

The state as labour process, as production

Clips collected by Mike Hales, 23may2019. **Bold** emphasis is inserted by the editor.

Here are some clips from Stefano Harney (2006), 'Governance, state and living labour', *Cultural Logic* ejournal, 2006. Downloaded 2018 from <<https://clogic.eserver.org/2006/harney.html>>. Note: 22may2019, 'Server not found'.

The paper opens as a somewhat whingeing 'critical management theory' critique of the absence of a theory of the state within 'post-bureaucracy' governance- and network-theory in 'the administrative sciences'. Then finally, from para #19, 'Toward a theory of the state', (in a paper 27 paras long) Harney advances a labour-process theorisation . . .

Stefano Harney clips

Harney quotes Pashukanis (Soviet law-theorist, victim of Stalin's regime): . . . in the political class struggle . . . the state is the authority for the organized violence of one class on another. The legal state, on the other hand, reflects the impersonal, abstract and equivalent form of commodity exchange. The legal state is the third party that embodies the mutual guarantees which commodity owners, qua owners, give to each other. [Pashukanis, E.B. (1923), *Law and Marxism: a general theory*. London: Ink Links, 1983.]

Harney: The post-bureaucracy and governance literature . . . retains **the slide from state to government to bureaucracy** the resistance of public administration scholars to bureaucracy is precisely a resistance to **the potential of labour in the state**. In this sense, public administration is different from management studies or organizational theory whose resistance to the state can function through neglect, through presumed distance. Public administration is so close that it must constantly push away, constantly substitute for the state **the state is close because it is daily made** by what Marx called 'living labour'.

. . . Marx noted that capital constantly and progressively tried to free itself from living labour, to do without it. But as much as it appeared to succeed, technology, science, and capital itself needed living labour to give it life, and its act of separation, Marx felt, could well 'blow the foundations sky high' The state too in such a capitalist society **is composed of labour and disowns it**, with much help not only from public administration theorists, but also from contemporary

Marxist theorists of the state. Holding to a notion of the state derived really from Engels and Lenin, not Marx, prominent contemporary Marxist theorists like Paul Thomas and Bob Jessop re-enact the politics of bureaucracy just as surely as public administration theorists. Whatever the merits of their analysis, **the state is only 'other' to living labour in their work.**

. . . State workers always threaten to produce **an excessive public**, one that allows social labour to be recognized as such and allows women and men to see all that is private as privatization, as **an act to make private what begins as social** the very collective labour of **abstracting something called public and something called private** opens the door to the collective conceiving of another abstraction of association.

. . . What . . . is being privatized behind [the] showy publicization of the network society? Nothing less than the labour's ability to navigate all of Marx's circuits of capital with a superfluity that workplace labour, grounded in the productive circuit, could never imagine. But there will be no politics made of this superfluity so long as the network joins bureaucracy as substitutes [mh: in administrative theorising] for the state-form creating them.

Are the disciplinary fields of the organization - organization theory, management studies, public administration - so inevitably Weberian that no understanding of **labour as world-making activity** may ever emerge from them? Is it possible that despite all the fine efforts to think about organizations with post-structuralist theory and labour process theory, that one can never **arrive at labour from the starting point of Weber**? In other words, is to begin with an object called organization . . . to begin at the wrong end from labour? Certainly for Marx, organizations were always mere appearances hiding social relations and historical processes that might reveal the collective labour making and remaking these appearances everyday. In this view, bureaucracy for Marx, unlike for Weber, was a problem only insofar as it remained tied to the political. Bureaucracy became **a vehicle for freedom** the moment it passed into the realm of the directly social, of production for production's sake. The disciplinary fields of the organization submit, as Weber did, bureaucracy to a political analysis, and in so doing submit labour to the political. Bureaucracy can then stand against labour in a politics that promises more politics against bureaucracy - now called post-

bureaucracy - and thus all these fields end up strangely in the same place as Lenin, Stalin, and Trotsky.

Marx wanted to see the day when the government of men would be replaced by the administration of things. This is the movement from the political to the social. Pashukanis wrote:

the role of the purely legal superstructure, **the role of law, declines**, and from this can be derived the general rule that as (technical) regulation becomes more effective, the weaker and less significant the role of law and the legal superstructure in its pure form. [Pashukanis (1929), *Selected Writings on Marxism and Law*, London: Academic Press (1980), 271.]

The state as producer of . . the public-private duality

While Harney (a critical administration-theorist) emphasises the state as labour - which might be organised in practice as labour-associated-with-labour - Ugo Mattei (a specialist in law of social justice and commons) emphasises how labour in the modern state produces 'the public' and 'the private' as a couple, through the producing, enforcing and globalising of **law per se**; and how the production of 'commons' - in radical opposition to dispossession by the diabolical twins of State-and-Capital - calls for a new phenomenology of justice and state.

Ugo Mattei clips

Ugo Mattei & Marco de Morpurgo (2009), 'Global law and plunder - The dark side of the rule of law'. Downloaded 15apr2018 <https://works.bepress.com/bocconi_legal_papers/15/>

mh notes: Rule of law #1: securing property rights, enforcing contracts, **enforcing contracting**. Rule of law #2: an algorithm, a **machine** of supposed justice and fairness. Imposition of law by **military force**. Imposition of law by threatened **starvation of trade**. Diffusion of rule of law by modernisation and participation in administrative complexity (a 'science' of **public administration**). 'Governance' a disguise for sending a gunboat, universality of legal process a Trojan horse for machine administration. Global hegemony of corporatist **US corporate law** patterns.

Ugo Mattei (2011), 'The State, the market, and some preliminary questions about the commons', March 18, 2011, Council of Europe DG III Social Cohesion, *Human Rights of People Experiencing Poverty*. Downloaded 14apr2018 <https://works.bepress.com/ugo_mattei/40/>

The state v. private debate presents a false dichotomy, a distinction without a difference . . . Private property and

the State are the two major legal and political institutions that carry on the dominant view of the world. The common wisdom, presents them as radically conflicting . . . more state is equal to less market and less market is equal to more state the two entities, as social and living institutions, can only be structurally linked in a relationship of **mutual symbiosis**. The fabricated clear-cut opposition between the two is a precise ideological choice of the individualistic tradition Both archetypes are inserted into a fundamental structure: the **rule of a subject** (an individual, a company, the government) **over an object** (a private good, an organization, a territory).

Ugo Mattei (2015), 'First thoughts for a phenomenology of the commons', in Bollier & Helfrich (2015), *The wealth of the commons*. Downloaded 05mar2019 <<http://wealthofthecommons.org/essay/first-thoughts-phenomenology-commons>>

The commons are not concessions. They are resources that belong to the people as a matter of life necessity. Everybody has a right of an equal share of the commons and must be empowered by law to claim **equal and direct access** to it. Everybody has equal responsibility to the commons and shares a direct responsibility to transfer its wealth to future generations. **The commons radically oppose both the State and private property as shaped by market forces**, and are powerful sources of emancipation and social justice. However, they have been buried by the dominant academic discourse grounded in scientific positivism. They need to be emancipated by an authentic shift in phenomenological perception in order to produce emancipation.

Social justice is pursued in Western democracies by the (currently declining) institutions of the Welfare State. Access to social justice programs is usually understood as provided by "rights of second generation," which require a specific obligation of the State to respect and guarantee them.

This vision, which places **the specific burden of satisfying social rights on the government**, has been central to the evolution of Western jurisprudence. Since the Scientific Revolution and the Reformation, social justice has been **expelled from the core domain of private law**. The Scholastic notion of law in the 16th century – which was based on two concepts of justice, distributive justice and commutative justice – was abandoned at the outset of modern Western jurisprudence. Starting with Grotius in the 17th century,

concerns over justice were equated to issues of **fairness in contractual exchanges between individuals.**