



Debt as Pacification

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Abstract

Debt is pacification's dirtiest little secret and its cleanest weapon. Pacification is the name we give to the fabrication of social order; it is the goal of the police power and the police wars that dominate our political landscape. To understand pacification, we need to pay close attention not only to professional violence workers, but also to the far more subtle ways in which subjects are rendered obedient to a social order of exploitation and alienation. As critical theories of police power have shown, the wage is crucial to this process. But so too is debt. This article argues that we need to understand debt as pacification. In the process, the article also aims to strengthen and deepen the concept of pacification and the idea of police power.

Keywords: Debt, Pacification, Police Power

Police power is the state's ability to transform non-wage laborers into wage-laborers. The police power is thus integral to the production and reproduction of bourgeois order. To focus our attention entirely on professional police forces (the uniformed police, the cops, the bobbies) when considering this power is to invite a narrow reading of policing, bracketing out the plethora of techniques, organisations, and institutions through which social order is achieved. At the heart of



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the critical theory of police power is therefore an *expanded concept of police*. To put it in its simplest form: police power is not reducible to the professional police, and any account of such power must take into account the plethora of techniques through which bourgeois order is fabricated and maintained (Neocleous 2000; 2021).

The fact that so many analyses of policing want to focus solely on formally designated “police forces” is partly a result of the professionalisation of disciplinary attention in the human sciences. It is also, however, reflective of a much wider historical and conceptual issue, rooted in the confusions generated for us by the liberal revolutions of the late-eighteenth century. In the period in which there was no distinction between state and civil society, the extensive range of police powers was clear for all to see: “police” denoted the legislative and administrative regulation of the internal life of a community to promote general welfare and the condition of good order. Police science was concerned with “police and good order” and police ordinances referred to the management and direction of the population by the state. The liberal revolutions of the late-eighteenth century complicated the picture somewhat. These political revolutions simultaneously announced the rights of egoistic man within civil society and the emancipation of civil society from the state. The problem that this generated for the bourgeois state—how to fabricate and maintain a liberal order that is ideologically one of social freedom and materially one of social domination—was eventually resolved by the development of forms of political administration (Neocleous 1996). This political administration was to be a system of police power appropriate for a liberal order. In other words, in declaring social liberties and the rights of man, the bourgeois revolutions of the eighteenth century also announced a new era of police power. *Bourgeois* society demands a form of police power consistent with its status as *civil* society. The new era announced by the liberal revolutions involved a liberal recoding of the police concept, attempting to make policing as a process apply to things done only by *the* police, and hence perpetuates the myth that most of what the state does is therefore *not policing*.

The triumph of this liberal recoding of police was therefore double-sided. On the one side, it helped reconceive the police institution in the narrowest sense possible, as the so-called “new police” that emerges in the nineteenth century, the true remit of which would be preventing crime and enforcing the law, for which it would now be professionally trained and organised. On the other side, forms of political administration developed carrying out what were historically police functions, but which were increasingly re-coded in “non-police” terms: medical police became “social health” and then “the health service;” the police of poverty became “welfare” and then “social security;” the police of the market was now governed under “Trading Standards,” “Monopolies Commissions,” and “Consumer Rights.” Much of this is what is now captured by the idea of “social policy,” though I have argued previously that to press home the unity of state power such social policy is better understood as *social police*. The point being that an expanded concept of police power enables us to think through the ways in which the police institution continues to intersect with all other state agencies, operates through a plethora of political administrative forms, and determines much of what can take place through organisations of civil society.

Marx ([1857-1858] 1986: 26) once observed that “the bourgeois economists only have in view that production proceeds more smoothly with modern police than, e.g., under club-law. They forget, however, that club-law too is law, and that the law of the stronger survives, in a different form, even in their ‘constitutional State.’” We might equally say that the bourgeois political economists also have a vague notion that it is better to carry on production under the modern police than under the kinds of early “police states,” but that the right of the state to administer civil society continues to be expressed in other forms of social police which together constitute a plethora of powers that accompany the club-law of state violence. The total effect remains the same: the ability to forcefully transform non-wage laborers into wage-laborers and to keep them in that condition.

This expanded concept of the police power, however, generates a fundamental tension: much as we insist on thinking of the forms of political administration as social police, the need to keep the official police forces in the picture generates a tendency to remain focused on precisely those forces. The tension resides in a potential to *narrow* our focus of analysis even while trying to hold to an *expanded* concept of police. It was partly to try and overcome this tension that I have sought to think of the police power through the lens of pacification (Neocleous 2011; 2014; 2017).

We might benefit from first making several key points about the term pacification. First, as just stated, “pacification” is a concept that seeks to grasp the expanded nature and function of the police power and the generalised mechanisms through which the constant revolutionising and uninterrupted disturbance of bourgeois order is fabricated, structured, and administered. Second, because pacification does not contain the root “police” it is less liable to be reduced to *the* police. Third, pacification is a concept that is intended to capture the ways in which a social order replete with liberal insecurities is constantly policed in the name of security; security *is* pacification. Fourth, pacification enables us to think about the police power and war power in conjunction; pacification is class war, fought by the ruling class with weapons of direct violence and an array of far more subtle weapons that constitute the social police.

To that end, I want in this article to think about policing in the expanded sense and to write about pacification while saying very little about *the* police. To do so, I focus on debt.

When in *Capital* Marx ([1867] 1996: 742) observes that capital comes into the world dripping with blood, it follows a discussion of public debt. Much of what he says about this debt is familiar: debt “endows barren money with the power of creation and thus turns it into capital, without the necessity of exposing itself to the troubles and risks inseparable from its employment in industry or even in usury.” What emerges is financial speculation, large banks and an international credit system facilitating “the capitalization of wealth and the expropriation of the masses” (Marx [1867] 1996: 744). Less familiar is the fact that his discussion comes in the context of the history of capitalist violence. The point is important, because for Marx, “the public debt is one of the most powerful levers of primitive accumulation” (Marx [1867] 1996: 742).

If it seems odd to think of debt as pacification, consider just two broad points. First, consider the fact that the origin of the verb “to pay” stems from the Anglo-Norman and Old French words *paien* and *paier*, which are generally offered in dictionaries of etymology as meaning “to appease, to satisfy, to be to the liking of, to pacify.” The root of these words lies in the Latin *pacare* meaning

“to please, satisfy, or pacify.” In Medieval Latin, to pay a creditor was to satisfy them and hence “make peaceful” with them, from *pax*, which is itself part of the root of pacify. This connection between “pacify” and “pay” has been lost in our contemporary understanding of “to pay,” but it points to something that we might want to at least consider.

Second, consider the fact that security intellectuals and the COINdinistas have in recent years been very keen to get us to understand that “money is ammunition” (U.S. Army/Marine Corps 2007: I-153). Why not take them seriously? Why not believe the practitioners of pacification when they openly discuss the importance of what they call MAAWS: money as a weapons system (U.S. Army 2009)? Why not consider what the state’s security operatives mean when they talk of the “tactical use of money for security effects” (British Army 2009)? After all, as these documents all make abundantly clear, the overall intention of using money as *ammunition* is precisely the overall intention of the police purpose: the fabrication of a social order. And as the documents also make clear, at the heart of the use of money as a weapons system is the use of *loans* and *micro-lending programs*. This has a remarkable coincidence with the social finance and poverty intervention objectives of international organisations such as the United Nations, the European Commission-funded Microfinance Centre (MFC, the regular conferences of which are attended by participants from over 100 organisations), the World Bank, the European Investment Fund, and numerous NGOs. The ubiquitous idea underpinning their approach is the practice of loans and micro-lending programs for the world’s poor, and their intention is clear: through debt, the billions of people living in poverty will become better integrated into the circulation of finance capital. On a micro level, such loans are expected to facilitate, “as with the stroke of an enchanter’s wand” (the phrase is Marx’s), the appropriate (liberal bourgeois) financial and entrepreneurial skills among the indebted. On a macro level, the loans can then be bundled and securitized as a trade in debt. Such is the complex financial ground of contemporary pacification.

Thinking of debt as pacification, then, allows us to update and refine a wry observation of Ambrose Bierce in *The Devil’s Dictionary*, a wonderful book of cynical counter-definitions published in 1911, in which she defines debt as “an ingenious substitute for the chain and whip of the slave-driver”. I want to think of debt as an ingenious substitute for the police truncheon. Debt, I want to suggest, is pacification’s dirtiest little secret and its cleanest weapon.

Capital (It Fails Us Now)

“The moment I was born I opened my eyes/ I reached out for my credit card.” So begins a song by the band Gang of Four. The ostensible message of the song was that we are bankrupt, that capital fails us, and that we should seize the moment and act. But the band were clearly not fully convinced that we would seize the moment, as intimated in the song’s final lines which offer not a vision of a non-capitalist future but of a mechanism devised by capital to subdue us further still: “one day we’ll all be living on credit.” The song, called “Capital (It Fails Us Now),” was released in 1981. That same year, household debt amounted to 30 percent of GDP in the UK and 50 percent in the United States. By the early 2000s it was comfortably over 90 percent in both countries and many

others. The outbreak of COVID-19 has surely made this worse, with billions of pounds and dollars of household debt being racked up during 2020. The day when we are all living on credit appears to have arrived.

The same might be said for sovereign nations. In the post-war period, sustained growth meant that the high levels of public debt of the Second World War were gradually reduced. But this tendency was overturned from the 1970s. Between the mid-1970s and the mid-1990s, public indebtedness rose on average from around 30 to 65 percent of GDP, rising again from 2008 onwards in reaction to the financial crisis and hitting 100 percent in 2015. The promotion of levels of public debt under neoliberal financialization policies has reduced whole nations to debt peonage. Marxist analysis of this makes the link back to Marx's account of primitive accumulation and enclosures.

Just as the Tudor court sold off huge tracts of monastery and communal land to their creditors, so too modern African and Asian governments agree to capitalize and "rationalize" agricultural land in order to satisfy IMF auditors who will only "forgive" foreign loans under those conditions. Just as heads of clans in the Scottish Highlands of the eighteenth century connived with local merchants and bankers to whom they were indebted in order to "clear the land" of their own clansmen and women, so too local chiefs in Africa and Asia exchange communal land rights for unredeemed loans. The result now as then is enclosure: the internal and external destruction of traditional rights to subsistence. This is the secret hidden in the noise of the "debt crisis." (Midnight Notes 1992: 321-322)

As a result, more and more nations are forced to place their people into perilous situations by having to work to a model of indebtedness laid down by international financial organizations, and often end up spending more on interest payments than on basic needs such as health, housing, education and nutrition. The debt acts as a form of slavery, with the creditors deciding on the conditions for repayment, policing (structurally adjusting) the implementation of those conditions and acting as judge and jury in their relations with debtor states. Resistance and opposition are shut down under on the basis that There Is No Alternative, as the public debt becomes a stick with which to suppress and subjugate the working class. And although such debts can sometimes be "forgiven" by the IMF—a pointer to the link between debt and sin, as we shall see—such forgiveness is always at the cost of further neoliberal reform. As is well-known, this is public debt as the stripping of resources from subjugated peoples (George 1988; 1998; Pettifor 1998; Roitman 2003).

We are living, then, in a world of huge personal and public debt. How might we make sense of this? We can perhaps begin to identify an underlying logic via an observation of J. G. A. Pocock about English national debt in the eighteenth-century. The national debt was used by the English state to maintain and expand by mortgaging its revenues in the future, not least during the Seven Years War when the debt rose from just over £72 million to £140 million. The period was therefore one in which financial institutions consolidated their status as major political institutions. The period was also therefore one which saw a proliferation of pamphlets, books, and tracts discussing the nature of debt in general. Pocock's point is that national debt came to be a sign of confidence

in the government at the very moment that debt in general became a paradigmatic form of social relation. The increase in the national debt coincided with a society increasingly accustomed to living through speculation and credit, and increasingly accepting of the powerful social role of money as the grounds for judging people and their likely future actions. The idea of the national debt came to underscore the use of debt as “an expansive and dynamic social device,” as Pocock (1985: 98) puts it. This was a device that obliged capitalist society to develop as an ideology something that it had before then never possessed, namely “the image of a secular and historical future” (Pocock 1985: 98). The speculative society was understood to maintain and govern itself by perpetually gambling on its own desires, but at the same time a new dimension was added “in which not only was every man in debt to every other man, but every man was judged and governed, at every moment, by other men’s opinion of the probability that not he alone, but generations yet unborn, would be able and willing to repay their debts at some future date” (Pocock 1985: 99). Herein lies a connection between the national and the personal, as the indebtedness of whole nations coincides with personal indebtedness to summon the fiction of a healthy capitalism and individuals deeply committed to this capitalist future. Capital, state, and subject formed and forged together through the logic of indebtedness, each an image of the other, each embedded in processes of exchange and control that appear to commit us all to the very same future, united in mutual indebtedness.

It is the extension of this logic of indebtedness through the centuries and deep into the social fabric that has led to a society in which virtually every one of us is in some form of debt, as a few of the most obvious examples show. First, graduates pay tens of thousands in interest on the debt taken out to get them through university, made worse by a dramatic increase in the cost of higher education, a decline in the relative salary level of graduate jobs, and even a decline in the number of graduate jobs themselves. Student loans in the United States crossed the trillion-dollar threshold in 2011 and are by now the largest form of consumer debt in the United States (Ross 2013). Students are expected to get into debt and then pay over a lifetime for a degree, to get a job that they could have once walked into without the degree. Second, years of austerity have meant that many workers have taken up debt to survive, having seen their incomes drop in real terms under the cosh of austerity. This is compounded, third, by the massive increase in the number of short-term, fixed or zero hours contracts in the “gig economy” or in “uber-jobs.” Fourth, unemployed, semi-employed and under-employed people are often forced to take out loans to cover periods without income. Fifth, there is the cumulative problem of rising housing costs, making decent housing without substantial debt a distant possibility for most at the very moment when home ownership is foisted upon us as a key sign of one’s status as a citizen: at one end, people take on debts that are inherently designed to leave them indebted for life in the form of the mortgage, literally a *dead pledge* (from the French *mort* and *gage*), about which I will say more below; at the other end, families are evicted because of an inability to pay off a housing debt.

Working through these examples makes it clear that most of us find ourselves in one or more of the groups listed. As *The Debt Resisters’ Operations Manual* puts it:

Everyone seems to owe something....At least one in seven of us is already being pursued by debt collectors. We are told all of this is our own fault, that we got ourselves into this and that we should feel guilty or ashamed. But think about the numbers: 76% of Americans are debtors. How is it possible that three-quarters of us could all have just somehow failed to figure out how to properly manage our money, all at the same time? And why is it no one is asking, “Who do we all owe this money to, anyway?” and “Where did they get the money they lent?” (Strike Debt/Occupy Wall Street 2012: 1)

One answer to how this happened lies in the neoliberal institution of a debt-based economy following the cycle of crises in the 1970s, as Silvia Federici (2016) and others have argued (Durand 2017). The corporate social contract that had existed between capital and labor in the post-war period was gradually broken down as part of a ruling class policy of ongoing wage stagnation. According to the Economic Policy Institute, wages in the first decade of the twenty-first century either declined or stagnated for the bottom 70 percent of the population. This stagnation was a policy choice enforced by the state as part of the ruling class agenda, one outcome of which is that the more obviously antagonistic relationship of the wage form is replaced by the far less obviously antagonistic relationship between financial organisations as creditors and waged, semi-waged and unwaged workers as debtors, thereby reducing the immediacy of class power and exploitation. The outcome is a reduction in the immediacy of class power and exploitation but, nonetheless, the continued subjection of the people.

All told, capital is a “giant debt machine” (Graeber 2011: 390) and “we are now governed by debt,” in Lazzarato’s widely-cited phrase (Lazzarato 2012; 2015; Neilson 2007; Mulcahy 2017; Bowsher 2019). Debt is class power, reproduced through a culture of indebtedness and the collusion between financial institutions and the state to endlessly create new rules that encourage new debts or that make it harder to pay off old debts. This system is then regulated through the entire police apparatus to either extract payments or to punish us for failing to pay, all the while allowing the banks and financial institutions to rig the process so that their own fraud not only escapes punishment but actually results instead in huge bonuses for individual bankers and protections for the banks themselves. The working class has become an indebted class.

It is in this sense that we can begin to think of debt as pacification. Yet to understand debt as pacification we must recognise that the debt machine is neither simply nor solely an economic relation. Like money itself, debt is cultural.

When I was growing up, the Christian Lord’s Prayer was taught to us as follows:

Our Father who art in heaven, hallowed be thy name.
Thy kingdom come, thy will be done, on earth as it is in heaven.
Give us this day our daily bread; and forgive us our trespasses, as we forgive those
who trespass against us; and lead us not into temptation, but deliver us from evil.

In fact, many translations of the relevant passages in the Bible from which the Prayer is taken, such as Matthew 6:9-13 and Luke 11:2-4, offer “debt” instead of “trespasses.” The key shift in the translations appears to have taken place gradually during the slow emergence of commercial

society between the late-fourteenth and mid-sixteenth centuries. John Wycliffe's translation of the Gospels in the 1380s contained what was by then the familiar "debt," whereas William Tyndale's translation in the 1520s, which became part of the English Book of Common Prayer in 1549, offers "trespasses."

The shift from "debt" to "trespass" is a reminder of three things. First, there is the extent to which the question of debt speaks to a kind of infringement of property: to trespass, a word that comes into the English language in the fourteenth century from the Old French *trespasser*, means "to go across or beyond, to traverse, infringe or violate." In English the word from the outset connoted transgression, the commitment of an aggressive offense, or a sin, and as the early capitalist enclosures increasingly came to place more and more tracts of common land into private hands, "trespass" became associated with "entering unlawfully." The second thing of which we are reminded is that the debt is not a spiritual debt owed to God, but is understood as a sin. In Aramaic, the Semitic language spoken by Jesus, the word for "debt" and "sin" are the same. There is of course a long tradition of thinking of God as keeping a book of accounts. When we die (in modern French *trépasser* has come to be used euphemistically for "to die") our sins are "scored up, and being registered in his [God's] booke of accounts, stand in Record" (Barker 1624: 75), as one text on the Ten Commandments put it in 1624. "Without satisfaction [in the accounts], there is no remission," the author continues. The satisfaction, it appears, must be God's, as we seek "a general release upon his satisfaction of the debt" (Barker 164: 75). God is imagined as The Great Debt Collector. God has us on his books. On death, we seek redemption from our debts and our sins, and our debts as sins. At the same time, and third, it is notable that some aspects of the Lord's Prayer are often said to stem from the Old Testament, specifically the book of Leviticus. For the Israelites in that book, debt was a form of slavery, and the book describes their degradation in terms of a denial of the proceeds of their labor, a denial of any other kind of wealth, a denial of any community between them, and their alienation from their own land.

What we have spiralling out of the Lord's Prayer, then, is some of debt's key powers: debt as *property*, debt as *sin*, and debt as *slavery*. That is, debt as an *economic power*, but also a *moral judgment* and an *enclosure of the body*. Debt is a relation of power that has at its core the dialectic of master and slave, property and sovereignty, and life and death in the face of a universal authority. As such, it appears to have the same characteristics as the police power and captures much of what we understand as pacification.

Bourgeois economics presents to us the idea that personal debt is a simple device that financial institutions offer to working people. This idea harps back to a certain romantic and sentimental notion of the rich person giving credit to the poor person who they have judged to be hard working and honest. Marx picks up on this romantic and sentimental notion in his 1844 essay on James Mill, highlighting the fact that behind the romance and sentiment there lies something deeply unromantic and very material: the capacity to *estimate the value of a person in money*. What is estimated is nothing less than the life and body of the worker.

The life of the poor man and his talents and activity serve the rich man as a *guarantee* of the repayment of the money lent. That means, therefore, that all the

social virtues of the poor man, the content of his vital activity, his existence itself, represent for the rich man the reimbursement of his capital with the customary interest. (Marx [1844] 1975: 215)

Hence “the death of the poor man is the worst eventuality for the creditor. It is the death of his capital together with the interest” (Marx [1844] 1975: 215).

Credit, in other words, is first and foremost an *economic* judgment on the *morality* of a person:

Within the credit relationship, it is not the case that money is transcended in man, but that man himself is turned into *money*, or money is *incorporated* in him. *Human individuality*, human *morality* itself, has become both an object of commerce and the *material* in which money exists. Instead of money, or paper, it is my own personal existence, my flesh and blood, my social virtue and importance, which constitutes the material, corporeal form of the *spirit of money*. (Marx [1844] 1975: 215)

Credit *resolves the value of money into human flesh*, to the extent that the very life and body of the debtor acts as a guarantee of the legal compulsion to pay the debt. As commentators as diverse as William Blackstone (1765-1769) in his *Commentaries on the Laws of England* and Friedrich Nietzsche (1887) in *The Genealogy of Morality* have likewise observed, a debt could be recovered against the goods and chattels of the indebted, against the profits from their land, but also *against their body* and hence *even against their life*.

Our legislature seems to have attended to the example of the Roman law. I mean not the terrible law of the twelve tables; whereby the creditors might cut the debtor’s body into pieces, and each of them take his proportionable share: if, indeed, that law, *de debitore in partes secundo*, is to be understood in so very butcherly a light; which many learned men have with reason doubted. Nor do I mean those less inhuman laws, (if they may be called so, as their meaning is indisputably certain,) of imprisoning the debtor’s person in chains; subjecting him to stripes and hard labor, at the mercy of his rigid creditors; and sometimes selling him, his wife and children, to perpetual foreign slavery. (Blackstone [1765-9] 1979 Vol. 2: 472)

The surety of the pledge, or the “gage”, could take the form of the actual human being as well as an object. This is what Frederick Pollock and Frederic William Maitland ([1898] 1968: 193-194) in their *History of English Law* call an “animated gage”, the debtor becoming “a hostage delivered over to slavery but subject to redemption.” The very life and body of the debtor act as a guarantee of the debt’s repayment.

The debt system facilitates accumulation via a moral and economic judgment over the “worth” of a worker’s entire existence, which becomes wholly dependent on this judgment. This is what Marx calls a “distrustful calculation” concerning whether the debt can be permitted, as the person without credit or good credit rating is pronounced not only poor but also *untrustworthy*. This distrust prompts yet another form of distrust, in the form of surveillance and intelligence gathering conducted through various police powers. This distrust in the workers—which can be

turned into a partial trust but only with judgment, claim, and punishment hovering over them—is exacerbated by an absolute trust in the power of law and state to compel the payment of the debt. Ultimately, of course, just as bourgeois political economy simply assumes that the worker *owes a debt to capital* for the simple fact of their liberty, so police science assumes that for the same reason the worker *owes a debt to the state* for their security.

“How goes the world”, Timon asks of Flavius, “that I am thus encounter’d/ With clamorous demands of date-broke bonds,/ And the detention of long-since due debts?” (*Timon of Athens*, Act II, Scene II). Debts must be repaid, which is why later in the play Timon’s creditors and their servants come to collect. Titus says “my lord, here is my bill”, Lucilius’s servant adds “here’s mine,” so too does Hortensius’s servant, followed by both of Varro’s servants. “Knock me down with ’em: cleave me to the girdle,” Timon responds, sensing the extent of the power that they now possess over him: the power of life and debt. “Cut my heart in sums” he insists, “tell out my blood.” When Lucilius’s Servant points out that his master is owed five thousand crowns owed, Timon responds that “five thousand drops of blood will pay that.” He concludes that his creditors will even take his last breath from him. “Creditors? Devils!” (*Timon of Athens*, Act III, Scene IV).

There are plenty of reasons why Marx so loved Shakespeare’s *Timon of Athens*. The fact that “debts wither us to nothing” (Act IV, Scene III), combined with the fear of the blood squeezed from us by our creditors, points to the way we are constituted as financial subjects both indebted and obedient to the financial rules and legal forces that confirm the power of our creditors: financial subjects, subjected to the powers of finance. Through punishment or the threat of punishment, the creditor always claims the *rights of the master* (Nietzsche [1887] 1994: 45). Creditors? Evil Masters!

The indebted subject engages in forms of calculation and strategic relations that reproduce the forms of contemporary capitalist domination. By inculcating a neoliberal sensibility into our subjectivity and instilling a conception of ourselves as *homo oeconomicus*, debt has become capitalism’s key mode of managing individuals and the social field as a whole, easing and teasing us into relations of obligation and, ultimately, into a submission to the ultimate Master: capital itself. Debt becomes the means of existence, a plan for a life in debt and a life withered by debt. “Man is no longer man enclosed, but man in debt,” observed Gilles Deleuze (1990: 6) about what he called “societies of control.” But that is not quite right, counterposing as it does debt and enclosure. We might rather say that debt *is* enclosure: of bodies and lives. Man is *enclosed by debt*. This enclosure is integral to our pacification. Debt produces the pacified subjects demanded by capital. In fulfilling one’s obligations to “pay one’s debts” one learns obedience to capital. One also learns obedience to law.

Law (It Fails Us Now)

Nomos and *nomisma*: law and money. That they have the same root was first pointed out by Aristotle in the *Nicomachean Ethics*, reminding us that “the contractual relationship between creditor and debtor...is as old as the very conception of a ‘legal subject’” (Nietzsche [1887] 1994:

43). Indebtedness is a legal condition, and if debt is the credo of capital then repayment of one's debt is the credo of law. Law treats debt entirely neutrally, as does bourgeois economy; with debt regarded as a contract freely entered and based on equal exchange. As such, law regards it as right that the debt cannot be escaped: we must repay our debts.

During the development of capitalism, European law allowed for debtors to be jailed, a practice carried over to the American colonies and then continued in the United States. It was not always clear whether the imprisonment was an act of coercive punishment for non-payment or to make them pay the debt (which they could rarely do, given that they were in prison), but in both cases such prisoners were often worse off than other inmates by virtue of the fact that they had to pay for their "accommodation" and food. The families of the (usually male) debtors thrown into prison often went into prison with him and were often then sent out to work to pay for the family's food and confinement. Likewise, the debtors themselves were often forced to become indentured laborers to specific employers until the debt was paid off, which it often never was. Many debtors died in prison. In the UK, the practice continued until the Debtors Act of 1869 abolished it and released most imprisoned debtors (Barty-King 1991; Mann 2002).

This liberal abolition of a harsh law for non-payment of debts was but one small aspect of a restructuring of the forms of power through which debt was to now be managed, and this restructuring was itself but one aspect of a general set of important changes in European penal systems in the middle of the nineteenth century (including, for example, the demise of transportation as a punishment). As George Rusche and Otto Kirchheimer (1939) point out, imprisonment remained the central point of the whole system, but as a form of punishment it was increasingly rivalled by the fine. The necessity for fines rather than imprisonment was due partly to the general policy of the principle of proportion in terms of punishment for minor offences, but also due to the introduction of more and more minor offences subject to police measures. The logic was that it was better for some offences to be punished by impoverishing people with a fine rather than a prison sentence. After all, if, as bourgeois political economy had long argued, virtue is rewarded by wealth, then surely vice should be rewarded with the impoverishment that comes from a fine. As a result, despite all the difficulties in using the fine as punishment (such as calculating the size of the fine and the question of whether a person had the capacity to pay), the system of fines came to form a core part of the apparatus of discipline and punishment. Some time ago Anthony Bottoms (1983) observed that compared to all that has been written about the disciplinary nature of the prison, the fine is a remarkably neglected feature of contemporary penalty, despite the fact that the fine is a major form of punishment in bourgeois society and plays a key role in the diffusion of discipline throughout the social body as a whole. The point here is that one inevitable result of the rise of the fine as a form of punishment was that members of the working class were soon being imprisoned for non-payment of the debts incurred as fines. Thus by 1913, just under 50% of male prisoners and just under 70% of female prisoners were in prison for failing to pay fines. In effect, the extension of the fine as a major form of punishment meant that more and more working class people came to be imprisoned for *debt* incurred as punishment for non-payment of fines, despite the fact that imprisonment for debt was meant to have been

abolished. Even though incarceration for debt is illegal, imprisonment for non-payment of fines imposed by the court in cases of debt collection will usually lead to charges of being in contempt of court and a prison sentence. Once imprisoned, people are often denied parole until they pay their fines and further fees incurred.

One sees this most starkly in relation to the one of the most fundamental police concepts: vagrancy. In the UK, as well as sections of the 1824 Vagrancy Act still being in place, vagrancy is also now policed through Antisocial Behaviour Orders (ASBO), Criminal Behaviour Orders (CBO) and Public Space Protection Orders (PSPO). These allow local authorities to issue fixed-penalty notices and to pursue criminal convictions for loitering, begging, and persistent and aggressive begging. A pattern emerges which sees hungry and homeless people fined for begging or loitering, unable to pay the fine, and imprisoned as a result. Breaching a PSPO can lead to a fixed-penalty notice of £100, which often cannot be paid, and then further fines, which also cannot be paid. A CBO might ban an individual from begging, even though begging is their means of subsistence, with the threat that violating that ban will result in five years in prison. If one follows a trail from the beginning of the process (such as begging) to the end of the process (imprisonment), one finds that people are being imprisoned for trying to satisfy a basic human need. “I will be sending a man to prison for asking for food when he was hungry,” as one judge admitted during one case (quoted in Greenfield and Marsh 2018). Actually, of course, he was sending the man to prison because of an *inability to pay a debt to the state*.

Such a case offers a remarkable insight into the nature of our social order and how it moves people through categories of police power: civil society is constructed in such a way that fails to ensure its population is fed, leading to a person being interpellated as a “beggar;” the state fines people for begging, creating a debt to the state and turning the beggar into a “debtor;” the non-payment of the debt-as-fine leads to imprisonment, turning the beggar-debtor into “criminal.” And as an indication of the utter irrationality of bourgeois society, as part of their punishment the hungry person now anointed a “prisoner” finally gets fed—by the state. A hungry person thus can move easily and quickly through the series of police categories—beggar-debtor-criminal-prisoner—and debt is at the heart of this process.

Such shifts have helped the exponential rise in imprisonment for non-payment of all sorts of other debts arising from an inability to pay fines, associated court fees and other legal costs, including lawyer’s fees, surcharges, interest on the original fines, and fees for treatment imposed by the court. Offenders frequently get placed under judicial supervision, subject to warrants, summonses, and wider disciplinary powers such as the confiscation of driver’s licenses. Eventually, imprisonment is imposed on many. One can follow trail after trail and find the same pattern, as attempts to satisfy basic needs at the beginning of the trail leads to imprisonment at its end. In the UK in 2019, a single mother, unable to work and receiving benefits due to illness, was given an 81 day jail sentence after building up an arrears of £4,742 in council tax. A court had initially ordered her to pay £10 a week towards the arrears, which she did for a few months but then defaulted. Despite making a last-minute payment of £100, police officers and bailiffs went to her home, arrested her, and took her to be detained in prison (Perraudin 2019). Writing about how

such processes play out in the United States, Adrienne Roberts (2014: 672) points to similar patterns within municipal court systems there, citing one U.S. judge to the effect that the system “could reasonably be characterized as the operation of a debtors’ prison.” The whole problem is then compounded by the growing use of private debt collectors and their increased tendency to use the courts to enforce private debt obligations, including one person being sentenced to “indefinite incarceration” until they paid a \$300 debt to a lumberyard. Related practices such as forced eviction for non-payment of debts have likewise increased, with a whole “subprime” population governed through intensified police measures and coercive dispossession, creating yet another problem group out of the working class (McClanahan 2017).

The return of the debtors’ prison in all but name is a reminder of the extent to which the prison operates as a form of class power. In contrast to the “industrious” and “respectable” representatives of capital whose insolvency is treated as one of the downsides of their industry and who are therefore said to deserve the lenient treatment they receive for their indebtedness—a treatment seen not only in individual cases but also in the massive bailout of the global financial industry following the 2008 financial crisis and the state’s willingness to socialize that debt—there is a group of less industrious, less respectable and “undeserving” debtors whose inability to manage their indebtedness is seen as entirely their own fault and who must be punished accordingly. Policing the indebted poor reinforces what we know about policing the poor in general: that it is a means of policing the working class. The threat of imprisonment for non-payment of debt is an expression of the ways in which the police power is mobilized against the working class, the securing and reproducing of the class system through social relations of debt and the threat of punishment for that indebtedness. The class and its sub-groups then become *legitimate objects of the entire apparatus of police power*: government; courts; police forces; prisons; credit agencies; bailiffs; debt collectors; housing officers; social security offices; social workers.

All of this is a reminder of the complex ways in which the working class is administered politically. It is also a reminder that the working class is time and again being taught the key lesson that we must *repay our debts*. But it is also a reminder that bourgeois society is organized around the notion of *punishment as debt collection*, and that those being punished are paying the biggest debt of all: *their debt to society*. To say that a prisoner “pays their debt to society” is to reiterate the link between debt and sin (as crime). Society replaces God as the Great Debt Collector.

To think that a person must “pay their debt to society” is also to treat *time* as something to be *spent*, like money. The control of a prisoner’s time is at the heart of carceral power, with carefully regulated schedules managing the prisoner’s socializing, exercise, meals, visits, and labor. The outcome is that prison regulations have a way of calculating prisoner time such that the documentation they use bears a remarkable resemblance to financial documents. Miranda Joseph (2014) cites a handbook of instructions, worksheets and template forms issued by the California Department of Corrections and Rehabilitation, which contains ways of calculating a prisoner’s time; such as “Pre and Post Sentence Credit,” “Vested Credit,” “Dead Time,” “Meritorious Credit,” and “Time Imposed.” Such technical calculation of time brings together financial accounting and criminal justice around a prisoner’s indebtedness. Herein lies what Foucault calls

the self-evident character of the prison as both loss of liberty and exemplar of the wage-form. By punishing the prisoner with *time*, the implication is that the offence has injured *society as a whole* and not just the victim. A penalty measured in days, months and years has an “economic-moral self-evidence”, and so the expression that the prisoner must “pay their debt to society” makes perfect sense in advanced capitalism (Foucault 1977: 232-233). The transformation of individuals through the disciplinary apparatus of the prison takes the form of debt in both the abstract (paying one’s debt to society) and the concrete (time imposed, meritorious credit, and so on) that reproduces the pacificatory nature of debt within society as a whole.

The more we are *pacified by debt* and *pacified through debt*, so the more debt relation itself takes on the form of a total institution like the prison. So total, in fact, that it becomes coterminous with a social world organized around indebtedness. The prison of debt matches any standard definition of the goal of the prison as a total institution: an acceptance of the hierarchy of power, the construction and maintenance of order within the working class, the learning of obedience, the salvation of one’s soul, and the rationalization of one’s personality (Bender 1987). We are incarcerated in the money machine and imprisoned by debt, with little chance of parole. If debt is a technique of power, then it is one we have internalized as part of our understanding of ourselves as “human capital,” in which we are expected to not only sell our labor as a wage but to also invest in ourselves, appreciate our value, profit from our potential, prevent our depreciation, and choose indebtedness as a rational economic subject (Feher 2009). The outcome is that we are policed as indebted subjects and encouraged to police ourselves in the same way.

Death (It Saves Us Now)

Pacification is always already oriented towards the future, towards cutting off alternatives, blocking threats to the social order. Pacification is the containment of future possibility. It is the fabrication of political subjects such that they manage themselves with such containment in mind. *No future*. In this it coincides with the temporality of debt.

Neoliberal financialization has sought to make the creditor-debtor relation permanent, with the growth of “revolving” debt or “interest only” debt, in which the debtor services the interest but the original debt remains unpaid, usually accompanied by much higher rates of interest. The debt continues to exist despite the interest payments far exceeding the original loan, and even a small debt can end up being unpaid over the lifetime of the debt. The debt is *serviced* rather than paid off. The question asked by financial organizations is now far less a question of “does this person earn enough to repay the loan in full?” and much more “how much profit will their servicing of this debt bring us?” This rewriting of the relationship between debt and income is evidenced in loans and mortgages designed to outrun not only the *working* lives of those in debt, but their *actual lives* (Adkins 2017; Dienst 2017). The selling point offered by the financial institutions is that this allows households to transfer resources from the future to the present. But it also commits people to an always-indebted future for the rest of their lives and beyond. This is an indebtedness with no prospect of release; debt as a life sentence. More and more debts are treated this way by the debt

system, which wants to retain us as indebted subjects. One reason for this is because we are of no use to the system if we have paid off the debt: their profits rely on our indebtedness. But a further reason is because the experience of being in debt, managing debt and worrying about debt is integral to our pacification. Hence Marx's comment that the death of the poor man is the worst eventuality for the creditor. Capital wants us alive and it wants us *servicing* the debt.

To "service the debt" connotes *financial payment*, of course, but it also connotes *submission* and *obedience*. Capital wants us as a servant—servility—for life, with the servile nature of being waged replicated, reinforced and in some ways supplanted by the servile nature of being indebted. If the message from capital is "no exit," the message is delivered in a package of debt. The outcome is an endless fabrication of servile subjects, with no vision of a future other than of debt. Debt now; debt in the future; debt for life; debt to death.

There is something very peculiar about debt and its relation to death. The biggest debt incurred by most people is a *mortgage*, literally a *death pledge*. Dictionaries of etymology inform us that the "mortgage" was originally so called because the debt becomes void—that is, dead—when the pledge is redeemed, or that if the borrower defaults on the payments then the property that is pledged as security is lost and hence becomes "dead" to them. The *OED* cites Part I of Sir Edward Coke's *Institutes of the Lawes of England*:

It seemeth that the cause why it is called mortgage is, for that it is doubtful whether the Lessor will pay at the day limited such summe or not, & if he doth not pay, then the Land which is put in pledge upon condition for the payment of the money, is taken from him for ever, and so dead to him upon condition, &c. And if he doth pay the money, then the pledge is dead as to the Tenant, &c. (1628)

But as a way to describe a debt taken on for decades, the exact amount of time of which is based partly on a calculation of one's expected death, the etymology rings remarkably true for other reasons too. Yet this aspect of the mortgage points to wider issues as well, pertaining to death.

In an essay written during World War I called "Thoughts for the Times on War and Death," Freud ([1915] 2001: 289) comments that "everyone owes nature a death and must expect to pay the debt." Freud attributes it to Shakespeare in *Henry IV*, but Shakespeare there in fact talks of our debt to God. "Why, thou owest God a death" (Act V, Scene I). We might recall the point above concerning God's book of accounts and that we must in the end satisfy our debt to him. With the secularization of modernity, "God" was increasingly replaced by "nature": "To *die*, is the great debt and tribute due unto nature," Laurence Sterne ([1759-1767] 1985: 349) observes in *Tristram Shandy*, one of Freud's hidden influences. Picking up on some of these connections, Jacques Derrida (2015) observes that it does not really matter whether the debt is to God or to Nature, because the point is that once our death corresponds to the payment of a debt, we die indebted, and because we are indebted and therefore in some sense guilty—once again reminding us of the connection in German between *Schuld* (guilt) and *Schulden* (debt)—so every death is like a retribution, or the execution of a verdict, or compensation for damages. It is for this reason, I think, that in any book on debt the idea of death always comes to the fore. A life debt "pledges allegiance

to the absolute sovereignty that is death,” observes Michel Aglietta (2018: 60-61) in his history of money, to give just one example.

Herein lies the significance of Pollock and Maitland’s ([1898] 1968) reference to redemption, cited above, to the effect that a pledge was an animated gage, a hostage delivered over to slavery but subject to redemption. Coming into the English language in early modernity, roughly in the mid-fourteenth century, redemption is “deliverance from sin and spiritual death,” from the Latin *redemptionem* meaning “a buying back” or “releasing,” and *redimere*, “to redeem,” and then from the Old French *redimer*, “buy back.” “To redeem,” in the sense of making amends for something, is from the early sixteenth century. The idea of debt redemption is a reminder of its religious connotations, but a reminder more than anything of the fact that true redemption comes with death. The calculation of death is the recalibration of debt. Our final payment comes with death. Death is our own personal Jubilee.

In Leviticus, the Jubilee is a year of emancipation and restoration, proclaimed by the blast of trumpets throughout the land, during which fields were to be left uncultivated. It is a year in which slaves would be freed. The Jubilee eventually came to connote a time of restitution, remission, or release, such as the remission from the penal consequences of sin, or release still from the bondage of slavery. The Jubilee thus contains a major injunction: “proclaim liberty throughout the land” (*Lev. 25:10*). The Jubilee is also a moment at which debts are forgiven. The emancipation of slaves coincides with an emancipation from debt. This is the reason eighteenth-century workers and peasants used the term “Jubilee” to demand an end to enclosures, and why those enslaved in the trans-Atlantic slave trade used the term to demand their emancipation. “Every struggle against enclosure and for the commons inevitably becomes a call of jubilee” (Midnight Notes 1992: 332). This is also why the call for a debt Jubilee at the end of the twentieth century constituted a revolutionary demand that we end the yoke of debt slavery for the global South: Abolish the Debt!

Better still: *Abolish Debt!* This is a universal demand, and not only for the Global South. It is a political demand linking debt abolition to abolitionist politics in general. We need to abolish debt in the same way and for the same reasons that we need to abolish the police power. To demand the abolition of debt and abolition of the police power is to demand nothing less than the abolition of debt as pacification, and hence the abolition of pacification *per se*. It is in the end to make the one abolitionist demand which unites and combines all others: Abolish Capital!

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