New Political Economy

ISSN: 1356-3467 (Print) 1469-9923 (Online) Journal homepage: http://www.tandfonline.com/loi/cnpe20

Forget English Freedom, Remember Atlantic Slavery: Common Law, Commercial Law and the Significance of Slavery for Classical Political Economy

Robbie Shilliam

To cite this article: Robbie Shilliam (2012) Forget English Freedom, Remember Atlantic Slavery: Common Law, Commercial Law and the Significance of Slavery for Classical Political Economy, New Political Economy, 17:5, 591-609, DOI: 10.1080/13563467.2011.639871

To link to this article: https://doi.org/10.1080/13563467.2011.639871

New Political Economy, Vol. 17, No. 5, November 2012

Routledge
Taylor & Francis Group

Forget English Freedom, Remember Atlantic Slavery: Common Law, Commercial Law and the Significance of Slavery for Classical Political Economy

ROBBIE SHILLIAM

Is the liberty to pursue individual self-interest in the capitalist market all that remains of the grand Enlightenment promise of human emancipation? The article addresses this question by returning to eighteenth century scholarship on the relationship between English common law and commercial law. Specifically, I explore the fundamental challenge posed to common law by the regulation, through commercial law, of enslaved Africans as labouring 'things'. I show how key British scholars in the eighteenth century traditions of jurisprudence, moral philosophy and political economy struggled to address the radical unfreedom of the enslaved and the meaning of her/his radical emancipation. I explore how this Atlantic challenge was 'indigenised' to speak to the threat posed by enclosures in Britain, in particular, the possible destruction of the qualified unfreedoms and freedoms extant in the paternal social order upheld by common law. I explore how political economy traditions pre and post abolition and emancipation sought to deal with this challenge. And I conjecture on the significance of remembering the most radical process of commodifying labour – in Aimé Césaire's terms, thingification – for present day interpretations of the relationship between capitalism and freedom.

Keywords: slavery, political economy, common law, Marx, Mill

Introduction[1]

Is the liberty to pursue individual self-interest in the modern world market all that remains of the grand Enlightenment promise of human emancipation? Or do more radical possibilities for freedom reside immanently within capitalism? (Bauman 1988; Berman 1983; Habermas 2001; Wood 1995; Friedman 1962; Cohen 1982: 3–33; Gray 1988). Scholars of political economy often address these

Robbie Shilliam, School of Politics and International Relations, Queen Mary, University of London, Mile End Road, London E1 4PN, UK. Email: r.shilliam@qmul.ac.uk

ISSN 1356-3467 print; ISSN 1469-9923 online/12/050591-19
http://dx.doi.org/10.1080/13563467.2011.639871

questions by returning to the eighteenth century, when the promise of capitalism – then popularly called 'commercial society' – was first being interrogated with regards to the specific relationship it proposed between property, labour, individual freedom and social order (for example, Hirschman 1977; McNally 1988; Sen 1999; Blaney and Inayatullah 2010; Perelman 2000; Wood 1999). Within the archives of eighteenth century English and Scottish thought, freedom – or 'liberty' – was a crucial concept in so far as it clarified the promise of Enlightenment as an escape from slavery in both its social and natural determinants. As part of this clarification, Enlightenment thinkers often paid special attention to the Atlantic slave trade and slavery in the American colonies. Yet curiously, contemporary scholars of political economy tend not to follow the prompt of their archival interlocutors.[2]

This article contributes to the less common enterprise of interrogating these archives of English/Scottish thought by reference first and foremost to Atlantic slavery rather than to English capitalism (Davis 1966; Davis 1975; Drescher 1987). While my argument ultimately targets the political economy tradition, it should be remembered that the tradition itself emerged in the confluence of (amongst other influences) moral philosophy and jurisprudence. I shall be working within this confluence. Additionally, in this endeavour I am not so much concerned with making a political-economy argument about the place of English capitalism within the structural relationships of free and forced labour in the eighteenth century world economy (see Tomich 2004). I am more concerned with retrieving the hermeneutical challenges posed to eighteenth century English and Scottish scholars of jurisprudence, moral philosophy and political economy when faced with a commercial law that turned not just the labour power of the enslaved African but the entire labouring body into a commodity (for cognate arguments see Dayan 2002: 64; Kopytoff 1986: 65; Baucom 2005; Rupprecht 2007; Smallwood 2004).

My argument develops through an interrogation of the 'hermeneutic of English common law'. This term refers to an interpretive framework used to understand the relationship between property and labour that allowed for moral argument over – and political prescriptions for – individual freedom, but which nevertheless sought to retain the integrity of social order. I argue that during the late seventeenth and eighteenth century this hermeneutic was fundamentally challenged by the way in which commercial law regulated the enslaved African as a labouring 'thing'. The peculiarities of the English common law tradition have been used to explain the particular English roots of capitalism in Europe (Wood 1991: 49–54). And certainly, the challenges to the social order thrown up by the enclosures and the rise of agrarian capitalism were the most pressing, politically, in Britain. Yet in the cognitive realm, it was the peculiar relationship between common law and Atlantic slavery that, I submit, provided a more intractable problem. In other words, I argue that during this period the fundamental challenge for understanding individual freedom and its relationship to social order (the hermeneutic of common law) arose out of the governing of enslaved Africans caught up in the Atlantic economy rather than from peasants in Britain being displaced by agrarian capitalism.

Specifically, the challenge for such scholarly inquiries lay in the constitution of the enslaved African being *at the same time* a 'commodified' source of labour power *and* a 'thingified' labouring body. The process of commodification is crucial to Marxist understandings of capitalism as a form of social reproduction predicated upon the rise of wage labour and non-coercive surplus extraction (Marx 1990: 163–77; see also van der Pijl 1998: 8–30). Additionally, and for similar reasons, the commodification of labour power is also crucial for the liberal belief in 'commercial society' in terms of the pacifying effect this process has upon social relations (see Hirschman 1977). Alternatively, the concept of thingification (*chosification* in the French) was introduced by the Martiniquean poet and politician Aimé Césaire (2000) in his 1955 text, *Discourse on Colonialism*, to describe the effect of colonialism upon the personhood of the colonised. This concept, although widely circulated (see for example Bhabha 1984: 129), has rarely been the subject of investigation and explication, and thus requires some introduction.

Césaire's intellectual context should be understood in its broader sense as a Caribbean response to the dehumanisation of enslaved Africans and their descendents (Rosello 1995: 32–4; Gordon 2000). Césaire was a self-proclaimed Marxist when he wrote *Discourse*. However, the argument in *Discourse* intentionally equated colonialism with racism rather than with capitalism and thus broke with the Marxist analysis of imperialism as a stage of capitalism (Arnold 1981: 176; see also Kelley 2000: 10). Elsewhere, Césaire (2010: 131) argued that colonialism did more than just exploit labour: it 'emptied' entire peoples of their culture; and later, in his resignation letter to the French Communist Party, Césaire talked of his emancipatory programme in terms of 're-personalising' the Caribbean (2010: 151). In this article I use 'thingification' as a counterpoint to the liberal/Marxist conceptualisation of commodification in order to indicate a process fundamental to Atlantic enslavement yet not to English enclosures: the commodification of the labour power of the person *and* personhood itself. And I use these distinctions to explicate the challenge that Atlantic slavery posed to the hermeneutic of common law that cognitively structured the relationship between property, labour, individual freedom and social order in the 'commercialising society' of eighteenth century Britain.

To draw out the past and present significance of this challenge, the argument is composed of two parts. In the first – and main – part of the article I argue that, to the extent that they worked within the hermeneutic of common law, eighteenth century English and Scottish thinkers of moral philosophy, jurisprudence and (eventually) political economy experienced a cognitive dissonance when directly addressing the political and ethical challenges that arose when labouring bodies were thingified through the commercial law that regulated the English slave trade. The starkly antipodean poles that this thingification implied – radical unfreedom (slavery) and radical freedom (emancipation) – were fundamentally disturbing to the hermeneutic of common law. For its lexicon was not predicated upon *absolute* conditions of unfreedom/freedom, but rather upon the *qualified* conditions of servitude based upon relations of paternal dependency and individual freedom derived from inherited property rights.

In a shorter second part I explore how the late eighteenth century Scottish political economy tradition broke from the common law hermeneutic to the extent that it started to admit that slavery – and not simply servitude – was a basic relation of commercial society. The shift to a new lexicon, however, was ambiguous, and the political economy tradition fell short in providing abolitionists with an actionable moral argument. I then develop some thoughts on the political economy tradition in the wake of emancipation in the British colonies. I use John Stuart Mill and Karl Marx to suggest that, unlike their Scottish predecessors, political economists after emancipation claimed that entry into the market held an immanent potential for the realisation of fuller freedom. Yet this belief required an exorcising of the enslaved African and her/his thingified labouring body from an understanding of the process of commodification. In fine, the potential future for modern English freedom was rescued in the post-emancipation political economy tradition by forgetting Atlantic slavery. Finally, I use my argument as a provocation for contemporary scholars who return to these archives in order to sharpen their analysis of the relationship between capitalism and freedom in the present day.

A preliminary note: purely in order to expose the inadequacy of the common law hermeneutic in dealing with commercial law, I shall often use the term 'slave' instead of 'enslaved person'.

Part I

The Atlantic slave trade, commercial law, and common law

By the seventeenth century, the Azores had come to mark a 'permissible frontier' whereby conventions practiced in the heart of European empires did not replicate themselves in their American colonies even if their sponsoring agents expected them to do so (Canny 1978). In the English colonial enterprise, annexed territories in the Americas were the possessions of the crown which could impose whatever law upon them it desired through whatever governing intermediary it found expeditious. Certainly, English law was not meant to be dismissed outright in the colonies, nevertheless, its selective imposition was very much an empirical question of what arrangements crown and grantee came up with or were willing to tolerate (see Bush 1993: 456–7). Draconian martial orders often held sway over the rank and file colonialists and increasingly with regard to policing the relationship between the lower classes and the indigenous populations. Before long, Africans would be forcefully introduced into these orders as slaves, and subjected to brutal and demonic forms of labour exploitation in the Americas qualitatively different to those allowed in the lore and laws of England (Canny 1978: 17–18; Garraway 2005: 199–207; Dunn 1973: 12; Drescher 1987: 12–13).

Limited legal traditions were available for English scholars who sought to make sense of the paradoxical co-existence of freedom and slavery in the Atlantic world. At the time, the Roman law tradition offered Europeans the most direct jurisprudential engagement with slavery. Francisco Suárez and especially Hugo Grotius had re-interpreted Roman law so as to posit a dichotomy between the law of nations – governed by expediency and circumstance – and the transcendental

laws of nature. While slavery was contrary to the latter law it was not contrary to the former by which it could be said to satisfy natural justice and reason if captives of war, rather than be put to death, were given the choice of being saved as the slaves of the victor in perpetuity (Watson 1993; Davis 1966: 109–14). In other issue areas, English lawyers were borrowing from continental law (see for example, Helmholz 1990), but English jurisprudence distinguished itself in respect to Atlantic slavery.

Grotius's treatment of slavery as natural justice was influential to much Enlightenment contract theory, especially that of Hobbes, wherein it functioned to effectively legitimise the absolute claims of the English sovereign over subjects saved from a dangerous life in the state of nature (Nyquist 2009). Nevertheless, Hobbes' use of Roman law was heuristic and certainly did not reflect any actual incorporation of Roman slave law into English jurisprudence such that might regulate the slave trade and plantation colonies (Drescher 1987: 14). This peculiar treatment also manifested in Locke's writings. Locke tempered Grotius's use of Roman law by refuting the assumption that the right of dominion applied to the offspring of captive slaves (Farr 2008: 501–2). And yet, he left as a 'glaring exception' to his theory the inherited dominion over slaves gained by purchase rather than by war (Farr 2008: 504). Instead, Locke treated this later state of affairs as a colonial fact (upheld in the Carolina constitution that he helped to draft) and did not attempt to justify it as part of his system of rights (Farr 2008: 505).

Furthermore, in Europe at large, the pricing of life was considered to be tantamount to conspiracy to murder, whereas England had historically lacked the Roman law tradition that prohibited the valuation of a free person (Rupprecht 2007: 16). French traders took African slaves hostage as war captives so that their selling price was effectively a ransom for release (Rupprecht 2007: 19), while English maritime interests carried African slaves as property: their valuation of the slave was as a commodity (a thing) not as a captive (a subject). Thus, in 1672 the Royal African Company received a monopoly to trade in 'redwood, elephants teeth, negroes, slaves, hides, wax, guinea grains, or other commodities' (Mtubani 1983: 71). An appeal was made to the Solicitor General to determine whether slaves should be regarded as commodities in conformity with the Navigation Acts, and the reply forthcoming was positive. In these ways, the articulation of the enslaved African through English commercial law as a commodity – a 'thing' lacking in personhood – stood out in stark opposition to the traditions of other European slave-trading and colonial powers.

What of enslavement in England itself? The nearest legal condition to slavery that had existed was villeinage, and the last recorded case where a villein had been set free was in 1618 (Drescher 1999: 17). The growing articulation of 'liberty' over the course of the eighteenth century relied upon the common law tradition, not Roman law (Drescher 1999: 17). So by the time William Blackstone wrote his weighty commentaries in the 1760s, common law referred first and foremost to the progressive form of liberty secured by the inalienable ownership of inherited property. This ownership was to be understood as the foundation upon which individuals and families could enjoy an independent social and legal identity (Michals 1993: 200). Blackstone explicitly outlawed 'pure and proper slavery' that gave

'absolute and unlimited power' to the master. Indeed, he, as well as a number of moral philosophers, refuted Roman law justifications for slavery, especially the war captive argument (Blackstone 1766: 411–12; Beattie 1790: 161). Rather, echoing Locke, Blackstone claimed that slavery was impossible upon English soil unlike in the Caribbean where, even if repugnant to natural law, it was practically possible (Michals 1993: 204).

Being denied any regulative code in common law, the legal status of slaves therefore fell entirely under English commercial law which had, moreover, developed no new legal concepts or categories to do deal with the African trade (Bush 1993: 445). Thus, in the words of Jonathan Bush (1993: 443), enslaved Africans 'entered the English legal universe as a commodity, with no claim to freedom and no legal personality at all.' Albeit, *exceptional* commodities. In Charles Molloy's popular 1676 treatise on the English Law Merchant, the only legal ruling over slaves focused upon the question of liability for cargo that died in transit (Bush 1993: 452–3). It was not simply the case that the slave was an exceptional commodity because she/he was animate (as were livestock). Rather, the valuation of slaves was exceptional in that it acknowledged that the question of their *free will* had to be dealt with. A telling example is provided by Anita Rupprecht (2007: 21) who shows that while slaves were insured on British ships as commodities *en route*, increasingly, their insurance excluded perishing by on board insurrections authored by the 'commodities' themselves.

By these means, the enslaved African, in the act of making the middle passage, became a thing – a commodity regulated through commercial law rather than as a person governed by common law. The free will of the slave – a crucial (Christian) attribute of humanity – was surplus to its regulation. This exceptional regulation continued in the British plantation colonies that received the slaves. Certainly their non-personhood was harder to maintain after they had disembarked from the ships. Nevertheless, slaves were still subject to a boundary law that, taken from English precedents regarding Irish and Jews, was deployed innovatively in the colonies to quarantine the black labouring body from others, especially with regards to sexual relations. Roman law was not coherently applied in a manner that might question the status of the slave as a commodity. The only public laws concerned the policing of slave movements; else the private law governing quotidian existence was the privilege of the particular owner (Bush 1993: 428, 434–5, 436–7; Nicholson 1994: 49).[3] Therefore, the default legal status of slaves living in the British colonies was essentially that of a commodity.[4]

To summarise the argument so far: neither Roman law nor English common law governed slaves in the British Atlantic circuit but rather a stark commercial law that recognised the personhood of slaves ironically only in the excess that was to be excluded from their valuation as things to be bought and sold. The commodification of the enslaved African therefore extended to, in the same moment, both her/his labour power and her/his personhood. This exceptional commodification – for example thingification – of the slave was the most challenging phenomenon that the bifurcated Atlantic system presented to scholars of common law.

Slavery in England and common law

While the number of African slaves sojourning and even settling in Britain was always moderate, by the latter half of the eighteenth century there were enough runaways in the centres of population, especially London, to bring forth a new category – the 'Black poor' (Walvin 1973: 306–7; Barker 1978: 25–9). Uncomfortably, the Black poor brought with them the relationship of slavery into the heart of the land of 'liberty'.

The stakes at play are preserved in the famous Somersett case of 1772 (see Drescher 1987: 16–19). Somersett, a slave, was brought to England from the American colonies by his master, Charles Steuart. He then escaped but was recaptured. Before Somersett was due to be sent back to the colonies an application of *habeas corpus* was made by his supporters. Granville Sharp, a key backer and subsequently famous abolitionist, used the force of common law to argue against Somersett's detention on English soil. Key for Sharp was the political danger that slavery posed to the traditional liberties of the subjects of common law (Davis 1975: 375, 392). The argument from slave-owners was, as always, a purely commercial one, that is to say, a proprietary claim over the body conferred by *purchase* (or inheritance of the purchased stock) (Drescher 1987: 27). Justice Mansfield, however, ruled that Somersett was to be freed on the basis of common law having no precedent for the return of a slave from English shores. Effectively, Mansfield's ruling targeted the unlawful detention and potential deportation of Somersett; it did not explicitly outlaw slavery in Britain (Hulsebosch 2006).

To understand Mansfield's ambivalent treatment of slavery in Britain it is necessary to return to Blackstone's promotion of English liberty through common law. If Blackstone affirmed that outright slavery was a condition that could not be tolerated under common law, he did acknowledge that various forms of contractual and limited servitude were permitted. As Teresa Michals points out, Blackstone considered common law to rest on the freedom acquired by a land-based hierarchy that had transmitted inalienable property over generations (Michals 1993: 200). On the one hand, then, slavery could not stand in light of the assurance of political freedom that common law gave to propertied individuals against monarchical tyrants (Blackstone 1766: 123); on the other hand, when it came to 'private economical relations', if one had to call on assistance to assure ones subsistence – for example if one was not propertied – then it was right and proper to enter into a dependent relationship of master and servant (Blackstone 1766: 410–1). In short, property in oneself did not equate to freedom from servitude.

Hence, servitude was a condition that was comfortably ensconced within the hermeneutic of common law, while slavery was a condition that presented a radical departure from its cognitive universe. This distinction between servitude and slavery is most apparent in Blackstone's famous argument that the slave, while becoming a freeman upon landing on English soil, could not expect the 'contract' made in the colonies to be dissolved regarding perpetual service to his master (Blackstone 1766: 412–413; see also Prest 2007: 111–115). Moral philosopher and abolitionist James Beattie (1790: 165) shared Blackstone's opinion: '[the slave] cannot be bought or sold; but if he has bound himself by contract to serve his master for a certain length of time, that contract, like those entered

into by apprentices, and some other servants, will be valid'. And even Adam Smith (1978: 456) affirmed that, in Britain, a master could not be recompensed the bought price of a stolen slave, but could seek damages for the loss of a servant. In practical terms, and in the visceral presence of the slave and master, this qualification was mere pretence: it was simply not possible to extract the desirable relation of servitude out of the already existing and deeper-determining relation of slavery – to discard the outer-skin of the 'thing' as if to reveal underneath an unsullied servant.

There could therefore be no triumphal and categorical legal outlawing of slavery on Britain's free soil because such a ruling would have threatened the existing hierarchies of servitude that Blackstone had justified in common law under the premise of ancient English liberty being rooted in inherited property. Faced with an impossible demand for radical freedom, Justice Mansfield could only hope that 'I would have all masters think them free, and all Negroes think they were not, because then they would both behave better' (cited in Drescher 1987: 36). In this way, the conditions of radical dependency (the slave as a commodity) and radical independence (emancipation from slavery) exceeded the hermeneutic of common law the basic syntax of which *qualified* the conditions of servitude and freedom for the sake of social order. In this hermeneutic, the thingification of the labourer and its subsequent emancipation were conceptualised as processes that both undermined its fundamental grammar of social order.

Examination of the plantation systems served to confirm for English and Scottish observers how slavery could undermine the social order of common law. Both conservative liberals and abolitionists were united in their concern over this matter (see Michals 1993: 205; Hudson 2001: 560). According to Beattie and Edmund & William Burke (Beattie 1790: 195; Burke 1760: 117), the stark and disproportionate relation of slaves to free men in the Caribbean generated a permanent threat of insurrection and anarchy. For the Burkes (1760: 118), the solution could only be found in cultivating an order of 'beautiful gradation from the highest to the lowest where the transitions all the way are almost imperceptible.' Introducing more white servants would help to achieve this gradation and thus not only save property but the moral standing of the colonies as a whole (Burke 1760: 119–20).

I shall now argue that the legal standing of the slave as a 'thing' threatened the very glue that held together the relationship between property and labour in common law, a relation that could neither be radically unfree (despotic) nor radically free (anarchic license). Above all, Atlantic slavery threatened the patriarchal root of this relationship.

Slavery, patriarchy and common law

Although in quotidian life women found creative ways to ensure limited ownership and transmission of property among female relatives, the English legal system sought to keep women firmly in their dependent place (Erickson 1993). Blackstone, for one, was explicit that self-propriety under common law was a right of the father/husband alone (Blackstone 1766; Stanley 1998: 11). Under common law a married woman was not categorised in terms of a slave as moveable property, for example able to be sold at will, but she would still lose the right

to own property to her husband. This held constant even if the husband was himself dependent upon a patriarch (Michals 1993: 202–3). Adam Smith's (1978: 175–9) commentary provides an understanding of how slavery threatened this patriarchal order. Wives and children, explained Smith, found dependency and protection in the husband/father who himself might be a servant. However, male slaves held no rights to their own liberty or property; instead, these rights were entirely subsumed under the rights of the master to the point where couples could simply be sold off to separate owners.

By Smith's reasoning, Atlantic slavery threatened to rend asunder the great patriarchal chain of dependency and servitude that linked the lowliest to the highest in British society. Some examples show the extensive cognition of this threat amongst scholars of the era. For the memorialists of the Scottish colliers, (the version of the Somersett case indigenous to Scotland), the miners were analogical to New World slaves in part because 'they durst not marry without their [Master's] Approbation, and their children were born Slaves' (Hair 2000: 140). Alternatively, Smith (1978: 191) believed that the colliers could marry, but for this very reason he claimed that they were better off than most slaves. Smith (1986: 488) also believed ancient European slavery to be of a 'milder' sort than that practiced in Greece, Rome or the contemporaneous Caribbean precisely because in the ancient world slaves could marry by consent of the master with the surety that husband and wife would not be sold off to different owners and that their children would not be slaves by inheritance. Additionally, Edmund Burke encouraged church, marriage and family life to be introduced to slaves in the colonies, prohibiting the selling of married slaves to different plantations (Smith 1976: 722). Such commentaries reveal the belief that, being entirely commodified and entirely alienable when compared to servants under common law, male slaves especially – as 'things' – could not integrate into a patriarchal hierarchy of servitude and dependency; rather, their presence implied the delinking of this order.

Awareness of this threat impacted greatly upon discussions over the effects of enclosures, the clearest example of the 'commercialisation' of English society itself. Eighteenth century debates and treatises on common law all directly or indirect addressed these effects. Especially pertinent was the question of how the increasing population of 'masterless men', set 'free' by the enclosing of manorial lands, might be regulated so as to protect the social order (see, in general, Beier 1985; Thompson 1991). Common law scholars had to work hard to ensure that the pursuit of liberty by the propertied would not undermine the very basis of social order upon which their wealth lay. For on the one hand, common law legitimated the increased commodification of land to the extent that it upheld the private rights of inheritors to their properties. But on the other hand, Blackstone and others limited the entirely alienable nature of private property lest these processes of enclosure threatened to tear apart the patriarchal and paternal hierarchies through which English liberty *and* order were assured.

This was a defining tension in common law autochthonous to English society. But it was in the folds of this tension that the threats posed by Atlantic slavery to the hermeneutic of common law became 'indigenised'. Specifically, the thingification of the slave presented itself as the *future* outcome of the commodification of the English servant's labour power. Through this conceptual indigenisation,

the slave came to represent so much more than a distant, fabled brute/poor devil; the slave came to embody the future threat to the common law regulation of property, labour and liberty: an already entirely alienated labouring body that, to the English eye at least, had been severed from the relations of social dependency by which it could be tied back into the fold of a paternal and patriarchal social order. In the words of David Davis, arbitrary power would be divorced from traditional sanction (Davis 1975: 453) and thus anarchy would come to reign in the home of liberty. And, in order to best evidence the resulting social order that lay outside of the syntax of common law, slavery in Britain was expressed by both abolitionists and conservative liberals alike through the use of analogy.

Agitators compared the overseers of England's satanic mills and their child labourers with plantation owners and their slaves and offspring in the New World colonies (Davis 1975: 460; Persky 1998: 641–2). As Joseph Persky (1998) has detailed, Tory radicals used the image of the free and paternal yeoman to contest the ills of slavery, both real and the 'waged' analogue found in Yorkshire. Later, Engel's political economy of the working class poor would be rhetorically indebted to the 'wage slavery' analogy (Persky 1998: 646). Such analogies expose the importance of American slavery in debates over the effect of enclosures and the rise of masterless men: it impressed upon listeners and readers that commercial law would soon end up rendering all property relations alienable and mobile. By such analogical reasoning the slave revealed the dread future of a commercialised English society.

To summarise part one of this article. The specific threat to British freedoms emanating from Atlantic slavery appeared in the indigenised form of a radical challenge to the patriarchal and paternal hierarchies of servitude between rich and poor and amongst the poor themselves. While English common law promoted civil liberty against slavery, it was a liberty that rested on the twin pillars of patriarchal inheritance and paternalist dependency. However, commercial law opposed a class of rights-bearing persons to a class of 'things' (slaves) that, being fully alienable (non-persons), possessed no rights at all. As Teresa Michals explains, to the extent that common law already allowed certain kinds of property to be held in another person via patriarchy or the 'oeconomic' relation of servitude, commercial law could be – and with the enclosures and the rise of the landed interest in Parliament *had to be* – increasingly incorporated into common law (1993). Yet what could not be incorporated into the common law hermeneutic was the exceptionalism of Atlantic slavery that rendered a labouring person in both political and personal (oeconomic) aspects to be *entirely* alienable property.

In these ways, the slave presented an existential threat to the extent that, even if by analogy rather than evidence, the enslaved African body starkly illuminated discussions endogenous to Britain regarding the meaning of the arrival *and future development* of 'commercial society'. In so doing, the ever more intimate existence of the slave fundamentally challenged the compact in common law between individual freedom and social order. A radical unfreedom proposed a radical freedom, and absolute despotism might therefore produce in the near future an absolute anarchical freedom.

Part II

Political economy pre-emancipation

By the later part of the eighteenth century, the imaginary social contract of Hobbes and Locke was being displaced in Scottish moral philosophy by the commercial contract (see Stanley 1998: 12; and for an example see Steuart 1767: 240–1). At the same time, the associated Scottish tradition of conjectural history started to distinguish the commercial stage of human existence for discrete analysis (Berry 1997: 151). Furthermore, these cognitive shifts paralleled the rise in the numbers of slaves transported across the Atlantic and the products and profits produced by their labour. It is important, then, to explore the extent to which the rise of the political economy tradition was accompanied by a more pressing analysis and moral prognosis of the slave than that made possible by the hermeneutic of common law.

As might have become apparent in the above discussions, Adam Smith's writings on slavery, although often marginalised in contemporary interpretations, reveal a great deal about his ontological propositions concerning the commercial relation. Smith did not believe that the development of commercial society was a causal determinant of the development of political freedoms (See Part Two of Hirschman 1977). Rather than conjoining the growth of commerce with political progress, Smith (1978: 181, 188–9; and in general see Salter 1992) believed that in all of human history the two came into unique conjunction only in a corner of Western Europe. In fact, Smith's general law of development causally linked increases in political freedoms for the few to the deepening of personal unfreedoms for the many so that '[t]he more society is improved the greater is the misery of a slavish condition' (Smith 1978: 185). Looking back to classical Roman republicanism as well as sideways to Caribbean plantation colonies, Smith (1978: 181–2) claimed that the easy riches of the slave economy were what afforded for the freedom of the citizen-overseers. By this reasoning he even differentiated the less profitable corn trade of mainland America with the super-profits of the island sugar plantations.

The 'new science' also grappled with the moral problem of slavery in the lexicon of commerce rather than of common law. For example, Smith's follower, John Millar (1771: 281–7), preferred to attribute the exceptionalism of English freedom to economic logic rather than to Christian virtue, noting that villeins entered into a co-partnership with their masters, and that the prospects and motivation of individual gain raised affluence levels amongst all peoples of rank such that political independence followed. Even the possibilities of emancipation were explained through the same logic. For James Steuart (1767: 38), forced labour had the effect of constraining wants. And Smith explained that due to the lack of inducement to improve labour, save at the point of a whip, slavery would always make an inefficient use of the factors of production compared to the labour of free men. Therefore, although slaves seemed to cost nothing except 'maintenance', their labour was the most costly to the nation/empire as a whole (Smith 1978: 185–6, 1986: 488–9; see also Millar 1771: 300). Only as an effect of these efficient measures was it considered that the lives of slaves would improve.

And yet, although proponents of the new science argued that free labour was preferable to slave labour on the grounds of economic logic, abolitionists – many of whom were political economists – were ambivalent over the use of this logic in their rhetoric (Davis 1975: 347). For example, Smith's core economic argument about the inefficiency of forced labour and superiority of free labour for master and servant was usually reserved for the back pages of abolitionist pamphlets (Drescher 2000: 46). In general, abolitionists seemed to be of two minds as to the expected utility of economic pulses: as David Davis (1975: 415) puts it, they expected nothing positive from the self-interest of plantation owners prior to abolition, but everything from it afterwards. Indeed, abolitionists were far more comfortable folding the formally free labour argument back into the hermeneutic of common law and its virtues of hierarchies that taught proper work habits, proper deference, and, effectively, limited freedom within paternal and patriarchal dependency (Davis 1975: 356–1, 377–417; Drescher 2000: 46).

There are two major points to extract from these observations. First, the Scottish political economists were not afraid to implicate the slave relation at the centre of their understanding of the new stage of commercial society. In fact, in shifting analytics from the social contract to the commercial contract, these thinkers implicated Atlantic slavery not as an ominous sign of the future but contemporaneously in the fundaments of the relationship between labour and property, individual freedom and social order. Second, these thinkers also implicated slavery in determining the material progress of the new commercial society at the same time as this progress was expected, through the logic of commercial relations, to render slavery obsolete. However, they did not succeed in entirely displacing the old hermeneutic of common law, especially when it came to morally justifying the case for abolition.

In sum, attempts to extract a moral imperative for abolition from within the hermeneutic of the commercial contract never quite succeeded in relegating the hermeneutic of common law to the 'dustbin of history'. Slavery therefore retained its power to provoke a cognitive dissonance within scholarly thought on commercial society. Nevertheless, the burgeoning political economy literature started to articulate Atlantic slavery as a stage of human development contemporaneous to and inter-related with British commercial society. When this ontological proposition was made, it was usually with pessimism. In these respects, the new science distinguished itself from the old hermeneutic of common law. With this in mind, and to appreciate how the understanding of slavery shifted in political economy discourse after emancipation, it is instructive to now broach the works of John Stuart Mill and his utilitarian belief in economic/political progress, and Karl Marx and his dialectic of double freedom.

Political economy post-emancipation

Mill's sentiments are expressed clearly in his debate with Thomas Carlyle. Writing in 1849, more than a decade following emancipation in the British colonies, Carlyle dismissed the arguments that political economy and abolitionists had given for Black freedom. Carlyle claimed that the Negro was exceptional in that she/he did not participate in the social laws of supply and demand being too

embedded in natural desires and thus satisfied only with a bare minimum of existence. The white man's rational demands for agricultural labour had gone unheard post-emancipation and, in fact, the Negro could now command as high a wage as he wanted for as little work as possible thus driving down profits from the colonies. Carlyle claimed that humans did not have any natural right to freedom, rather, they were naturally compelled by the legitimate proprietors of the land (those who had made it productive) to do competent work for a living. This, he saw, as the eternal law of nature: a patriarchal chain of servitude that compelled subordinates to do useful work according to the god-given gifts bestowed upon them (Carlyle 1899: 355–7).

Mill's reply was perhaps the finest political-economy argument for emancipation after the fact. Work, Mill (1984: 90–1) countered, was not an ends in itself, but a means to develop the finer attributes and capacities of the human species. Dismissing Carlyle's patriarchal and conservative order, Mill celebrated the fact that free Negros could now command a high price for their labour and that they could therefore exist on the wages gained by small quantities of work. Moreover, Mill (1984: 92) challenged the white owners to work in competition with the Negros and 'make the best of supply and demand'. If more labour was required, Mill (1984: 94) argued, let the market decide by importing more Negros not as slaves, but rather, in a form acceptable to 'the existing moralities of the world'. Redeeming the guiding principles and utility of the science of political economy, Mill claimed that the market provided the balance between anarchy and slavery: 'they can live by working, but must work in order to live.'

Although a plea for re-enslavement, Carlyle's argument effectively worked through the traditional common law hermeneutic: slavery was a natural and preferable form of social order so long as it could be subsumed under white paternalism and dependency; commercial law, however, threatened to unleash through emancipation an absolute freedom that enjoyed a destructive anarchic license – a 'thing' given anarchic will power. Indeed, emancipation had already set this destructive process into effect. Alternatively, Mill's response defended emancipation through the logic of commercial exchange. Moreover, his political economy hermeneutic expressed no ambivalence over the idea that the market itself provided the best mechanism of moral divination. In short, it was *doux commerce* that for Mill had emancipated the unfree. Commodifying one's labour power as the property of another rights-holding person would therefore be the most expedient way to realise the liberty of humankind. It is true that Mill – like Smith – was at times critical of assumptions as to the causality between growing commerce and growing political freedoms (see Jahn 2006). However, contra Smith, Mill's articulation required the extrication of the historical stage of European 'commercial society' from that of European-sanctioned plantation slavery. This was a stadial segregation that was not made so categorically in the political economy tradition before abolition and emancipation. Contra Smith, again, Mill's (1976: 198–200) developmental narrative had the slave occupy a stage only one step advanced from the savage (having at least learnt to obey commandments) and certainly prior to the stage of civilization.

It is crucial to point out the shift over the course of the eighteenth and nineteenth century discourses that I have been investigating: once articulated as a

future threat to common law, then incorporated into the ontology of commercial society as a *present* relation, now, with Mill, the Atlantic slave was pushed into the pre-commercial *past*. Yet across this time period, slavery held constant as a fundamental practice of the world market, even after abolition and emancipation in the British colonies, albeit shifting its points of locations and intensities of exploitation.[5] Mill therefore sanctified commercial society by exorcising from it the thingification that had already represented the ultimate, rather than infantile, form of commodified labour. Atlantic slavery was forgotten for the sake of proselytising liberal progress.

Atlantic slavery flashes into existence in a number of places in Marx's oeuvre. Kevin Anderson (2010: 79–90) has recently argued that Marx considered the American civil war to have potentially world-historical significance due to the fate it posed for the now outmoded plantation economy. Despite this, Marx explicated the world-historical significance of the capitalist mode of production itself through industrialising processes endogenous to England. As Walter Johnson (2004) notes, in order to serve his dialectical examination of the commodity form, Marx selected a bolt of linen – signifying factory servitude leading to the commodification of labour power – and not a yarn of cotton – signifying plantation slavery and the thingification of the labourer in the same movement as the commodification of labour power. True, Atlantic slavery erupts from the narrative of *Capital* Vol.1 when Marx (1990: 925) notes that the 'veiled slavery' of wage-labourers in Europe was predicated upon the 'unqualified slavery' of the Americas. Despite this eruption, plantation slavery was logically integrated into the narrative as a determinant that contributed to the capture of the English home market by capitalism and the emergence of a new mode of production.

In the space provided by displacing slavery temporally and synchronically, Marx (1990: 272–3) could expound his dialectic of double freedom as follows: the relations of personal dependence that characterised the non-capitalist world of the manor were being subsumed by the new impersonal relations of dependence that individuals owed to things in the market (Marx 1973: 158); at the same time, then, there was emerging a positive freedom from personal dependency as well as a negative 'freedom' from direct access to livelihoods. In this way, Marx's grand narrative was predicated upon an ideal of the capital relation that was expressed in the movement from servitude and dependency to wage-labour and formal independence. These are the two conditions that, for Marx, the freedom immanent to the capital relation dialectically moved through and beyond. And here, Marx effectively abjected the slave from the processes immanent to the world-historical development of capitalism. For the *commodification* of labour power could immanently manifest a progression of freedom pending the further democratisation and social-rationalisation of market forces. However, the *thingification* of the labourer could never lead to such a manifestation. So while the dialectic of double freedom worked upon the English servant it could never work for the slaves because they entered the social universe of the commercial world market immediately as commodified labour power *and* politically unfree things.

Therefore, cognate to Mill, Marx cleaved the process of commodification from that of thingification when he constructed his grand narrative of capitalist development. Marx's dialectic could never bear the weight of that ultimate articulation

of the alienated labourer in commercial law, the enslaved African. Hence, his dialectical translation of the common law hermeneutic was bound to lead to an eviscerated imaginary regarding the Atlantic world market. Indeed, the empirical substance of the 'world market' was always in gothic excess to the processes that Marx articulated through his later notion of the 'expanded reproduction of capital'. In making this argument I am not concerned with the theoretical ability to apply the Marxian dialectic of capitalist development to plantation slavery. Rather, I am arguing that the condition of possibility for Marx's dialectic of capitalist development is, in the first place, the extrication of Atlantic slavery from this development.

Conclusion

The above investigation has sought to bring into stark light the fundamental and abiding challenge that Atlantic slavery posed to English and Scottish thought on commercial society and individual freedom. The root of this challenge lay in the cognitive dissonance produced by the attempt to squeeze the radically commodified – i.e. thingified – labouring body of the enslaved African into the hermeneutic of common law and the qualified relationship it proposed between property and labour, individual freedom and paternalist social order. I have argued that this challenge continued to inform the new political economy tradition before emancipation; indeed, it became even more central. However, the fundamentals of this challenge were displaced in Mill and Marx's post-emancipation political economy by way of an analytical segregation of Atlantic slavery from the political and ethical implications of the arrival of commercial society.

Recent work in post-emancipation studies has highlighted the naivety of such segregations when it comes to the lived experience of labourers, pre and post emancipation; likewise, the same naivety has been recognised in recent scholarship on the 'new slavery' (see Quirk 2008: 529). Might it not be the case that, to the extent that they remember English freedoms and forget Atlantic slavery, contemporary scholars who interpret the eighteenth century archive do so not through its own dissonances and pessimisms but through the (naive) optimism of Mill and Marx? Is it the ideal of rupture, learnt from post-emancipation political economy, which makes it possible now to articulate the essence of capitalism as either a liberal progressive emancipation of humanity or, as in Marxism, a progressive intensification of the struggle between unfreedom and freedom? Both Mill and Marx tended to conceptually and chronologically separate the processes of thingification and commodification. Might it not be this very separation that has since allowed modern freedom to be theorised as a potential condition *immanent* to the development of capitalism? If so, then it is through this assumption of immanence that both liberal *doux commerce* theses on the pacifying/civilising effect of commercial relations and the Marxist dialectic of 'double freedom' theses gain their integrity.[6]

There is, in other words, (and rhetoric of analogy aside) a tendency to resist from framing the problem of freedom and capitalism as one of radical unfreedom/freedom; instead, there is a comforting tendency to believe that there is a freedom immanent within commercial society that ultimately makes up for its

acts of dispossession and exploitation. However, the key thinkers discussed in this article who lived as *contemporaries* to Atlantic slavery could not enjoy the luxury of consigning slavery and its radical unfreedom to the past. Even if they so desired, it was not possible for them to extricate the progressive 'future' of commercial society from its regressive slaving 'past', and this impossibility haunts their texts. It therefore also haunts the optimistic belief of post-emancipation political economy that modern freedom becomes immanent once one enters into commercial society, and that qualified commodification, not radical thingification, is the fundamental associated process of interpellation.

To close these provocations I would like to point out that the thoughts of the enslaved have rarely been seriously entertained by political economy scholars, especially when it comes to investigating the relationship between freedom and capitalism.[7] However, some of the strongest hermeneutic traditions amongst the enslaved of the American colonies posited redemption of and for their past lives, lives wherein they and their ancestors had yet to be incorporated into a commercial society that conspired to rob them of their very personhood (see Bogues 2003; Shulman 2008). To the enslaved, freedom was not immanent to commercial society – either progressively or dialectically – but lay outside/against/besides/before it. Additionally, unlike the hermeneutic of common law, the hermeneutics of the enslaved were predicated upon a foundational and direct engagement with the conditions of *radical* unfreedom and freedom.

For these reasons the hermeneutics of the enslaved deserve retrieval and careful interrogation as a present and legitimate resource with which to explore the general relationship between modern freedom and capitalism. Would not the lived experience of many current labourers who have by compulsion been thrown into the world market find these hermeneutics more prescient? In any case, despite being largely forgotten in the Western academy, these hermeneutics have always resonated widely across the colonial world: in whispers of the Haitian Revolution that overtook the good news of abolition; in invocations of Jah, Babylon and Zion that up until this day consecrate many a social struggle against neo-liberal and neo-imperial rule. That is because enslaved Africans knew something about commercial society that could not be fully contemplated by the enlightened of Europe; they experienced the dread of a commercial future before it became consigned to a pre-modern past; the owl of Minerva flies at dawn over the Middle Passage.

Notes

1. My thanks to Pat Moloney, Megan MacKenzie, Beate Jahn, Justin Rosenberg and Naeem Inayatullah for their comments and critiques.
2. The exceptions are documented throughout the following references.
3. For a contemporaneous assessment see Sharp (1773: viii).
4. I would maintain that this situation was significantly different to that of France, which, even if the enslaved in its colonies were treated de facto as things nevertheless had a very limited – almost negative, yet nevertheless stated – de jure personhood in the Code Noir regulations. For a provocative explication of these regulations see Dayan (1995: 199–212). Certainly, more work needs to be done on these comparisons.
5. See for example, Tomich (1991); moreover, loss of sugar markets in the Americas prompted the growth in the Pacific region of sugar plantations and a trade in island peoples called 'blackbirding'; see Horne (2007).

6. My argument does not necessarily seek to undermine political philosophies posited upon the dialectic of freedom, for example, Buck-Morss (2000). However, the argument does demand that we first question the assumption that the dialect can sweep all up in its wake including slavery. See, for example, the reply to Buck-Morss in Fischer (2004: 32). Additionally, my argument is therefore cognate to Baucom's (2005); and to Losurdo (2011) which was published after I completed this article. However, in both cases, my argument about the cognitive relationship between capitalism and slavery differs somewhat.
7. There are, of course, exceptions to this. See for example, Grovogui (2008); Bogues (2005); Hutton (2007).

Notes on contributor

Robbie Shilliam is a Senior Lecturer in International Relations at Queen Mary, University of London. He is author of *German Thought and International Relations* (Palgrave, 2009) and editor of *International Relations and Non-Western Thought* (Routledge, 2010).

References

Anderson, K.B. (2010), *Marx at the Margins: On Nationalism, Ethnicity, and Non-Western Societies* (Chicago: University of Chicago Press).

Arnold, A. (1981), *Modernism and Negritude: The Poetry and Poetics of Aimé Césaire* (Cambridge: Harvard University Press).

Barker, A. (1978), *The African Link: British Attitudes to the Negro in the Era of the Atlantic Slave Trade, 1550–1807* (London: Frank Cass).

Baucom, I. (2005), *Specters of the Atlantic: Finance Capital, Slavery, and the Philosophy of History* (Durham: Duke University Press).

Bauman, Z. (1988), *Freedom* (Minneapolis: University of Minnesota Press).

Beattie, J. (1790), *Elements of Moral Science* (Edinburgh: T. Cadell and William Creech).

Beier, A. (1985), *Masterless Men: The Vagrancy Problem in England 1560–1640* (London: Methuen).

Berman, M. (1983), *All That is Solid Melts Into Air: The Experience of Modernity* (London: Verso).

Bhabha, H. (1984), 'Of Mimicry and Man: The Ambivalence of Colonial Discourse', *October*, 28 (1 April), pp. 125–33.

Blackstone, W. (1766), *Commentaries on the Laws of England. Book the First* (Dublin: John Exshaw, Henry Saunders, Samuel Watson, and James Williams).

Blaney, D. and Inayatullah, N. (2010), *Savage Economics: Wealth, Poverty, and the Temporal Walls of Capitalism* (London: Routledge).

Bogues, A. (2003), *Black Heretics, Black Prophets: Radical Political Intellectuals* (New York: Routledge).

Bogues, A. (2005), *The Haitian Revolution and the Making of Freedom in Modernity* [online]. Available from: http://www.polisci.upenn.edu/programs/theory/bogues.pdf [accessed 2009].

Buck-Morss, S. (2000), 'Hegel and Haiti', *Critical Inquiry*, 26 (4), pp. 821–65.

Burke, W. (1760), *An Account of the European Settlements in America, 6 Vols* (London: R. and J. Dodsley).

Bush, J.A. (1993), 'Free to Enslave: The Foundations of Colonial American Slave Law', *Yale Journal of Law & the Humanities*, 5, pp. 417–70.

Canny, N. (1978), 'The Permissive Frontier: The Problem of Social Control in English Settlements in Ireland and Virginia 1550–1650', in K.R. Andrews, N.P. Canny and P.E.H. Hair (eds), *The Westward Enterprise* (Liverpool: Liverpool University Press), pp. 17–44.

Carlyle, T. (1899), 'The Nigger Question', in H.D. Traill (ed.), *Critical And Miscellaneous Essays in Five Volumes*, IV (London: Chapman and Hall Limited), pp. 348–83.

Césaire, A. (2000), *Discourse on Colonialism* (New York: Monthly Review Press).

Césaire, A. (2010), 'Culture and Colonization', *Social Text*, 28 (2), pp. 127–44.

Césaire, A. (2010), 'Letter to Maurice Thorez', *Social Text*, 28 (2), pp. 145–52.

Cohen, G.A. (1982), 'The Structure of Proletarian Unfreedom', *Philosophy and Public Affairs*, 12 (1), pp. 3–33.

Davis, D.B. (1966), *The Problem of Slavery in Western Culture* (Ithaca, NY: Cornell University Press).

Davis, D.B. (1975), *The Problem of Slavery in the Age of Revolution* (Ithaca, NY: Cornell University Press).

Dayan, J. (1995), *Haiti, History, and the Gods* (Berkeley: University of California Press).

Dayan, J. (2002), 'Legal Slaves and Civil Bodies', in R. Castronova and D.D. Nelson (eds), *Materializing Democracy: Toward a Revitalized Cultural Politics* (Durham: Duke University Press), pp. 53–94.

Drescher, S. (1987), *Capitalism and Antislavery: British Mobilization in Comparative Perspective* (New York: Oxford University Press).
Drescher, S. (1999), *From Slavery to Freedom: Comparative Studies in the Rise and Fall of Atlantic Slavery* (New York: New York University Press).
Drescher, S. (2000), 'Abolitionist Expectations: Britain', in Howard Temperley (ed.), *After Slavery: Emancipation and its Discontents* (London: Frank Cass), pp. 41–66.
Dunn, R.S. (1973), *Sugar and Slaves: The Rise of the Planter Class in the English West Indies, 1624–1713* (New York: Norton).
Erickson, A. (1993), *Women and Property in Early Modern England* (London: Routledge).
Farr, J. (2008), 'Locke, Natural Law, and New World Slavery', *Political Theory*, 36 (4), pp. 495–522. doi:10.1177/0090591708317899.
Fischer, S. (2004), *Modernity Disavowed: Haiti and the Cultures of Slavery in the Age of Revolution* (Durham: Duke University Press).
Friedman, M. (1962), *Capitalism and Freedom* (London: University of Chicago Press).
Garraway, D.L. (2005), *The Libertine Colony: Creolization in the Early French Caribbean* (Durham: Duke University Press).
Gordon, L.R. (2000), *Existentia Africana: Understanding Africana Existential Thought* (New York: Routledge).
Gray, J. (1988), 'Against Cohen On Proletarian Unfreedom', *Social Philosophy and Policy*, 6 (1), pp. 77–112.
Grovogui, S.N. (2008), 'No More No Less: What Slaves Thought about their Humanity', in G.K. Bhambra and R. Shilliam (eds), *Silencing Human Rights: Critical Engagements with a Contested Project* (Basingstoke: Palgrave Macmillan), pp. 43–62.
Habermas, J. (2001), 'The Postnational Constellation and the Future of Democracy', in M. Pensky (ed.), *The Postnational Constellation: Political Essays* (Cambridge, MA: MIT Press), pp. 58–112.
Hair, P.E.H. (2000), 'Slavery and Liberty: The Case of the Scottish Colliers', *Slavery & Abolition: A Journal of Slave and Post-Slave Studies*, 21 (3), pp. 136–51. doi:10.1080/01440390008575324.
Helmholz, R.H. (1990), 'Continental Law and Common Law: Historical Strangers or Companions?', *Duke Law Journal*, 1990 (6), pp. 1207–28.
Hirschman, A. (1977), *The Passion and the Interests: Political Arguments for Capitalism Before its Triumph* (Princeton, NJ: Princeton University Press).
Horne, G. (2007), *The White Pacific: U.S. Imperialism and Black Slavery in the South Seas after the Civil War* (Honolulu: University of Hawai'i Press).
Hudson, N. (2001), '"Britons Never Will Be Slaves": National Myth, Conservatism, and the Beginnings of British Antislavery', *Eighteenth-Century Studies*, 34 (4), pp. 559–76.
Hulsebosch, D.J. (2006), 'Nothing But Liberty: Somerset's Case and the British Empire', *Law and History Review* 24 (3), http://www.historycooperative.org/journals/lhr/24.3/hulsebosch.html [accessed 2010].
Hutton, C. (2007), *The Logic and Historic Significance of the Haitian Revolution and the Cosmological Roots of Haitian Freedom* (Kingston: Arawak).
Jahn, B. (2006), 'Classical Smoke, Classical Mirror: Kant and Mill in Liberal International Relations Theory', in B. Jahn (ed.), *Classical Theory in International Relations* (Cambridge: Cambridge University Press), pp. 178–206.
Johnson, W. (2004), 'The Pedestal and the Veil: Rethinking the Capitalism/Slavery Question', *Journal of the Early Republic*, 24 (2), pp. 299–308.
Kelley, R.D.G. (2000), 'A Poetics of Anticolonialism', in A. Césaire (ed.), *Discourse on Colonialism* (New York: Monthly Review Press), pp. 7–28.
Kopytoff, Igor. (1986), 'The Cultural Biography of Things: Commoditization as a Process', in A. Appadurai (ed.), *The Social Life of Things: Commodities in Cultural Perspective* (Cambridge: Cambridge University Press), pp. 64–91.
Losurdo, D. (2011), *Liberalism: A Counter-History* (London: Verso Books).
Marx, K. (1973), *Grundrisse: Foundations of the Critique of Political Economy* (Harmondsworth: Penguin).
Marx, K. (1990), *Capital: A Critique of Political Economy, Vol. 1* (Harmondsworth: Penguin).
Mcnally, D. (1988), *Political Economy and the Rise of Capitalism: A Reinterpretation* (Berkeley: University of California Press).
Michals, T. (1993), '"That Sole and Despotic Dominion": Slaves, Wives, and Game in Blackstone's Commentaries', *Eighteenth-Century Studies*, 27 (2), pp. 195–216.
Mill, J.S. (1976), 'Representative Government', in H.B. Acton (ed.), *Utilitarianism, On Liberty, and Considerations on Representative Government* (London: J.M. Dent and Sons Ltd), pp. 171–393.

Mill, J.S. (1984), The Negro Question, in J.M.M. Robson (ed.), *Essays on Equality, Law, and Education*, Collected Works of John Stuart Mill XXI (Toronto: University of Toronto Press), pp. 85–95.

Millar, J. (1771), *Observations Concerning the Distinction of Ranks in Society* (Dublin: T. Ewing).

Mtubani, C.D.V. (1983), 'African Slaves and English Law', *PULA: Botswana Journal of African Studies*, 3 (2), pp. 71–5.

Nicholson, B.J. (1994), 'Legal Borrowing and the Origins of Slave Law in the British Colonies', *The American Journal of Legal History*, 38 (1), pp. 38–54.

Nyquist, M. (2009), 'Hobbes, Slavery, and Despotical Rule', *Representations*, 106 (1), pp. 1–33. doi:10.1525/rep.2009.106.1.1.

Perelman, M. (2000), *The Invention of Capitalism: Classical Political Economy and the Secret History of Primitive Accumulation* (Durham, NC: Duke University Press).

Persky, J. (1998), 'Wage Slavery', *History of Political Economy*, 30 (4), pp. 627–51.

Van Der Pijl, K. (1998), *Transnational Classes and International Relations* (London: Routledge).

Prest, W. (2007), 'Law for Historians: William Blackstone on Wives, Colonies and Slaves', *Legal History*, 11 (1), pp. 105–15.

Quirk, J. (2008), 'Ending Slavery in all its Forms: Legal Abolition and Effective Emancipation in Historical Perspective', *The International Journal of Human Rights*, 12 (4), p. 529.

Rosello, M. (1995), 'Introduction', in A. Pritchard (ed.), *Notebook of a Return to My Native Land* (Tarset: Bloodaxe), pp. 9–71.

Rupprecht, A. (2007), 'Excessive Memories: Slavery, Insurance and Resistance', *History Workshop Journal*, 64 (1) (1 January), pp. 6–28.

Salter, J. (1992), 'Adam Smith on Feudalism, Commerce and Slavery', *History of Political Thought*, 13 (2), pp. 219–41.

Sen, A. (1999), *Development as Freedom* (New York: Knopf).

Sharp, G. (1773), *An Essay on Slavery, Proving from Scripture its Inconsistency with Humanity and Religion* (Burlington, NJ: Isaac Collins).

Shulman, G. (2008), *American Prophecy: Race and Redemption in American Political Culture* (Minneapolis: University of Minnesota Press).

Smallwood, S. (2004), 'Commodified Freedom: Interrogating the Limits of Anti-Slavery Ideology in the Early Republic', *Journal of the Early Republic*, 24 (2), pp. 289–98.

Smith, A. (1978), *Lectures on Jurisprudence*, ed. R.L. Meek, D.D. Raphael and P.G. Stein (Oxford: Clarendon Press).

Smith, A. (1986), *The Wealth of Nations: Books I–III* (London: Penguin).

Smith, R.W. (1976), 'Edmund Burke's Negro Code', *History Today*, 26 (11), pp. 715–23.

Stanley, A.D. (1998), *From Bondage to Contract: Wage Labor, Marriage, and the Market in the Age of Slave Emancipation* (Cambridge: Cambridge University Press).

Steuart, J. (1767), *An Inquiry Into the Principles of Political Economy: Being an Essay on the Science of Domestic Policy in Free Nations* (London: A. Millar and T. Cadell).

Thompson, E.P. (1991), 'Custom, Law and Common Right', in E.P. Thompson (ed.) *Customs in Common* (London: Merlin Press), pp. 97–184.

Tomich, D. (1991), 'World Slavery and Caribbean Capitalism', *Theory and Society*, 20 (3), pp. 297–319. doi:10.1007/BF00213549.

Tomich, D. (2004), *Through the Prism of Slavery: Labor, Capital, and World Economy* (Lanham: Rowman & Littlefield).

Walvin, J. (1973), *Black and White: The Negro and English Society, 1555–1945* (London: Allen Lane).

Watson, A. (1993), 'Seventeenth-Century Jurists, Roman Law, and the Law of Slavery', *Chicago-Kent Law Review*, 68, pp. 1343–54.

Wood, E. (1995), *Democracy Against Capitalism: Renewing Historical Materialism* (Cambridge: Cambridge University Press).

Wood, E. (1999), *The Origin of Capitalism* (New York: Monthly Review Press).

Wood, E.M. (1991), *The Pristine Culture of Capitalism: A Historical Essay on Old Regimes and Modern States* (London: Verso).