such space of a differential connectivity or social 'unity' be conceivable at all? This suggests that the very received opposition between the 'abstract' and 'concrete' would need rethinking at this point, as would a certain still hegemonic political and critical-legal discourse that rests upon it. For abstract space is itself a *positive* 'site' of the production of experience, constitutive of new 'concrete' forms of spatial relationality generative of social meaning. It is not simply, as is implied in much reception of Lefebvre's work, a mere representational form of conceptual masking or misrecognition of some underlying 'content' of a more real, multiple

³¹ Sassen (1999), p 102 [emphasis added].

³² Butler (2007), p 214.

³³ Lefebvre (1991), p 55.

³⁴ See Cunningham (2005).

and concrete ‘lived experience’. (Indeed, is it not precisely *as* ‘lived experience’ that we most obviously ‘inhabit’ abstraction today?)

How then, finally, does the ‘positive’ form of the right to the city, as a *global* reality, relate to the form of the *law*? Critics of contemporary international law and human rights discourse, like China Miéville, are unquestionably right that ‘systematic amelioration of social and international problems cannot come through law’.³⁵ (It is in this, I think, that Sassen’s vision of a new transnational urban politics rooted specifically in the ‘ascendance of international human rights’ can certainly seem naïve.) At best, it provides a partial and fragile ‘protection’ against certain specific encroachments: as, for example, in the resistance to ‘slum clearances’ in both the so-called developing and developed world.³⁶ As the geographer David Harvey says, then, the clear temptation ‘is to eschew all appeal to universals as fatally flawed and to abandon all mention of rights as an untenable imposition of abstract ethics as a mask for the restoration of class power’. Nonetheless, as he rightly continues, one must equally wonder just how wise it actually is ‘to abandon this field to neo-liberal hegemony’. For there is:

a battle to be fought not only over which universals and what rights shall be invoked in particular situations but also over how universal principles and conceptions of rights shall be constructed ... If class restoration entails the imposition of a distinctive set of rights, then resistance to that imposition entails struggles for entirely different rights.³⁷

Just as importantly, at the level of the ‘theoretical’ itself, one needs still to distinguish here between two different problematics of abstraction customarily invoked in critiques of international law and of rights discourse more generally. On the one hand, it is true that ‘law’, in this regard and ‘in itself’, is *inherently*

³⁵ Miéville (2006), p 318.

³⁶ This, of course, raises a further issue that, for reasons of space, I have largely had to bypass in this article — though I return to it a little obliquely in the final two paragraphs as a question of an urban politics ‘from below’ — that is, the potential and limits of what is most usually termed a *grassroots* politics in effecting radical political change. (For a now classic, and still compelling, account of this, see Castells, 1983.) It is at least clear that the unique difficulty facing grassroots struggles today concerns their capacity, as David Harvey puts it in a recent book, to extract themselves ‘from the local and the particular to understand the macro-politics of what neo-liberal accumulation by dispossession was and is all about’. ‘The variety of such struggles was and is simply stunning,’ Harvey continues. ‘It is hard to even imagine connections between them’. Harvey (2006), p 63. There is something slightly odd about the idea of an *understanding* of ‘macro-politics’ as some revolutionary prerequisite here. But the point is fairly obvious. Hence, as I argue throughout, the ineliminability of a certain problematic of *abstraction* in all attempts to ‘imagine connections’ at what now seems the necessary level of a genuinely *global* urban problematic. For some more detailed comments on this, see Cunningham (2007).

³⁷ Harvey (2006), p 54.

limited insofar as it can only, precisely, exemplify the practically ‘bad’ abstraction of what Osborne calls ‘the merely *empirical* “reality” of the [conceptually] one-sided abstractions of the understanding [*Verstand*] ... an empiricism of [existing] everyday economic, legal and political life’.³⁸ Law, that is to say, is — as a specific form of abstraction — *necessarily* a form of misrecognition at some level, and as such practically functions quite differently from the ‘concretely abstract’ form of capital, viewed as an *actually universal* global form of social mediation today. And it presumably cannot do otherwise, cannot, to put it another way, bridge the gap, in its own capacity, between ‘the [abstract] “right” and the “duty” of its enforcement’.³⁹ This is why, in the end, any idea of international law as something like the ‘political’ counterbalance to the ‘economic’ form of a globalised value form is always destined to naivety or self-deception, even in its most well-intentioned articulations.⁴⁰

At the same time, however, it does not necessarily follow from this that the speculative horizon of some ‘withering away’ of law *per se* would thus be either possible or desirable (even as a kind of regulating idea). This is not to argue that ‘international law’ as it exists is in some way ‘reformable’ to make it more truly ‘humanist’ or ‘universal’ in its practice. Nor, most importantly, is it to deny Miéville’s central point that force and violence are *intrinsic* to the legal form as such. It is rather to question whether some regulative idea of the end of ‘violence’ *itself*, and the desire to have done with abstraction *per se* that may be implied by it, would be the most productive position from which to start out here, or whether it risks simply opening up an invitation to the worst possible violence of what Balibar describes as ‘a mere arena for the unfettered domination of the private centres of power’. For, as Balibar also states, ‘there is no society (no viable or livable) society [including urban society] without institutions and counter-institutions’, and no politics which can, in truth, ‘suppress’ *all* violence, only one which might work to exclude ‘extremes of violence, so as to *create a* (public, private) *space* for politics (emancipation, transformation), and enable violence itself to be historicised’.⁴¹ Most importantly, if the political question today is whether it is possible to conceive of equally universal forms of global social mediation to those established by that ‘real’ form of universality which is the value form, and if it is the very abstractness of the value form that is the condition of that universality’s

³⁸ Osborne (2004), p 27.

³⁹ Chandler (2003), p 27.

⁴⁰ Similarly, if the right to the urban were to be conceived of simply as a quasi-utopian ‘political’ overcoming of the forms of division generated by the ‘real’ ‘economic’ relations of production, the early Castells’ Althusser-influenced accusation that Lefebvre merely constructs an *ideology* of urban society would evidently have some plausibility. See Castells (1977). However, as I suggest below, this does not seem to me the *only* way of thinking what is at stake here.

⁴¹ Balibar (2002), pp 29, 30. This may also no doubt be connected to Derrida’s assertion of a need for the ‘critique of institutions, but one that sets out not from the utopia of a wild and spontaneous pre- or non-institution, but rather from counter-institutions’. Derrida (2001), p 50.

‘reality’, does this not beg the question of whether any competing or alternate form of equal universality would not have to be *equally abstract* too? For is it in fact possible to imagine some form of urban–social connectivity at a global scale that would *not* involve forms of social abstraction in some manner? In which case, the simple criticism of the violence of abstraction *per se* (rather than of the historically specific forms of violence as domination that it generates under certain conditions) would make little sense here; indeed, it would operate as a profound block on any plausible contemporary *metropolitan* politics of emancipation and transformation.⁴²

It is, in this sense, that — speculatively — a politics adequate to the contemporary must always go beyond the terrain of the ‘legal’, but equally cannot afford to ‘eradicate’ it, for this would risk merely reinscribing rights, in an illusory desire for the ‘concrete’, as a purely ‘moral’ category divided from questions of political accountability or enforceability.⁴³ The continuing violence and ‘Eurocentrism’ of international law that is reproduced through the simple fact that the transnational ‘humanity’, which is supposedly ‘covered’ by such law, can have no say in either its writing or application cannot be ‘resolved’ by law itself. Indeed, as much to the point, what would seem today to render any talk of *rights* near delusional *per se* is not the dilemmas surrounding social forms of abstraction or the demand for ‘universality’ as such, but the extreme, practical limits to much of the world’s population conceiving of themselves as anything like political subjects in this way.

It is here that the idea of a *right to the urban* reveals both its possibilities and its immense difficulties. For if we accept, with Lefebvre, that the ‘characteristic of the urban as a space of encounter allows differences to flourish and generates the contemporary conditions for creative human communities’, as a progressively *global* reality it may well be what is generated by the spatial development of the metropolis that does indeed offer some grounds for some hope that we might conceive of other forms of collectivity than those determined by the value form. At the very least, this compels us to ask how we might conceive today what the *World Charter of the Rights to the City*, drawn up at the Social Forum of the Americas in 2004, posits as the *potential* of the urban, while recognising, as the *Charter* acknowledges, that if the social divisions of the metropolis favour ‘the emergence of urban conflict’, its contemporary formations also mean that this is ‘usually fragmented’.⁴⁴ To put this another way, it entails the question of how, beyond the actions of any ‘master’ (acting on behalf of the law), a demand for a right to such potential of the urban might be made, practically, ‘from below’ by the efforts of new collectivities themselves.

⁴² Osborne (2004), pp 27–28.

⁴³ As Bruce Robbins baldly puts it: ‘Whatever a left counterpart to liberal cosmopolitanism may be (if such a creature exists), it must flee the self-sacrificing romanticism of lost causes and seek the power to implement its ideas’. Robbins (2002), p 32.

⁴⁴ *World Charter of the Rights to the City*, www.choike.org/nuevo_eng/informes/2243.html.

This is, of course, the theme that has come to be named in our time by the concept of the multitude; not insignificantly, its greatest proponent, Antonio Negri, has recently turned towards the ‘antagonistic’ spatial configuration of the metropolis as that which might occupy a privileged ‘place’ in the multitude’s ‘construction of new circuits of communication [and] new forms of social collaboration’, and thus the signs of a struggle against the imperial ‘bad abstraction’ of abstract space. Here, as with Lefebvre, the question is: ‘If the metropolis is invested by the capitalist relation of valorisation and exploitation, how can we grasp, *inside it*, the antagonism of the metropolitan multitude?’⁴⁵ Yet, it seems to me, much recent attempts to substantialise the ‘promise’ of the multitude, including those of Negri and Michael Hardt, have been stymied by what still appears tied to a futurally projected idea of difference that would somehow lie *beyond abstraction per se*. (The Deleuzian ontologisation of the positivity of ‘living labour’, in the figure of the multitude, as the creative force of ‘autonomous power’ would appear, from this perspective, only to effectively bracket the problem of forms of social mediation and of the relation of the multitude to the ‘rhizomatic’ form of capitalist Empire, for all that Hardt and Negri accord great attention to ‘organisational’ questions of the network, etc.) In this light, it is not so surprising that, despite the radicalism of its commitment to a ‘molecular politics’, *Empire* should itself precisely conclude with the demand for a series of universal *rights* (to global citizenship, to a social wage, to reappropriation).⁴⁶ If this suggests the ineliminability of a certain modern politico-juridical framework, it also suggests something that may be more important — that it is, in fact, only perhaps in thinking the possibility of new kinds of relation *between* individual and collective subjectivity and the development of abstract social forms that we might begin to glimpse the lineaments of a metropolitics adequate to that demand for the right to the urban which compels ‘us’ today.

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⁴⁵ Hardt and Negri (2004), p 81; Negri (2002).

⁴⁶ See Zizek (2004), p 202. If Zizek is right, however, that this ‘unexpectedly brings back’ what Hardt and Negri had appeared to demand a decisive break with, namely ‘subjects of universal rights, demanding their realization’, it is not so clear, I think, that such demands must be made to ‘some universal form of legal state power’ as he suggests. Rather we might see it as an effective *basis* for a mobilization of an experimental practice and thinking of the possibility of new kinds of relation between individual and collective subjectivity and the development of abstract social forms which is opened up by the postulation of ‘rights’ themselves. This, at any rate, is what I understand to be at stake in Lefebvre’s ‘right to the urban’ today.

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