State Crime on the Margins of Empire

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Rio Tinto, the War on Bougainville and Resistance to Mining

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State Crime and the Empire of Capital

In the final, celebrated section of *Capital* (volume one) Marx (1976: 874) breaks from the preceding theoretical discussion to debunk liberal mythology on the 'idyllic' origins of capitalism (to be exact, Marx calls it a 'nursery tale'). Capitalism's *real* prehistory, he argues, is written in 'letters of blood and fire':

> The spoliation of the Church's property, the fraudulent alienation of the state domains, the theft of the common lands, the usurpation of feudal and clan property and its transformation into modern private property under circumstances of ruthless terrorism, all these things were just so many idyllic methods of primitive accumulation. (Marx 1976: 895)

The violence meted out at home in Western Europe, Marx observes, was replicated abroad in even more searing forms:

> The discovery of gold and silver in America, the extirpation, enslavement and entombment in mines of the indigenous population of that continent, the beginnings of the conquest and plunder of India, and the conversion of Africa into a preserve for the commercial hunting of blackskins, are all things which characterize the dawn of the era of capitalist production. (1976: 915)

Yet as David Harvey (2003) has argued, these 'idyllic methods' that helped mould a world in capital's image, are not confined to capitalism's prehistory. Rather, 'ruthless terrorism', 'conquest and plunder', 'undisguised looting', 'forcible expropriation' 'stock-exchange gambling', etc. (Marx 1976: 873–940), have proven enduring features of actually existing capitalism as its combustible dynamics mature and operationalise

in a socially diverse range of regions. And like the historical hothouse in which capitalism was born through fits and starts, the state remains a key organiser of the less sanguine enterprises on which reproduction hinges.

That said, the annals of capitalism are not only written in letters of 'blood and fire'. Etched into its history with equal vigour are important struggles of solidarity and resistance. Indeed, in diverse regions global social movements, in their various complex constellations, embark upon vocal campaigns designed to challenge, censure and punish state actors responsible for dispossession, expropriation, and terror (see Marfleet 2013; Patel 2013; Stanley and McCulloch 2012b). This organised, social reaction – underpinned by evolving normative frameworks – imbue certain state practices with an illegitimate and deviant character. Indeed, rather than being an imposed intellectual category, state crime has in fact come into existence through the iron forge of history,[1] and upon its fault-lines new and important struggles over truth, impunity, and justice have emerged.

Historically, criminology has turned its back to this emerging reality. However, on its margins a growing number of scholars have begun to take this evolving relationship between state practice, popular condemnation, and struggles of resistance as the basis for a critical field of inquiry. Not surprisingly, given the dialectic this relationship presupposes, many scholars concerned draw their primary inspiration from Marxism (see Green and Ward 2004; Kramer et al. 2002; Michalowski 1985, 2009, 2010; Pearce 1976; Tombs and Whyte 2002). This would seem a comfortable marriage.

Indeed, making sense of, and responding to, state crime hinges on the careful application of Marxist concepts to interrogate critical social foci, including class, contradiction, crisis, resistance and revolution. On the other hand, explaining why criminal state practices are a constitutive feature of really existing capitalism, and grappling with the complex struggles they engender, is fundamental for a revolutionary tradition that both wants to concretise understandings of the present mode of production, while engaging with and buttressing political movements capable of engendering transformative change. In this sense, Marxism is well tailored to solving the theoretical and methodological dilemmas facing state crime studies, while state crimes studies has the potential to deepen Marxist understandings of those illicit practices and subsequent struggles that lie at the forefront of capitalism's recent, tumultuous history.

This volume is constructed on the latter presuppositions. Speaking at the most general level then, it is a study of the complex range of exploitative

forms, socio-cultural arrangements and political systems through which capitalist relations of production function, and the historical conditions under which criminogenic potentialities embedded within particular regionalised articulations of capitalism, become actualised. However, speaking more specifically, this general focus will be operationalised through an in-depth study of the Bougainville conflict. This civil war, which consumed the South Pacific nation of Papua New Guinea (PNG) for most of the 1990s, was punctuated and exacerbated by a range of illicit state-corporate practices including forced displacement, mass-destruction of property, internment, torture, extrajudicial killings and the denial of humanitarian aid.

At the conflict's heart was a conjuncture defined by clan structures, patrimonial political relations, a 'weak' state (PNG), an emerging sub-imperial power (Australia), and mining capital (Rio Tinto). Very few things about PNG conform to textbook models of capitalism, nevertheless if applied dialectically with due respect for empirical difference, Marxist categories remain an indispensable tool for understanding the social fault-lines of this conflict and the range of illicit state-corporate practices it engendered.

This introductory chapter traces in more detail the conceptual and empirical focus that frames this intervention. To that end, we begin by examining the particular features of capitalism, defined from a classical Marxist perspective,[2] which have provoked a peculiar form of empire that is global in reach, but administered through a fractured system of nation-states that observes an inherently capitalist logic of power. Understanding capitalism as an expansive, crisis-prone system operationalised through an often contradictory synthesis of international capital flows and an asymmetric nation-state system, provides an overarching framework in which to situate one of empire's specific regional articulations, PNG. With this global perspective as our backdrop, readers are introduced to the 'unconventional' forms of heightened class struggle that emerged out of PNG's particular path of immersion into empire, and the illicit state-corporate response this struggle provoked.

This introduction to the book's empirical focus is followed by a more in-depth look at its scientific method. Specifically, we tease out the peculiar relationship between facts, theory and approximation that distinguishes the classical Marxist approach. We also examine classical Marxism's critique of those scientific traditions built on variations of empiricism, which presently have a strong following within state crime studies. Out of

this discussion will emerge a set of concrete aims, pitched at the level of criminology and Marxism, which this study will strive to achieve.

The Empire of Capital

Over the past three centuries capital has amassed an impressive global empire (herein Empire).[3] Only a few regions on the margins remain 'off grid'. Wood observes:

> There is nothing else in the history of humanity to compare with the kind of social system created by capitalism: a complex network of tight interdependence among large numbers of people, and social classes, not joined by personal ties or direct political domination but connected by their market dependence and the market's imperative network of social relations and processes. (2002: 180)

The foundations of this historical achievement, unheralded in its magnitude, lie in the dynamics of Empire's structure.

Unlike the social systems which immediately precede the rise of capitalism – where the application of sovereign power was critical to forms of exploitation – capital's valorisation is increasingly underpinned by household dependency on market based exchange. Marx (1976: 875) explains, under capitalism the worker – who has been historically 'freed' from the means of production – must *sell* their labour-power in order to obtain the means (money) for *purchasing* household necessities.[4] This historically constructed double-dependency on capitalist markets (which must constantly be reproduced), in turn, *forces* the propertyless worker into a productive context where surplus value can be extracted by an appropriating class,[5] while at the same time upholding the appearance of 'free' exchange between buyer and seller.[6] 'He who was previously the money-owner [during exchange] now strides out in front as a capitalist', Marx (1976: 280) observes, 'the possessor of labour-power follows as his worker. The one smirks self-importantly and is intent on business; the other is timid and holds back, like someone who has brought his own hide to market and now has nothing else to expect but – a tanning'.

What is being pinpointed here then is the emergence of a new *generalised medium and lever*, that is market and market dependency, which with the transition to capitalism mediates the extraction of surplus from the

immediate producer and its distribution to an appropriating class seeking to augment the value they have invested. Importantly, the emergence of this lever, and the class forces it presupposes, when coupled to a historical process of struggle and political upheaval, deprives sovereign power of the function it possessed under feudal and absolutist regimes. 'The moment of coercion' and the 'moment of appropriation', have now become, Wood (2002: 172) suggests, 'allocated between two distinct but complementary "spheres"'. Out of this arrangement emerges a civil society that is ostensibly 'autonomous from the state' (Lacher 2006: 97), and 'a "purely political" state . . . abstracted from the exploitation of surplus' (Lacher 2006: 107). This new unity of opposites provokes a 'profound transformation' in the functionality of sovereign power (Lacher 2006: 97). Teschke argues:

> Since ruling-class power in capitalist-societies is based on private property and control over the means of production, 'the state' is no longer required to interfere directly into processes of production and extraction. Its central function is confined to the internal maintenance and external defence of a private property regime. This entails legally enforcing what are now civil contracts among politically (though not economically) free and equal citizens subject to civil law. This, in turn, requires a public monopoly over the means of violence, enabling the development of an 'impartial' public bureaucracy. Political power and especially the monopoly over the means of violence now come to be pooled in a deprivatized state above society and the economy. (2003: 256)

However, in an intervention often overlooked in the Marxist literature, Foucault significantly advances this argument in a way that helps explain the rise of Empire. It is not simply that legal, administrative and coercive technologies have retired from the immediate process of production to assume a public form, they have, Foucault suggests, become organised around a new modality of power. Indeed, facing the emergence of an 'autonomous' civil society endowed with its own economic and social rhythms – a process which is bulwarked by significant and powerful class forces – Foucault (2007: 352) argues that states can no longer rule through 'systems of injunctions, imperatives, and interdictions' (see also Foucault 2003: 249). Rather, he claims, they must learn to 'respect these natural processes, or at any rate to take them into account, get them to work, or to work with them' (Foucault 2007: 352; see also Foucault 2007: 351).

From this perspective states operate strategically by shaping the regulatory, built and social environments through which these 'natural processes' intrinsic to civil society operate, in order to stimulate desirable ends conceptualised at the level of 'the population' (full employment, economic growth, reduced crime, stable currency, etc.) (Foucault 2007: 105). Accordingly, different technologies of government – taxation, duties, capital controls, public investment, criminal codes, monetary policy, service provision, infrastructure investment, policing, military intervention etc. – become tactics for affecting, with a definite end in mind, the economic and social rhythms of civil society.

As a result, with the transition to capitalism, the instruments of statecraft become what Foucault calls, *governmentalised*. However, simply because the instruments of statecraft no longer form a direct device for extracting surplus from the immediate producer, and feuding with rivals, it does not follow that they are exterior to capitalist relations of production. Rather, what changes is the character of these instruments, the rationality with which they are applied, and the particular way states intervene in the processes through which surplus is extracted from the immediate producer. For instance, technologies of capitalist statecraft influence, manage and shape, the quantity and quality of social labour available to individual units of capital, the intensity and conditions under which labour is used, the way in which value embeds in the built environment, the velocity and trajectory of flows in investment and credit, the dynamism of different markets, society's capacity to consume, etc. Governmental power also, of course, constantly secures and reproduces the vital social oppositions which capitalist relations of production presuppose, relations it might be added that are infused with potentially self-annulling antagonisms. The organisation and application of governmental power, therefore, forms a crucial part of capitalism's interior.

However, governmentalised states do not exist in the generic singular, nor do they exist in abstraction from each other. Rather, as Wood (2003: 141) observes, 'the very essence of globalization is a global economy administered by a global system of multiple states and local sovereignties, structures in a complex relation of domination and subordination'. The government of Empire, therefore, functions through an asymmetric, international state-system. The constitutive units of this system, states, act as central nodal points, in which governmental regimes embed themselves, through a process of struggle (see Jessop 2007). When these nationally organised governmental regimes operate internationally, they

confront two realities. First, they are sovereign over a specific region of the capitalist world economy that is of a certain size and significance. Second, this global economic system does not function entirely of its own accord, mediating its rhythms are the actions of other nation-states. Consequently, specific governmental regimes must carefully register both their peculiar position within the world economy, as well as the relative impact other governments are having on the international flows they are seeking to affect.

In this light, it could be argued that international political struggle is over security, but in the very precise sense Foucault gives it. That is, unlike the geopolitical rivalries of the dynastic era, capitalist states do not seek to accrue sovereign power as an end in itself; capitalist states aim to accumulate sovereign power and strategically project it more effectively than rivals – be it in bilateral or multilateral forums – because this puts them in a position of having a greater impact on the regional and global milieus which mediate critical economic and social flows. By shaping these milieus, they are better able to stimulate flows of people and wealth, essential to achieving 'specific finalities' at a national level (Foucault 2007: 99). The aim of foreign policy then is not to outweigh rivals, rather it is to out-govern rivals.

Of course, in a govermentalised system of states marked by significant imbalances in power, and contradiction, imperial rivalries and conquest is an enduring reality, which at its very height engenders armed conflict, perhaps the most extreme tool states can employ to reconfigure the social landscape through which capitalism functions.[7] Nevertheless, despite the regularity of violence, this governmentalised inter-state system has created a framework for the facilitation, regulation, and safe passage of people and wealth on a world scale. Under these conditions, Rosenberg (1994: 129) argues, 'it is now possible, in a way that would have been unthinkable under feudalism, to command and exploit productive labour (and natural resources) located under the jurisdiction of another state' (see also Wood 2002: 31). As a result, Bukharin (2003: 24) observes 'the labour of every individual country becomes part of that world social labour', from which surplus is increasingly appropriated by globalised capitals.

Consequently, the transition to capitalism, and the social dynamics this transition has engendered – surplus value extraction mediated by market exchange, an 'autonomous' international civil society, governmentalised nation-states, and an asymmetric inter-state system – has created a framework for Empire to emerge on a global scale. However remarkable

(and unintentional) this achievement is in historic terms, it has not shepherded an enduring peace: to the contrary, Empire's intensive and extensive growth has been punctuated with social rupture and the loss of human life and dignity on new and unimaginable scales. Behind these catastrophic events, are the contradictions structurally inscribed in the capitalist mode of production.

Contradiction, Empire and State Crime

Marx's famous inversion of Hegel's dialectical method,[8] acutely registers the important role material contradictions – i.e. structurally inscribed social antagonisms – play in stimulating the social ruptures, which give history its violent motion. In the French 'postface' to *Capital*, Marx observes:

> The fact that the movement of capitalist society is full of contradictions impresses itself most strikingly on the practical bourgeois in the changes of the periodic cycle through which modern industry passes, the summit of which is the general crisis. That crisis is once again approaching, although as yet it is only in its preliminary stages, and by the universality of its field of action and the intensity of its impact it will drum dialectics even into the heads of the upstarts in charge of the new Holy Prussian-German Empire. (1976: 103)

Given Marx's view in this respect, it is perhaps not surprising to note that his critique of political economy, frequently registers the role material contradictions play in planting the seeds of confrontation, conflict, crisis and revolution into the capitalist mode of production. For example, when examining the social mechanisms that compel capital to enhance the methods through which value is pumped from labour, Marx notes an important contradiction. This process, on one hand, enriches our social productive powers, while on the other, it impoverishes the immediate producer, whose physical and mental well-being is subordinated to economies in the use of constant (plants, machinery, buildings, raw materials, etc.) and variable capital (living labour). Consequently, Marx argues:

> If we consider capitalist production in the narrow sense . . . it is extremely sparing with the realized labour that is objectified in commodities. Yet

> it squanders human beings, living labour, more readily than does any other mode of production, squandering not only flesh and blood, but nerves and brain as well. (1981: 182)

Capitalism's contradictory drives also impinge upon its commanding class. In his theory of capitalist crisis, for instance, Marx notes that the use of labour saving technologies to accrue higher than average profits, once generalised, provokes a gradual shift in the organic composition of capital (ratio of constant to variable capital), this ultimately manifests in a declining general rate of profit for capital as a whole (Marx 1981: 317). Marx (1981: 319) thus observes, 'the progressive tendency for the general rate of profit to fall is thus simply *the expression, peculiar to the capitalist mode of production*, of the progressive development of the social productivity of labour'. This structural contradiction, Marx argues, sparks spectacular episodes in 'speculation, credit swindles, [and] share swindles', by over-accumulated capital in search of profitable outlets, a process which foreshadows looming economic crisis (1981: 359).

Of course, Marx's critique of political economy is famously unfinished. Accordingly, those continuing Marx's work have teased out capitalism's contradictory mechanics at more concrete levels of analysis. For example, Istvan Mészáros (2001: 23) notes what he calls the 'weightiest contradiction' of capitalism. That is, while capital is able to circulate across political jurisdictions, creating what Bukharin (2003: 41) refers to as an 'ever thickening network of international interdependence', the central nodal points of governmental power tend to be organised on a national scale. This lays the ground for one of capitalism's most catastrophic ruptures, inter-imperialist rivalry and world war. Reflecting on World War I and its colonial prelude, Bukharin (2003: 159–60) remarks:

> Imperialism has turned its true face to the working class of Europe. Hirtherto its barbarous, destructive, wasteful activities were almost entirely confined to the colonial subjects; now it thrusts itself upon the toilers of Europe with all the horrifying impact of a bloodthirsty elemental power let loose. The additional pennies received by the European workers from the colonial policy of imperialism – what do they count compared to millions of butchered workers, to billions devoured by the war, to the monstrous pressure of brazen militarism, to the vandalism of plundered productive forces, to high cost of living and starvation.

If there is a general point that may be extracted from the preceding examples, quite critical to this book's overarching thematic, it is the intimate connection between Empire, contradiction, social rupture, and what scholars call state and corporate crime (or, more simply, crimes of the powerful). That is, as Empire operationalises itself through diverse regional arrangement, its contradictory dynamics generates a range of tensions, which unevenly mature into more overt forms of rupture – for example, economic crisis, class conflict, war – that prove fertile environments for state and corporate crime.

Of course for state and corporate practices to be deemed criminal, presupposes there is a normative moment to this social equation, which there is. Put simply, a semblance of social stability, which is essential to all modes of production, demands the generation of customs and normative frameworks capable of regulating social practice (Mészáros 2011: 116–17). This normative terrain is always contested, and undoubtedly some classes are in a better position to shape which norms achieve hegemony (Lasslett 2010a). Be that as it may, those who command the economic and political engine house of Empire, cannot simply act as they choose (Marx 1976: 348). If they are to function with a modicum of consent, they must submit to certain critical norms. As Green and Ward observe:

> In any situation where the state's claim to legitimacy is accorded some degree of consent – and exactly what this 'consent' amounts to may be a very difficult question – there is likely to be some tacit understanding of the limits of legitimate conduct (which may be more or less closely related to legal norms), departure from which will attract some kind of censure or sanctions. (2000: 108)

Consequently certain deviant state and corporate practices, when exposed, can and have elicited mass-censure. As millions flooded Tahrir Square during the Egyptian uprising of 2011, it was the criminality of the political elite, which elicited particular condemnation (Friedrichs 2012; Marfleet 2013). While the ranks of Occupy were swelled by citizens demanding that banks and their political patrons be subjected, like them, to the rule of law. It is this evolving relationship between hegemonic norms, elite practice, and mass-censure, that provides a compelling conceptual foundation for a criminology of state and corporate crime, at least from a classical Marxist perspective (see Green and Ward 2000; Green and Ward 2004; Lasslett 2010a; Ward and Green 2000).