The Past and Present of Abolition: Reassessing Adam Smith's "Liberal Reward of Labor"

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Abstract

Abolish prisons; abolish police; abolish immigration enforcement: current "abolition" movements have yet to receive the attention that international political economy has given to its social justice forerunners, e.g. World Social Forum and Occupy. I argue that to make the current abolition movement legible to the field first requires a retrieval of abolition's import for classical political economy. Towards this aim, I reassess the ways in which Adam Smith's ethical prospecting of the "liberal reward of labor" referenced abolition. I then contextualize Smith's agonistic argument for commercial society within late seventeenth to early nineteenth century struggles over imperial commerce, especially Atlantic slavery. For this purpose, I take a prompt from the institutional framework of "abolition democracy" provided by Angela Davis and WEB Du Bois. Specifically, I examine the ways in which the prospect of abolition challenged a) existing institutions that rendered enslaved labor in plantation economies as property; as well as b) the patriarchal institutions in England that rendered labor through a "master/servant" relation. I conclude by arguing that current abolition movements prompt us to address the obfuscation in classical political economy of particular agents and sites through which struggles over freedom have been waged across capital's imperium.

Introduction[1]

Abolish prisons, abolish police, abolish immigration enforcement: "abolition" has emerged as a key framing device of contemporary social justice campaigns in the Anglo-American world (Meares and Weaver 2017; Washington 2018; Levinson-Waldman 2018). Feminist movements that have popularized this framing – especially The Movement for Black Lives - are in good part influenced by the work of Angela Davis (Ransby 2018, 16–17). Over the past two decades, Davis (2005, 32) has argued that systems of punishment originating in Atlantic slavery have persisted into the present and are now being utilized the world over to discipline poor peoples. The abolition of such carceral systems, she claims, is a necessary part of any confrontation with global capitalism (A. Y. Davis 2005, 68–69; see also Gilmore and Gilmore 2016, 190).

In developing her current platform, Davis has drawn repeatedly upon WEB Du Bois's comments on "abolition democracy", which appear in his influential history of the reconstruction period following the American Civil War. Du Bois's great insight, as Davis sees it, was to recognize that legal manumission would not in and of itself redress the iniquitous structures of slavery (A. Y. Davis 2016, 25–26). Rather than simply a "negative process of tearing down", abolition, notes Davis (2005, 69), had to involve "building up" new institutions that would establish a meaningfully holistic enfranchisement across social (education), political (suffrage) and economic (property) domains (see Du Bois 1995, 182–206). Davis follows Du Bois in conceiving of abolition as a key moment of struggle over prevailing property and labor regimes in the historical development of capitalism.

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Critical scholars in international political economy have oftentimes rendered the ethical prescriptions of social movements legible to their field. For instance, the injunction associated with the World Social Forum (WSF) that "another world is possible" has been explained in terms of Gramscian counter-hegemony, a World System anti-systemic movement, and a Polanyian double-movement (respectively Gill 2000; Wallerstein 2004; Evans 2008); meanwhile, Occupy's call for the solidarity of the "99%" has been parsed in terms of a radical democratic challenge to the unaccountable nature of global financial power (for example Hardt and Negri 2011; Cobbett and Germain 2012). Contemporary abolition campaigns follow Davis in linking a wide constellation of democratic issues implicating freedom/unfreedom to a critique of global capitalism. But this abolition movement has yet to receive the justified attention given to its forerunners.

Here, though, a challenge presents itself. Unlike the ethical prescriptions of WSF and Occupy, which in and of themselves reference principally the present, the imperative to "abolish" intractably references an historical phenomenon. Furthermore, the historicity of abolitionism is of an intellectual kind, being implicated in the tradition of classical political economy – especially, the extended meditation between Scottish moral philosophers on the virtues and vices of commercial society. During the 1760s-1790s, the decades in which Adam Smith and others wrote the fundamental texts of this tradition, abolitionism entered the British public sphere as the most profound and consequential debate on labor practices and property rights. Smith's work was especially close to the abolitionist campaigning of Granville Sharp (see below) and William Wilberforce (see especially Peart and Levy 2005, 166–70). Thus, to make abolition legible to international political economy requires reassessment of the field's own intellectual traditions.

This is where the challenge lies. For abolition has been obfuscated by the curation of Smith's contribution to political economy. Consider, firstly, how the *Wealth of Nations* begins by claiming that commercial society allows for the productive and ethical value of labor to be shared even by the laborer himself. Karl Marx would subsequently judge these comments on the "liberal reward of labor" to be naïve (1863, 553–54). Notwithstanding, and beginning in the 1970s, intellectual historians and philosophers recovered in Smith an agonistic relationship to commercial society that had been obfuscated by neoclassical cheerleaders. However, this project of recovery attenuated Smith's ethical engagement with the division of labor to a national rather than imperial scale (see for example, Hirschman 1977, 105–6; Winch 1978, 70–72; Lindgren 1973, 107). Most famously, scholars exemplified the negative effects of the division of labor in Smith's critique of the physical and mental degradations suffered by workers in small British factories (see for example West 1975; McNulty 1973, 361).

The second consideration pertains to the fact that more recent scholarship has amplified these attenuations. Smith's agonism has been scripted primarily within an endogenous movement in England from e.g. the small paternalistic to large impersonal factory, or from feudalism to mercantilism to free-trade capitalism (see respectively Perelman 2010; Herzog 2014). True, a postcolonial body of work has now related Smith's arguments (as well as the broader classical corpus) to the growth of Britain's imperial market and its associated colonial projects (see especially Blaney and Inayatullah 2010; Ince 2018). Yet even in this insightful scholarship, abolition is treated at best as a subdued, background issue. In fact, Smith's engagements with the imperial division between free English labor and enslaved African labor have mostly been picked up in intellectual histories focused on the abolitionist debates rather than by critical renditions of classical political economy per se (for example Drescher 2004; Swaminathan 2007).

I submit, then, that to make the current abolition movement critically legible to our field requires a retrieval of abolitionism's past import for our classical tradition. This article is an underlabor towards such an aim. I chart an intentional path through Smith's oeuvre that reassesses his evaluation of the "liberal reward" principally by reference to slavery and abolition. As part of this examination, I contextualize Smith's moral philosophy within late seventeenth to early nineteenth

century struggles between the British crown, parliament and fractions of imperial capital invested in Atlantic slavery.

To aid in this task I take a prompt from the narrative frame of "abolition democracy" provided by Du Bois and promoted by Davis. That is, I pay attention to the institutions that underwrote normative claims to the nature of freedom provided by labor practices and property rights, and I consider the degree to which these institutions were challenged by the prospect of abolition. I conceive of institutions broadly along the lines presented by Douglass North (1991, 97) as "both informal constraints (sanctions, taboos, customs, traditions, and codes of conduct), and formal rules (constitutions, laws, property rights)" that "structure political, economic and social interaction". I pay special attention to the ways in which abolition challenged: a) existing institutions that rendered enslaved labor in plantation economies as property; as well as b) the patriarchal institutions in England that rendered labor through a "master/servant" relation.

I begin by examining the centrality of slavery to Smith's prospectus on commercial society. In his estimation, the sympathies garnered from the master/servant relation of the patriarchal household could be used to suture the self-interested pursuit of capital accumulation. Hence, I present the patriarchal household and its hierarchical sanctions and codes of conduct as the key institutional arrangement that for Smith gave free – i.e. consenting - labor its productive *and* ethical value. Smith worried that slavery destroyed the institutional moorings of the patriarchal household by treating labor control not as an ethical relation but as a despotic property right. He therefore sought a precedent wherein freed – manumitted - labor could be reconciled with the existing patriarchal institutions that in England provided free labor with its "liberal reward". Setting up the inquiry in this way affords an examination of the various legal, philosophical and physical movements of the "slave" across the imperial Atlantic.

I then turn to situating Smith's musings within the longer struggle for parliamentary supremacy over the British crown which, by the turn of the eighteenth century, had settled upon the governance of imperial commerce and particularly the slave trade. In this part of the argument I present commercial law as the key institutional arrangement that enabled property rights to be vested in enslaved Africans. The royal prerogative was in good part invested in the slave trade, and so parliament, on behalf of the landowning class, shifted the codification of the slave-as-property out of crown-controlled commercial law and into English common law. Yet common law also served to uphold the patriarchal institutions that Smith supposed would provide labor with its liberal reward. Common law coded free labor in England not as a property status but as a patriarchal "master and servant" relation. Paradoxically, then, the struggle by the English landowning class for their property rights threatened to unravel the institutional moorings of their control over labor. Smith's musings on free servant versus unfree slave refracted this growing tension in imperial governance.

Smith found one path through this tension that might lead to a virtuous abolition and a redemption of commercial society: the relocation of the slave from the colonies to England, there to become a free servant under English common law. Tracking this claim, my inquiry then moves to the abolitionist debates in England during the 1760s and after – debates that followed a similar logic to Smith's argument. Eventually I settle upon a landmark case to demonstrate the paradox of upholding property rights across empire – including, most importantly, property in the slave - as well as patriarchal control of labor in England. The freeing in London of Somersett, an enslaved African, was contested by the West India interest and defended by English abolitionists. The subsequent legal debate reveals that the one path by which Smith envisaged a slave attaining the liberal reward of labor did not in practice result in manumission. Rather, Somersett was met with a fictional claim that he had consented to serve his master in England at the moment when he had first been made a slave in Virginia. Through this narration I claim that neither Smith, abolitionists or politicians conceived of – or authorized - new institutions that could make freedom meaningful for labor.

Rather they problematically prescribed the replacement of one existing institutional arrangement – colonial slavery – with another existing one – English patriarchy.

With this in mind, I finally turn to the Anglo-Caribbean in the era of abolition acts that served to introduce England's patriarchal sanctions and codes of conduct to the plantation colonies through the introduction of master/servant legislation. I argue that by this point in time the enslaved had already made their own claims to inherited property in terms of the provision grounds that they communally cultivated. The provision ground was a new institution developed by the enslaved, conventionally arranged yet also partially underwritten by local law, and which evinced a non-patriarchal practice of reconciling property rights and labor control. I suggest that enslaved communities understood that meaningful freedom required the building of new institutions that could radically democratize property ownership and labor's reward. I conclude by arguing that to render current abolition movements legible to international political economy requires a re-scripting of the classical tradition to illuminate the obfuscated agents and sites through which struggles over freedom have been waged across capital's imperium.

Slavery in Smith

As a professor of moral philosophy, Adam Smith was invested in thinking through the ethical order that might pertain to commercial society and the kind of freedoms permissible therein. The status and condition of labor was a key criterion of his evaluative rubric. In the *Wealth of Nations,* Smith (1776, 1) attributed to labor the "fund which originally supplies [the nation] with all the necessaries and conveniences of life". He even proceeded to present an idyllic pre-history to commercial society, wherein "the whole produce of labour belongs to the labourer". However, in Smith's estimation, that compact could not have lasted beyond the introduction of land appropriation and the accumulation of stock, both of which necessarily placed the laborer in an unequal power relation with the property owner (Smith 1776, 79).

In recognition of this inequitable history of "previous accumulation", Smith sought not simply to evaluate but to prescribe a set of values and commitments that could bring out the best of commercial society. This task rested upon the prefiguring of a co-constitutive and positive relationship between the increase in national wealth and the status of labor. Part of this relationship, for Smith (1776, 84), involved the way in which growth in productivity and wages was linked to increased demand for labor, which was in turn conducive to population increase (see Rosenberg 1965). An ever-increasing population was the sign of a progressive economy - one where labor was maintained in a civilized fashion (Smith 1776, 89). Incidentally, this is an opportune moment to point out that Smith's valuation of labor was only "economic" for rhetorical purposes: his occasional descriptions of labor as a commodity to buy and sell were in the service of evaluating the moral character of the national economy as suggested by the living standard of laborers (Smith 1776, 96; see Berry 1992).

In making his argument, Smith grappled with the ethical relationship between masters and (what he termed) British "free men" in contrast to the relationship that held between masters and West Indian slaves. Smith (1776, 98–99) argued that the cost to the master of the "tear and wear" of the slave was more than that incurred to the master by the wear and tear of the free man. Masters were usually negligent or careless towards the upkeep of their slaves; alternatively, the free man attended to the cost of his family's subsistence from his own wage and thereby reproduced himself in a frugal manner. For these reasons Smith (1776, 99) claimed that the cost of supporting the slave tended to be excessive to that paid by the prudential free man. What is more, the encouragement of prudence and other deserving traits amongst laborers had a positive effect upon "all the different orders of the society" (Smith 1776, 99)**.** Masters of free men had no excuse but to listen "to the dictates of reason and humanity" and to govern their hires with moderation, avoiding overworking

them so that they might offer reliable service in the long run (Smith 1776, 100–101). This, claimed Smith (1776, 99), was the "liberal reward of labor".

Clearly, Smith's argument for the ethical constitution of commercial society was fundamentally agonistic. Just as clearly, Smith's agonistic appraisal did not proceed as an endogenous inquiry into the treatment of free labor within Britain's national economy but rather referenced an imperial distinction between slave labor and free labor. Specifically, Smith wished to convince his reader that the relationship between the free man and master could retain a moral integrity in commercial society - a potential that was lacking when it came to unfree labor. Moreover, and as I shall now argue, this comparison between slave and free labor was integral to the development of his moral philosophy.

Most Scottish luminaires were staunchly opposed to the slave trade, at least, in intellectual if less so political terms. Such philosophical opprobrium was given a grammar in Scotland primarily by virtue of the classical jurisprudential tradition (Watson 1993, 1343; Tetley 2000, 730–32). Smith's teacher, Francis Hutcheson, was attracted to Samuel von Pufendorf's treatment of jurisprudence as an ethical pursuit, as well as his preference for grounding inquiry in the observable characteristics of human nature (Pesciarelli 1986, 78). Hutcheson took further direction from the Third Earl of Shaftesbury, whose own Pufendorf-influenced philosophy proposed a natural human faculty of sociability (Rudolph 2013, 188). Out of these intellectual lineages Smith crafted his dissertation on moral sentiments, which claimed that mutual sympathy enabled individuals to live together.

Subsequently, the individuating and self-interested nature of commercial society challenged Smith to account for the moral salve that could bind it together, hence the increasing importance to his inquiry into the labor relationship (see Lindgren 1973, 107; McNulty 1973, 347). The implications of slavery for sympathy are only fleetingly suggested in the *Theory of Moral Sentiments* (1761, 316). They can, though, be extracted in compelling detail from Smith's *Lectures on Jurisprudence* given at Glasgow University between 1762 and 1763 - a seminar series heavily influenced by Hutcheson's *System of Moral Philosophy* (Pesciarelli 1986, 75–76; see also Salter 1996). In these lectures, the importance of mutual sympathy to Smith's critique of slavery is found in the Part on Justice and the section on Domestic Law, comprised of relations between husband and wife, parent and child, guardian and ward, and master and servant (see Ronald Lindley Meek 2013, 57–91). In Smith's estimation, all but the last of these relations possessed a moral foundation.

Smith (1978, 179) discussed the problematic nature of the master/servant relation by way of analogizing the state of "our legall slaves" in the West Indies with that of slaves in classical Rome. Unlike the patriarchal relationship between husband and wife and father and son, Smith noted that the master held an arbitrary power of life and death over the servant. As a slave, argued Smith (1978, 177–79, 450–51), the male servant could not hold property and further, as property himself, could not marry. This was a penalty that had both practical and moral consequences: not only did marriage insure an orderly inheritance of property; it was also – and here Smith turned to the issue of sympathy - the "naturall affection" that the father held towards his child that rendered inheritance moral, i.e. constitutive of "due respect and filiall piety" (Smith 1978, 175).

Smith's conjecture enabled a line of reasoning that would eventually consolidate in *Wealth of Nations,* and one which I want to represent in terms of institutional arrangements. For Smith, capital accumulation through property inheritance and waged labor could be valorized as a moral pursuit in so far as it did not breach the cardinal virtues of respect and piety found in the patriarchal household. Alternatively, slave labor bred despotism by sundering the relations of sympathy that bound together the patriarchal household. Un-moored from such hierarchical inter-dependencies, the male slave also had no motive to be productive and thus fell into idleness. Slavery was thus a drag on the national economy, an affront to the national character, and a destabilizer of sociality itself.

Smith was well aware that the wealth that led to a nation's liberal reward was generated in the entanglement of domestic *and imperial* commerce (see Ince 2018, 1). This entanglement being germane to his evaluative and prescriptive framework rather than merely incidental, it is all the more worrying that Smith could present no plausible narrative by which to arrive at the ending of Caribbean slavery. In fact, after recounting all the ways in which a slave might be acquired in Roman Law, Smith simply stated that "the slavery in the West Indies took place contrary to law" (Smith 1978, 455; see in general Pack and Dimand 1996). Certainly, Smith (1978, 454) failed to uncover any contemporaneous equivalent in Britain's empire to the historical movement in England from villain (bonded to the lord of the manor) to copyholder (a tenant of the lord) which enabled commercial society to provide labor with its liberal reward. Except, that is, for one instance:

> We come now to consider the state of servants. A negroe in this country [Britain] is a [free] man. If you have a Negroe servant stolen from you, you can have no action for the price, but only for damages sustained by the loss of your servant (Smith 1978, 456).

It was only in England, noted Smith, that a slave could become a free man, thus avoiding slavery's putative damage to the patriarchal composition of the household - a damage that threatened to destroy the "liberal reward of labor".

I have argued so far that Smith scoped out the liberal reward of labor by reference to the challenge of abolition and within a field of imperial commerce comprised of differentiated labor regimes. Atlantic slavery concerned Smith to the extent that its arrangements were antithetical to the liberal reward of labor. For Smith, free labor, embedded within extant patriarchal institutions, was no fundamental affront to the moral integrity of commercial society. Alternatively, slave labor did fundamentally threaten this integrity. Crucially, Smith's one example of a successful path to manumission mooted no need for new institutional arrangements befitting freed labor; rather, meaningful manumission only required physical relocation across empire and incorporation into England's existing patriarchal institutions.

Slavery in common law

Smith's prescriptions principally addressed a philosophical dilemma. Yet his ethical concerns for the integrity of England's patriarchal institutions refracted a political struggle that provided much of the torque and twist to the rise of commercial society.

Fundamental to this struggle was the right to inherit and dispose of private property independent of crown prerogatives. This independence was premised upon the integrity of the household wherein property was held and administered by the father/husband/ward (Shilliam 2018, chap. 1). The political aspirations of the pater familias, taken together as a landowning class, were channeled through parliament, a body that pursued the unimpeded right to scrutinize and regulate commerce. In other words, the patriarchal property rights of the landowning class were central to the seventeenth century conflict between the governing aspirations of parliament and the prerogative powers of the crown (Stump 1974, 26–27; Hulsebosch 2003, 443–44, 452). By the end of the English civil war, this conflict had settled upon the crown's prerogative to grant monopolies (see Keirn 1995, 432). And it was the struggle over this prerogative that implicated slavery.

To understand how slavery was so implicated we need to appreciate the subtle yet consequential distinction between commercial and common law. During the tumultuous seventeenth century, the landowning class used common law to establish their right to inherited private property above and beyond even the claim of the crown. Meanwhile, the body of merchant regulations and norms known as commercial law had developed in distinction to common law, although the two bodies of law were not antithetical to each-other. Common law was precedential and jurisdictional in its operation; and from the thirteenth century onwards, commercial law evolved

to fulfil the particular precendential and jurisdictional requirements of merchants in provincial markets who required mobile and timely resolution of disputes (Bane 1983, 352–53)**.** By the second half of the seventeenth century, commercial law had become the mechanism through which the crown exercised its royal monopolies. Judicial and parliamentary forces sought to dilute the crown's control over economic governance by re-systematizing commercial law as part of common law. Such governance was increasingly imperial, and Atlantic slavery lay at its heart.

The enslavement of Africans was enabled through commercial law, especially by way of the high court of admiralty. This oversight body was established in the mid fourteenth century as a merchant's court whose purpose was to regulate overseas commerce (Steckley 1978, 141). In 1660, Charles II granted a charter to the Company of Royal Adventurers Trading to Africa (reincorporated as the Royal African Company (RAC) in 1672) that provided a monopoly on West African trade. As part of this dispensation, the RAC also enjoyed the ability to establish admiralty courts on the West African coast and, from there, to prosecute actors who broke the monopoly. These prosecutions involved forfeiture and seizure of ships and goods – an authority that was exceptional in the imperial world of commerce (Pettigrew 2013, 24).

Commercial law thus institutionalized the enslavement of Africans at the same time as it provided its royally-approved agents an authority to alienate property. This was the privilege that parliament confronted as it struggled to separate crown prerogative from legislative control over imperial commerce. Therefore, if parliamentary ambition depended upon bringing the governance of property rights under common law, then essential to this ambition was to take control of the property rights in the kidnapped African vested in commercial law.

Wittingly or otherwise, those in the judiciary who distrusted the overreach of the crown provided the legal infrastructure for parliament's aspirations by clarifying the status of the West Africa trade's most valuable class of merchandise. The RAC's monopoly charter of 1672 covered trade in "redwood, elephants teeth, negroes, slaves, hides, wax, guinea grains, or other commodities" (Mtubani 1983, 71). After an appeal for clarification, the Solicitor General affirmed that slaves were to be classed as commodities in conformity with the Navigation Act. In 1677 an action of trover was brought before the Kings Bench regarding 100 "negroes" taken by the defendant. Trover was an old common law action, which claimed a property right in chattel, and the key argument in the case concerned the custom of negroes being bought and sold "among merchants, as merchandise" (Wiecek 1974, 89). The significance of this legal history lies in the fact that the status of a slave as commodity moved from being decided under commercial law to being regulated by common law.

In 1678, Chief Justice John Holt ended the royal prerogative to provide monopoly bearing grants and charters. The relevant case concerned the seizure of a ship and its merchandise by the RAC on the West African coast. Holt ruled that the right to seizure and imprisonment was void and that the king could not enable the forfeiture of one of his subjects' property (Stump 1974, 28; Pettigrew and Cleve 2014, 629). In 1689, Holt confirmed that "Negroes are merchandise" ("America and West Indies: August 1689, 16-31" 1901, 133). With this decision, the property status of the slave was affirmed in common law as part of a shift in the governance of imperial commerce away from a crown-controlled aspect of commercial law.

The effect of this legal shift was to set up a clash between institutions that underwrote slavery in the Atlantic and institutions that underwrote Smith's precious patriarchal household in England. The clash first became evident in 1674 when a select committee investigating a bill introduced into the House of Lords requested clarification as to the manner in which "slaves, either blacks or any other foreigners, not being Christian, may be used in England" (Paley 2006, 660; Paley, Malcolmson, and Hunter 2010, 258). This geographical qualification betrays the clash. But to

understand why, we must turn to the institutional arrangements that controlled the mobility and cost of labor in England - common law's master/servant regulations (see Jones 1958, 39–40).

From the 1560s onwards, control of labor in England obtained through Statutes of Artificers and Apprentices acts, and, by the end of the seventeenth century, under the rubric of Master and Servant (Steinfeld 1991, 21). Legislation initially made distinctions between, on the one hand, the servant as a skilled waged laborer who resided in the master's house for at least a year, and on the other hand, those who provided labor in housewifery, husbandry or as unskilled workers (Steinfeld 1991, 18; Hay 2000, 227). Yet in common parlance and amongst justices and high court judges, the utilization of the term "servant" tended to elide the distinctions between these occupations. By the time that the RAC's privileges were being targeted by parliament, the status position of servant generically connoted one who "serves another for wages" (Steinfeld 1991, 20). This interpretation remained throughout the eighteenth century and into the latter decades of the nineteenth.

In master/servant legislation, the laborer was not unfree; rather, he consented to being positioned as a subordinate in relation to his master's household. This position manifested in a variety of ways, whether it be as a child ward where the master acted *in loco parentis*, or as a live-in woman servant, or even as a casual wage laborer who, as a married man, maintained his own diminutive household (Hay 2004, 65). That this servant's patriarchal authority was institutionally subordinate to the master's greater authority is demonstrated by compulsory labor clauses which had the dull effect of returning laborers who could not afford to manage their own small holdings to the household of the master (Steinfeld 1991, 35). What is more, in any case concerning breaches to the service contract, the servant could not plead a contractual defense but had to account for a breach in the status relationship (Jones 1958, 52). And most importantly, the servant was liable to penal – not civil - sanctions for breach of duties and obligations (including leaving before the contract is finished), while the master was rarely held accountable for wrongs (Steinfeld 1991, 40; Hay 2000, 229).

Common law thus ascribed to labor – even waged and contracted labor - the status relation of servant, a status that was free, but free to serve via hierarchical incorporation into the patriarchal institution of the household. So much was labor conceived of as a relation of servitude that the earliest references to the slave trade of the Royal African Company even spoke of "negro servants" (Paley 2006, 660–62).

Terminological slippages of this sort did not produce a dissonance so long as the Black "slave" and the English "servant" remained separated by the geographies of empire such that empire's slave institutions and England's patriarchal institutions did not meaningfully clash.[2] By the late 1600s, though, the presence of slaves on English soil gave rise to a conflict created when the slave was brought into common law not as a servant to the master but as property of the master. I made mention above of an action of trover – a property right in chattel – taken in 1677 regarding over 100 "negroes" deemed to be "merchandise". Contrast this ruling with one in 1697 wherein Chief Justice Holt refused a trover action and claimed instead that while negroes might be merchandise under the navigation acts, such persons in England could not be chattel under common law. In England, argued Holt, if a slave were to be taken from the master, or was to run away, only a special action of trespass would hold under common law: *per quod servitium amisit* –the loss of service to an employer. By this fine distinction between loss of property and loss of service, Holt suggested a new category for common law: when in England, negroes were "slavish servants" (Wiecek 1974, 90; van Cleve 2006, 616).

The stakes at play in Holt's opinion were significant. Recall that the patriarchal arrangements of the household underwrote the landowning classes claim to property rights; and that these

[2] For the different forms that such legal ambiguities would take in the mainland American colonies see (Guasco 2017).

property rights had been secured by wrestling the governance of the slave trade from the crown. Recall also that the same household institution controlled free labor through the master/servant relation. So long as slavery's institutions were located outside of England, this landowning class enjoyed a patriarchal compact between their property rights and their control of labor. But this compact was problematized when slavery's institutions threatened land-fall in England, i.e. when categorization of the slave as property moved from commercial law into common law. For to acknowledge the slave as the property of the master *when in England* was to also control his labor despotically rather than dependently. Indeed, unfree slave labor could in no way be conceived of as a patriarchal relation as free servant labor was.

Facing a clash between imperial and domestic institutional arrangements that controlled labor differentially, Holt found it imperative to categorize a slave in England as a slavish (property-adjective) servant (status-noun). Only by virtue of this legal fiction could Holt reconcile the difference. Only then could he famously opine in a 1706 ruling that "as soon as a negro comes into England, he becomes free" (van Cleve 2006, 618) – free to serve.

This was precisely the fraught legal and political terrain that caught traction in Adam Smith's moral philosophy concerning the "liberal reward of labor". It was the diminutive pater familias of master/servant legislation – the father/husband laborer serving the master - that Smith had in mind when he talked admiringly of the "free man" who prudentially covered the cost of his family's subsistence. The influence of master/servant legislation upon Smith is clearly evident when, in the *Wealth of Nations* (1776, 98), he made the category of "free man" interchangeable with that of the "free servant". Above all, Holt's legal fiction of the slavish servant in England was the precedent to which Adam Smith alluded as the one possible path to abolition in his own era (Smith 1978, 456 fn71). In fine, Smith's resolution rested upon a legal fiction rather than an institutional settlement. We shall examine the ramifications of this slippage for meaningful freedom presently.

In this section I have argued that the defense by the landowning class of their unimpeded right to inherit and dispose of property was central to the struggle between parliament and crown. That struggle increasingly settled upon imperial commerce and specifically the trade in humans kidnapped from their African homelands. The master/servant status of English common law cast labor relations as an element of the patriarchal household therein to be controlled by the landowning class's pater familias. As Smith himself affirmed, albeit through philosophical rather than legal language, the master/servant status relation ensured the moral and practical integrity of commercial society. Slavery was an affront to this relation. But when the slave was transferred from commercial law to common law the logics of slavery's institutions came to impinge upon England's patriarchal institutions. The prospect of freeing slave labor in England revealed to those struggling against the crown's tyranny that property rights and labor control could not both be regulated through patriarchal institutions consistently across empire. By the 1760s concerns of this kind were expressed in the public debate over abolition.

Abolition in England

The eruption of the abolition debate during the years when Smith was giving his Glasgow lectures on jurisprudence was not at all by happenstance. During the 1760s, Whigs quickened the transfer of commercial law into common law as their parliament confronted economic and military competition with France, Spain and other empires (Burset 2016, 634; P. J. Marshall 1995, 531). Concomitantly, the volume of slave trading as part of Britain's imperial ledger increased significantly (Richardson 1989, 3; Inikori 1992, 651). At the same time, reports in the English press of a recognizably residential Black community became ever more common (for example Fryer 1992, 68–70). In conjunctural terms, then, the arrival of the abolition debate upon England's public stage articulated with an intensification of parliamentary control over imperial commerce for geopolitical reasons, a significant growth in the profile of the slave trade in this commerce, and a regularization

of the Black presence in England. This conjuncture explains why public discussion began to be primarily contoured around the potential of the slave to break out of or fit into England's patriarchal institutions (see Carey 2005, 38, 132, 162; Rupprecht 2014, 79–81).

The abolition debate had clear contours. On the one hand, many commentators feared the prospect of an all-too-quick and categorical manumission. William Burke (1760, 117), pamphleteer and politician, reported a "permanent apprehension of insurrection" amongst West Indian planters, largely caused by an increasing number of freed persons. Some debaters also tied the prospect of Caribbean anarchy to the insurgent influence upon the young male slave who lived "some Time in a Country of Liberty" - that is, England (Rabin 2011, 8). Burke's (1760, 120) prescription was to craft, with England's patriarchal arrangements in mind, a smooth gradation of status conditions amongst plantation laborers to avoid the stark distinction that abolition would otherwise make between the absolutely freed and despotic planters.

On the other hand, just as many commentators claimed that male slaves did indeed possess the capacity to feel sentiment towards his fellows and could thus be safely incorporated into the patriarchal institutions that ethically underwrote commercial society. For instance, famous abolitionist Granville Sharp (1769, 85) used Sir Hans Sloane's Natural History of Jamaica to draw attention to the fact that slaves had "so great love" for their children that "no master dare sell or give away one of their little-ones unless they care not whether their parents hang themselves or no". Similarly, one anonymous author in the 1709/10 Observator complained of the "tricks and frauds" committed by planters to separate male slaves from their "wives", suggesting that the ending of that practice would encourage a "reasonable Service from their Negroes" (Paley, Malcolmson, and Hunter 2010, 275).

Situating himself within the debate, Sharp presented an argument remarkably similar to that of Smith's. Sharp (1769, 104) claimed that "true liberty protects the labourer as well as his lord" by preserving dignity and encouraging wealth and population increase; in contrast, slavery rendered "the minds of both masters and slaves utterly depraved and inhuman". Resonating Burke's position, except in the English context, Sharp (1769, 104) proposed that to "tolerate" slavery in England would bring slavery's "hateful extremes … under every roof", destroying the "happy medium of a well regulated liberty". Sharp's was a generally accepted position amongst abolitionists, all of whom – either following or according with Smith – defended the sympathy to be found in servitude (see Carey 2005). Take, for instance, the poet William Cowper, who could memorably proclaim that "if [a slave's] lungs Receive our [English] air, that moment they are free", and who could also make the manumitted African quip: "serving a benefactor I am free" (Michals 1993, 216; D. B. Davis 1975, 384).

Abolitionist arguments therefore demonstrated a fear of the moral degeneration caused by the absolute – anarchical - freedom prospected by manumission. Instead, they sought to prescribe the freedom-in-service found in England's existing patriarchal institutions. However, this political position necessarily cast uncertainty upon property rights across imperial commerce in so far as such rights were exemplified by slave ownership and the plantation system. It is this tension between the defense of despotic property rights and patriarchal labor control that manifested in two landmark legal cases of abolition in England.

The first, John Hylas v John Newton, was heard in 1768 in the court of common pleas. Hylas had been born enslaved in Barbados and later taken by his master to England. There, Hylas met Mary, also from Barbados, and the two were married with the consent of both masters. In 1766, Mary was forcibly taken by her master to the Caribbean, there to be sold. Granville Sharp helped Hylas to sue for Mary's return and the court ruled in his favor. Why? It was commonplace in the 18th century for magistrates to argue that "if a woman who is a Servant shall marry, yet she must serve out her Time and her Husband cannot take her out of her Master's service" (Steedman 2002, 121).

Such precedent allowed for the pater familias to honor the contract to service; that is, the master/servant relation, being premised upon free labor as a contact to serve, did not have to disrupt the husband/wife relation. A general precedent of this sort never directly implicated a threat to the master's right to his property. Still, by addressing slavery rather than servitude, the Hylas ruling privileged the patriarchal sanctity of marriage over and *against* the sanctity of property (see also Paugh 2014, 631–32).

Property rights in the slave, enjoyed by planters in Britain's colonies, were not immediately implicated by this ruling. But they were directly challenged in a case six years later. In 1772, Somersett, an enslaved African, was brought to London from Virginia by his master, Charles Steuart. Somersett promptly escaped but was then recaptured. Before his ship was due to return to the colonies an application of *habeas corpus* was made by his abolitionist supporters, principal amongst them being, once again, Sharp. Somersett's advocates claimed his freedom under the extension in 1679 of the Magna Charta to all residents of England.

Prosecuting the case, Steuart quickly retreated to the background and allowed the lobbyists of the West India interest to take over. Henceforth, John Dunning claimed that at stake was not only Somersett's freedom but the grounds upon which the case was to be decided and its implications for continued investment in plantation colonies (van Cleve 2006, 629). Tellingly, Somersett's attorneys likewise presented his fate in terms of deeper principles and interests, theirs pertaining to England's patriarchal institutions through which labor was controlled. Francis Hargrave, for instance, claimed that slavery's institutions corrupted "manners in the master", was thereby at odds with the "mild and just" informal constitution of England, and "ill adapted to the reception of arbitrary maxims and practices" (Hulsebosch 2006, 656).

As Chief Justice of the Kings Bench from 1756 to 1788, William Murray, 1st Earl of Mansfield stood at the nexus where the pursuit of parliament's domestic authority conjoined with the defense of imperial power. Tellingly, Mansfield was most active amongst the judiciary in bringing commercial law under the purview of common law (Bane 1983, 358; Kadens 2015, 256). Presiding over the Somersett case. Mansfield was no fool and clearly understood the dilemma inherent in any categorical ruling regarding manumission. Although Somersett's attorneys did not want to use the Hylas case as a precedent, Sharp found the ruling helpful and Mansfield himself was persuaded of its utility with regards to mediating an imperial "conflict of laws" (Paugh 2014, 630, 633–34, 638).

Mansfield's logic proceeded as follows. Husband and wife could be considered natural status conditions that, even if contracted by two people outside of England, retained their force when that couple travelled elsewhere. Yet *lex loci* (local laws) could attribute non-natural – i.e. conventional - practices to the relationship between husband and wife which were not portable with the status condition and might not be entertained in English common law. For instance, polygamy was illegal in England, as was killing or inflicting grievous bodily harm upon a wife. Mansfield argued analogically that the "servant" was a natural status position and so had to be respected across empire regardless of where this status had first been contracted. But slave-like treatment of that servant by the master – whipping, killing, and fungibility (i.e. forced removal) - were local conventions of the colonies that could not be entertained in England (Hulsebosch 2006, 651–53).

In making his judgement, Mansfield narrowed the problem to one question - whether any "coercion can be exercised in this country, on a slave according to the American laws?" (Wiecek 1974, 106). He then ruled very precisely that a master could not remove a slave by force from England (van Cleve 2006, 634). In effect, Mansfield determined Somersett's fate by reference to the local conventions of servitude provided by English common law. Skillfully, this ruling left the general status condition of servant untainted, meaning that, even if freed, Somersett still owed a service to his master. And yet there was a kink to Mansfield's logic. Service in English common law had to be consensually given: what made the "free man/servant" free was precisely that he contracted to be

in service. Mansfield's resolution had to presume that the slave had in the first place contracted herself to the master willingly. The "consenting slave" thus became a new legal fiction that mitigated the conflict between property rights and labor control produced in the struggle over governance of imperial commerce.

It will be remembered that Smith believed only one path lay open to redeem commercial society from the despotism of slavery - a path that led to the embrace of patriarchal sympathy and, through that, the "liberal reward of labor". Between Smith's Glasgow lectures and the publication of *Wealth of Nations,* Somersett had taken this path: to be freed, once stepping onto English soil. But Mansfield ruled that Somersett's travel required a legal fiction rather than a meaningful manumission. Moreover, even that legal fiction had despotic effects: it became commonplace after the Somersett ruling for masters to force slaves to sign apprenticeship agreements before they set foot on English soil so as to avoid a loss of property (Paley 2002, 178). Contrary to Smith's hopes, then, there lay no route through empire's existing institutions by which commercial society could grant enslaved labor its liberal reward. Surely, though, the abolition acts of the 1830s provided for this long-awaited reward?

Abolition in the Caribbean

The Slavery Abolition Act of 1833 must be assayed as an attempted resolution to the political struggles that I have documented above and not simply as a piece of legislation targeting Caribbean colonies. The nature of this "great experiment", as it was popularly and provocatively framed (Drescher 2004, 123–24), was in large part an attempt to graft England's patriarchal arrangements of labor control onto the plantation milieu (see for example Heuman 2000, 135). As Lord Stanley, Secretary of State for War and the Colonies envisaged it, the Act would provide an "orderly and peaceable" labor transition, while ensuring continued production and the "commercial prosperity and … maritime power of this great empire" (Drescher 2004, 1347–138).

The Act sought to harmoniously achieve this transition in two ways. Firstly, monetary compensation was to be offered to masters "hitherto entitled to the Services of such Slaves for the Loss which they will incur by being deprived of their Right to such Services". Notably, compensation here, and exactly as it was appraised in the preceding legal cases concerning slaves in England, pertained not to loss of property but to service. Furthermore, the status of apprentice - one that became commonplace after the Somersett ruling and which was even introduced into the 1807 Abolition of the Slave Trade Act - replaced the existing legal fictions in England of "slavish servants" or "consenting slaves" (see Craton 1994, 43; Rupprecht 2014, 85).

And so secondly, in order to promote "Industry and [secure] the good Conduct of the Persons so to be manumitted", the Act ordained the beginning of an apprenticeship system under former masters. All in all, the transition period of apprenticeship was designed to develop training in the habits of industry that would "fit [labor] for freedom" (Heuman 2000, 136). During this period, agricultural apprentices – those who worked the land – were to retain a certain proprietary status as an asset of the land ("transferable Property"); yet this status was to be mitigated by a patriarchal commitment not to separate husbands from wives and to bind parentless children to the master.

In 184, Antigua, one of only two islands not to enact the apprenticeship system, enacted the first post-abolition Master and Servant legislation. As in England, this legislation provided penal sanctions for the breaking of contracts or abstaining from work, including the prospect of a week's imprisonment with hard labor, while the maximum penalty a master might receive for contract abrogation was a fine of five pounds (D. Hall 1993, 109). Additionally, as was again the case in England, legislation aimed to control labor movement through taxation demands that could only be met by waged work for prior plantation masters (D. Hall 1993, 109). Effectively, the "Antigua system" was an attempt to copy patriarchal arrangements that controlled labor in England onto plantation colonies in the Caribbean. This system was implemented across most islands after

apprenticeships were prematurely rescinded in 1838 due to rising – perceived and real – threats of strike action (Heuman 2000, 137).

I argued above that English master/servant legislation made labor control an organic part of the institutional arrangements that upheld the authority of the pater familias who, collectively acting as the landowning class, tasked parliament to defend their property rights against Crown prerogatives. I also argued that the prospect of manumission in England threatened this class's compact between property rights and labor control. However, a different – and perhaps more existential - threat to the property/patriarchy compact emerged in the Caribbean, one that centered on conventional ownership claims to plantation property made by enslaved laborers.

Smith, it will be remembered, evinced moral disgust at the negligence and carelessness of the master vis-à-vis the wellbeing of his slaves. Yet by the late eighteenth century, this negligence had prompted the development of self-sufficiency systems amongst many enslaved peoples across the Anglo-Caribbean. Receiving meagre portions of imported food (for example, salt-fish) the enslaved depended significantly upon staples and beans grown by their own labor. For this task, and aside from the small "garden" near the shack, enslaved communities cultivated provision grounds on estate backlands, usually, but not only, in hilly areas (W. Marshall 1991, 51–52; Holt 1992, 66). Smith might have protested that this self-sufficiency system only rewarded the despotic treatment of masters towards their slaves. But it would never have occurred to him to reflect upon the virtue of the enslaved laborer's desires and interests in so far as they took shape outside of the slavemaster's despotic house and away from the English patriarch's household.

Seldom visited by the proprietor, let alone overseen by his forces, provision grounds provided a protected space for enslaved peoples to self-determine cultures of creative survival (Brodber 2003, 64; W. Marshall 1991, 54–55). As a collective undertaking, these grounds were apprehended as a community interest by the cultivators (W. Marshall 1991, 63; Holt 1992, 65). Crucially, this community evinced a non-patriarchal formation. Enslaved women were essential to the success of provision grounds, and they reacted most strongly if these lands and properties were taken from them (Blair 1985, 39–40). Additionally, at certain times of the year provision grounds reaped surplus produce that, by the turn of the 19th century, had become the bedrock of a semi-autonomous market system, run principally by women, and distinct to the imperial circuits of plantation production (Heuman 2000, 144; W. Marshall 1991, 57–58). As part of this semi-autonomous market, enslaved individuals occasionally hired out their labor voluntarily to fellow enslaved (McDonald 1993, 47–48).

Smith had presumed that sympathy could only be exercised in existing patriarchal institutions. But I would suggest that in the provision grounds a non-patriarchal sympathy was being precariously nurtured, itself designed to redress the injustice of empire's commercial society which turned humans into the property of other humans. Contrary to Smith's expectations, might it not have been through these new institutions that the liberal reward of labor could be best guaranteed to the enslaved? Indeed, disputes over working hours and conditions during the apprenticeship era often referenced the need for laborers to have time to travel and work provision grounds (Holt 1992, 65–67). Contemplate, for instance, this retort, given by one laborer in the apprenticeship period: "who ever hear of free [peoples] work[ing] a field?" (Heuman 2018, 114).

Provision grounds – and their non-patriarchal characteristics - were slowly recognized in colonial law. Jamaica's Consolidated Slave Act of 1792 required allotment to slaves of a "sufficient quantity of land", accompanied by a "sufficient time to work the same", with the purpose of providing "him, her, or themselves, with sufficient provisions for his, her, or their maintenance" (Edwards 1806, 2:373). A further law of 1826 affirmed a legal (but limited) right for the enslaved – men and women - to own property, to receive bequests, and to travel independently to market (Jamaica 1827, 5, 13–14). Above all, provision grounds were conventionally understood to be

inheritable communal property - to be passed onto children and other members. There is at least one documented instance of a planter compensating his “Negroes” for the loss of their provision ground upon sale of his lands (McDonald 1993, 19).

In stark contrast, the establishment of master/servant legislation in the Anglo-Caribbean after 1838 orchestrated Black freedom as dispossession and re-patriarchalization. The Antigua system allowed for occupation of a tenement on the plantation to be prima facie evidence of a contract undertaken between laborer and landlord (D. Hall 1993, 109). Consequently, the termination of a laborer’s contract resulted in the cancellation of tenancy, meaning the end to even a usufruct right to provision grounds. Meanwhile, via wages, planters directly extracted rents on houses, gardens and grounds that tenants had previously inherited from prior enslaved occupants. Given such transformations, and from the standpoint of the freed, abolition meant all at the same time: a removal of the tyrannical institutions of slavery, an immediate imposition of existing English institutions that upheld patriarchal servitude (even to the same master), a dispossession of any property conventionally inherited, and/or banishment if one refused to serve in the master’s house.

Certainly, 1838 heralded a move out of the plantations with the creation of new villages and a drift towards existing towns. Nonetheless, the deeply paradoxical nature of formal abolition helps to explain why, at least in the immediate aftermath, many emancipated communities continued to believe provision grounds to be their rightful inheritance and the best proprietary arrangement for independence and self-determination post-apprenticeship, even with the memories of enslavement that surrounded and penetrated the plantation environment (D. Hall 1993, 63; Sheller 1998, 97). The meaning of freedom tenuously practiced during slavery resonated afterwards: a refusal to be incorporated into existing patriarchal institutions that delivered no capacity for self-determination or no liberal reward for labor; and a building of new institutions to serve a meaningful freedom.

Conclusion

I began by pointing out that, unlike WSF or Occupy, the current abolition movement references an historical phenomenon contemporaneous to and implicated in classical political economy. I claimed that to render this new movement legible for international political economy a re-scripting of the classical tradition is required such that abolition can be recovered as a central issue for the ethical evaluation of global capitalism. This article has been an underlabor towards this aim, reassessing Adam Smith and his prospective on the “liberal reward of labor”. Two cardinal points arise from the texture of the argument that I have presented.

Firstly, it is remarkable the degree to which Smith’s agonistic evaluation proffered no new institutions by which to substantively address the ethical challenges of freedom presented by commercial society. Instead, he sought to prefigure the moral grounds for growth and capital accumulation by reference to existing patriarchal institutions that made labor serve those whose property they worked on and for. In this regard, Smith’s moral philosophy entangled with judicial and parliamentary attempts to resolve the danger of abolition by reference to existing master/servant sanctions and customs, that is, in terms of freedom-through-service.

Secondly, enslaved peoples in the Anglo-Caribbean evolved new institutional arrangements wherein meaningful freedom was invested in the provision grounds. It is possible to glean in their thoughts and actions a refusal of the conceit that the pater familias could virtuously inherit and dispose of property while enjoying the servitude of those whose labor valorized the capital in his property. In this respect, it was not the halls of Glasgow University, the benches of English justice, or the chambers of parliament where an abolition befitting the liberal reward of labor was conceived. Rather, this conception was formed by those who tenuously held to their provision grounds as alternative institutions to both plantation extraction and patriarchal servitude.

Out of this texture I want to formulate two broader points. Firstly, if we take Smith to be our guide, classical political economy did not apprehend labor in the oft-assumed conceptual binary of free/unfree. Rather, the freedom to labor for reward was debated – and regulated - in terms of servant and/or/versus slave. The freedoms inherent in the institutional arrangements of commercial society and evaluated by moral philosophers such as Smith were not of the socially unencumbered and alienated kind proffered by later theorists, especially Marx. In fact, the first English edition of Capital Vol.1 was published ten years *before* the end of master/servant legislation in Britain. Servitude appears more fundamental to struggles over labor than the law of contract.

Secondly, and again if Smith is our guide, classical political economy conceived of property in terms of the patriarchal household and most keenly evaluated the integrity of that household by reference to the wealth-producing arrangements of the plantation (see also Owens 2015). In this conceptualization, potentially non-patriarchal institutions of property inheritance and labor practice – archetypally the provision ground - lay outside of the realm of intelligibility. There might, then, lie alternative publics and work-places to that of the master's household and his global market.

On first glance, the current abolition movement and its focus on criminal justice appears to be somewhat derivative to the concerns of international political economy, especially when compared to the ways in which the WSF and Occupy have directly addressed neoliberal policies and financialization. But perhaps the abolition movement is tapping deeper into the foundations of global capitalism - foundations that could be obfuscated by our self-conception of the classical tradition. Recovering the engagement of that tradition with abolition reveals: a) servitude, rather than formal or contractual liberty to be the foundational order of commercial society; b) radical liberation to be anti-patriarchal and an aspiration to be punished; and c) struggles over freedom to not only take place in the factory, the masters house or his imperial market, but perhaps even more meaningfully in the new arrangements collectively authored out-of-sight of that house and on the edges of that market.

Are we not, now, describing the iniquitous world that the abolition movement claims to be struggling against? Angela Davis and others present a Black feminist cartography of marginalized communities precariously defending their collective right to life against global systems of extraction, oppression and servitude (see also McKittrick 2013). Their call to freedom is excessive to all existing institutional arrangements that seek merely to mitigate the iniquitous outcomes of global capitalism. Another world has always been possible. The provision grounds are occupations. The call to abolish capital is abroad. How might we make this call legible to our field?

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