

The Hidden Logic of Modernity

Locke and the Inversion of Human Rights

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The war in Kosovo made us aware of the ambivalence of human rights. An entire country was destroyed in the name of assuring the force of these rights. The war destroyed not only Kosovo, but also all of Serbia. It was a war without combatants of any kind; yet, it annihilated Kosovo and Serbia. The North Atlantic Treaty Organization (NATO) put in motion a great machine of death that brought about an action of annihilation. There were no possible defenses and NATO suffered no deaths; all of the casualties were Kosovars and Serbs, and the majority of them were civilians. The pilots acted as executioners that killed the guilty, who had no defenses. When they flew they said they had done a “good job.” It was the good job of the executioner. NATO boasted of having minimal deaths. What was destroyed was the real base of life of the population. The economic infrastructure was destroyed, with all of its important factories, significant telecommunications, potable water and electricity infrastructure, schools and hospitals, and many houses. All of those are civilian targets that involve only collateral damage to military power. The attack was not directed so much against human lives as against the means of living of the entire country. This is precisely what Shakespeare meant when he said: “You take my life when you do take the means whereby I live.”

NATO did not assume any responsibility for its actions. Bill Clinton declared that the responsibility for the obliteration of Serbia fell on the Serbs themselves. All of NATO’s actions were accompanied by propaganda referring to the human rights violations that the Serbs committed in Kosovo. The more they presented these violations, the more NATO felt the right, even the moral obligation, of continuing with the annihilation. The human rights violations on the part of the Serbs were transformed, by means of this propaganda, into a categorical imperative for the destruction of Serbia. The violations were used as fuel for the factory of death. In this way, the war was transformed into a “humanitarian intervention.” War itself was scarcely mentioned.

Human rights were transformed into humanitarian aggression: the violation of the rights of those who violate rights. Behind this transformation is another conviction according to which those who violate human rights forfeit their own. The violator of human rights becomes a monster, a wild beast to be eliminated without the minimal questioning of its human rights. It loses its character as a human being. The relationship resembles Saint George and the dragon: the one who has the responsibility for slaying is slain. The slayer, in turn, has the power and equally the honor of respecting human rights. He is the illustrious defender of human rights and the blood he spills purifies him.

But the inversion of human rights has another consequence. The annihilation of a country only requires that the country violate human rights. It is not necessary to show or discuss other reasons. To maintain that the human rights situation in the country is what is truly at issue is unsustainable. It is then possible to threaten the country with annihilation in a legitimate manner and, in the case of the refusal to submit, with actually annihilating it. It is obvious that this type of human rights policy can only be made by a country that has the power to make it. In effect, it needs as much a corresponding military power as power over communications media. With the possession of these powers, human rights policy and the imposition of might are identified. All that the powerful fancy can be accomplished and it will all be a legitimate imposition of human rights onto their adversaries.

That human rights are destroyed in the name of preserving human rights themselves constitutes what we term the inversion of human rights. This inversion has a long history. In fact, the history of modern human rights is precisely the history of their inversion, which transforms the violation of those rights into a categorical imperative for political action. The Spanish based the conquest of America on the denunciation of the human sacrifices committed by aboriginal American civilizations. Later, the conquest of North America was argued for based on the violations of human rights on the part of Native Americans. The conquest of Africa was justified by the denunciation of cannibalism, the conquest of India by the denunciation of widow immolation, the destruction of China by the opium wars was equally based on the denunciation of the violation of human rights in China. The West conquered the world, destroyed cultures and civilizations, committed genocides never seen; yet, all of this was done to save human rights. Hence, the blood spilled by the West does not leave stains. The West transforms itself into the great guarantor of human rights in the world. Thus, more than three hundred years of forced labor by the black population of the U.S. left stains on the blacks, but those who committed that crime have souls as white as snow. The enormous ethnic cleansing that exterminated the great majority of the indigenous population of North America left the remaining population stained, and still today are criminals and outlaws in the movies about the Old West, where they appear as guilty of their own extermination. All of the countries of the Third World have to account for their human rights situation to those countries that, for centuries, leveled human rights in this same world. These countries, which carried the torment of colonization to the entire world, do not accept responsibility for what occurred. In-

stead, these nations exact a fraudulently produced, gigantic, external debt on the Third World. That is to say, the victims are guilty debtors, and must confess as sinners and pay their victimizers with their blood.

There is a method that has guided this inversion of the world that has resulted in the victims becoming guilty, the victimizers innocent, who then arrogate themselves as judges of the world. Classic authors developed this method. Surely, the most important among them is John Locke, who in a key moment of the colonization process, elaborated conceptually this interpretation of human rights, which today is present in the politics of empire and spurred the war in Kosovo. For this reason, in what follows I want to analyze John Locke's posture regarding human rights.

1. The World of John Locke

John Locke expresses his thinking on democracy and human rights in the *Second Treatise of Government*, which he published in England in 1690. The book is a fundamental text for the Anglo-Saxon tradition, defining the imperial policy of England and later of the U.S.

The treatise appears at a decisive historical moment. A victorious bourgeois revolution had occurred, which led to the Glorious Revolution of 1688, which was, in fact, a second revolution following the revolution of 1648-49 that had decapitated the king. The Glorious Revolution was the Thermidor of the first revolution, and transformed the initial popular revolution into a sharply bourgeois one. It now declared certain fundamental rights, above all *habeas corpus* (1679) and the Bill of Rights (1689). With these rights, the revolution declared human equality in front of the law, at the center of which we find the guarantee of parliament as representative of the people and of private property. John Locke then formulated the political theory corresponding to the events that had already happened.

This theory was necessary because, from the point of view of the bourgeoisie, this declaration of equality offered some problems, problems for which Locke offered the solution. England was in the founding period of its empire. It was right in the middle of its imperial expansion, and because of this expansion it was in conflict with the already-constituted imperial powers: principally, Spain and Holland. England was in most direct conflict with Holland, and was provoked by the Navigation Act of Cromwell (1651). But the expansion was directed in a specific way towards territories outside of Europe. North America was its principal objective, and English emigrants were conquering it. Nevertheless, one sees already the increasing English expansion towards the Far East, especially India, where England came into conflict with France. On the other hand, England sought to monopolize the most lucrative trade of the seventeenth and eighteenth centuries – the slave trade – that was still controlled by Spain. John Locke himself had invested his fortune in this trade,¹ as Voltaire would later do.²

These lines of expansion are already clearly drawn in Locke's time. These lines would determine the next century, in which England, through the peace of Utrecht of 1713, maintains the commercial monopoly on the trade between Africa and Spanish

America, continues conquering North America, and defeats the French in India to establish its dominance there beginning in the middle of the eighteenth century.

Taking into account this imperial situation, the urgency for a new political theory was evident. Previously, expansion was justified by the divine rights of kings, and before that, as in the cases of Spain and Portugal, by papal assignation of the lands to be conquered. However, since the bourgeois revolution had eliminated the divine right of kings, reducing it to a constitutional monarch named by parliament, this legitimation of imperial expansion had lost its force. A similar conflict had appeared in Spain during the conquest of America. Ginés de Sepúlveda justified the conquest through the divine right granted by the Pope, which was derived from the universal right to the dominions in the name of Christian authority. Faced with this justification, Francisco de Vitoria expounded the first political theory of conquest of a liberal cut. Vitoria's theory is present in the theory elaborated by Locke, who practically coincides with Vitoria, although he carries the thought to much more exaggerated extremes. In Locke's time, Robert Filmer, against whom Locke wrote his first treatise on government, had defended the position of the divine right of kings.

The legitimacy problem that appeared in Locke's times is plainly evident. Habeas corpus and the Bill of Rights had established the kind of liberal human rights that the bourgeoisie could not renounce. The bourgeois response to the divine right of kings could not have been otherwise. Those rights guaranteed the physical life of the human being and his property and turned authority into a power at the service of them. This equality excluded, interpreted to the letter, the forced labor of slavery and the expropriation of the lands of the indigenous peoples of North America. Consequently, human rights entered into conflict with the bourgeoisie itself in its zeal to establish empire. This interpretation of human rights corresponded to the first English revolution of 1648-49, to the dissolution of the Holy Parliament in 1655, and was appropriate to the position of the principal revolutionary force, the independents, and their most radical wing, the Levellers.³

The result was the disjuncture between the declaration of human equality in front of the law and the power of the bourgeoisie. However, Locke offered a way out of this situation. He found it in a truly strong blow. He did not look for half-baked solutions that offered reasons for exceptions for a limited number of cases. Instead, he completely inverted the concept of human rights itself as if it had been present in the first English revolution. The result was rapidly accepted by the English bourgeoisie, and later by the worldwide bourgeoisie. The result can be summarized in terms of a paradox that is very faithful to Locke's thinking. He says, "all men by nature are equal," which implies:

The equal right that every man hath, to his natural freedom, without being subjected to the will or authority of any other man (§54).

What is striking is that from this he concludes that slavery is legitimate, as is the expropriation of the territories of the indigenous peoples of North America and the

forceful colonization of India. Locke considers all of these violent acts legitimate because they result in loyal application of equality among men as he understands it. Those acts do not violate human rights, but are the consequence of their application in good faith. Speaking of equality is the same as saying that slavery is legitimate. To guarantee private property means to be able to dispossess without limit the indigenous peoples of North America. It is evident, then, why the bourgeoisie accepted Locke's political theory with such fervor. So, that liberty is slavery is not an invention of George Orwell. John Locke invented it. It really is a forceful blow. He birthed the inversion of human rights, which happens in all liberal interpretations of those rights.

2. Locke's Central Argument

Locke develops the prototype of his argument in his discussion of the natural state, which serves as the background for all social life. The civil state is no more than the appropriation by means of authority, which is essentially judge and assures that which is already present as force in the natural state. Therefore, the natural state and the civil state are not opposed, as they are in Hobbes, where the natural state is a state of war of all against all, while the civil state ensures human life. In Locke, on the other hand, the civil state perfects the natural state. The natural state underlies the civil state: however, the natural also exists where the civil state has yet to be constituted. In this way, Locke sustains that in North America a civil state still had not been constituted, while it already existed in Asia.

The natural state is a state of equality and liberty. "But though this be a state of liberty, yet it is not a state of licence" (§6). An ethic of the natural state exists:

Everyone as he is bound to preserve himself, and not to quit the station willfully; so by the like reason when his own preservation comes not in competition, ought he, as much as he can, to preserve the rest of mankind, and may not unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb or goods of another (§6).

This is the "law of nature...which willeth the peace and preservation of all mankind" (§7).

This law rests therefore on the respect of the physical integrity of the human being and in the respect for his property. In Locke, this is a simple presupposition that he considers evident and therefore only develops the idea in very brief terms. He develops at length a right derived from the law of nature. It is the right to be judge over the law of nature itself. Locke affirms that:

The execution of the law of nature is in that state, put into every man's hands, whereby everyone has a right to punish the transgressors of that law to such a degree, as may hinder its violation (§7).

It involves a “a state of perfect equality” in which “every man hath a right to punish the offender, and be executioner of the law of nature” (§8). By this, the judge is not simply the victim, but any human being can decide to become a judge.

In this way, the figure of the offender appears in the center of the analysis, in front of which everyone is judge. This offender is transformed into a true monster:

In transgressing the law of nature, the offender declares himself to live by another rule, than that of reason and common equity, which is that measure God has set to the actions of men, for their mutual security: and so he becomes dangerous to mankind...which being a trespass against the whole species, and the peace and safety of it, provided for by the law of nature (§8).

Besides the crime which consists in violating the law and varying from the right rule of reason, whereby a man so far becomes degenerate, and declares himself to quit the principles of human nature, and to be a noxious creature (§10).

More still:

[Upon renouncing] reason, the common rule and measure, God hath given to mankind, hath by the unjust violence and slaughter he hath committed upon one, declared war against all mankind, and therefore may be destroyed as a lion or a tiger, one of those savage wild beasts, with whom men can have no society nor security (§11).

Therefore, the offender should be destroyed every time that he is a “danger to mankind,” is “degenerate,” a “noxious being” that has assaulted “the entire species” and should be treated as a “wild beast.” He has rebelled against humankind so much that he ceases to be a human being, since he has shown that the law of reason does not apply to him. Upon committing a crime, the offender renounces his human rights. He is, in the end, a being to be destroyed.

Likewise, Locke concerns himself with the property of the offender. There exists a right to annihilate him without consideration, but there is never a right to pillage. Previously, the victor adjudicated the right to seize the properties of the defeated. Locke cannot accept this kind of right, although he too wants the property of the defeated to go to the victor. However, he wants to legalize the process. Therefore, he sustains that one who has received injury “has besides the right to seek reparation from him that has done it” (§10).

That, he who has suffered the damage has a right to demand in his own name, and he alone can remit: the damnified person has this power of appropriating to himself, the goods or service of the offender, by right of self-preservation (§11).

Thus, nothing has been robbed from the offender. Although he has lost everything, he has only been charged what he owes: the reparation of damages. Here appears already the dimension of legitimate slavery as a result of the force of human rights. Locke says

that the injured party can “appropriate the goods or services of the offender.” If he demands services, he can enslave the offender legitimately.

Locke’s natural state is not a state of peace, but rather a state of threats from potential offenders, all of whom are wild and monstrous. Locke, in the name of peace, is making war, which is the result of the fact that there are enemies who want to violate physical integrity and property.

However, when Locke speaks of this state of nature, he is not speaking of anything in the past; he is talking about his present. He is speaking of America, to which he refers constantly in the text to insist that the state of nature still exists there without any political or civil state. However, he also speaks of societies with a civil state, as much in England as in other parts of the world, including India, and he refers at another point to Ceylon (Sri Lanka). For Locke, the civil state is a society with an authority that ensures natural law in terms of political authority. Also the natural state is a fundamental order from which society must organize itself. The enemy, about whom he speaks of like the offender in this chapter about the natural state, is all the opposition to bourgeois expansion. Locke sees all of these oppositions as wild beasts, noxious beings, rebelling against humankind, by which they forfeit all human rights and are no more than objects to be annihilated. Based in his theory of the natural state, Locke sees himself and the bourgeoisie in a war without quarter against the enemies that rise against humankind in resistance to bourgeois transformations. Because of this, he continues defining the state of war as a result of the state of nature.

3. The State of War

The state of war, then, is in fact the principal state in which Locke’s humanity finds itself. Locke sees the natural state as a battle standard. Wherever there is a natural state, it must be civilized and transformed into a civil or political state. Where there is a civil state, it must submit to the natural law of the natural state. Thus, what Locke outlines as the relation of the offender to the natural state is amplified towards a general conflict with the entire world, which Locke sees as a state of war. The construction of the natural state, however, is of critical importance. It permits Locke to transform all resistance into a war of aggression against the bourgeoisie, in the face of which the bourgeoisie hoists the theme of peace and legitimate defense. The bourgeoisie makes a war of peace against the aggression that surges from all sides. The bourgeoisie does not engage in any conflict where the opposing party is not evil, noxious, at the level of a wild beast rising against humankind and reason, and therefore against God. Every bourgeois war is now a holy war, a crusade. The adversaries, however, have rejected themselves by resisting the propositions of the bourgeoisie, their own human rights. War for the bourgeoisie is now an a priori war to defend humanity, and its adversaries make, also a priori, an unjust war against humankind. With all the reasons in the world they can annihilate. Human rights themselves are what the bourgeoisie destroys.

This is what Locke develops when he talks of the state of war (chapter three). In order to construe this concept of the state of war he makes a pure imagination by

projections, creating an “us” against all the “others.” We are pacifists, while the others demonstrate an intention against “our” lives:

The state of war is a state of enmity and destruction; and therefore declaring by word or action, not a passionate and hasty, but a sedate and settled design, upon another man’s life, puts him in a state of war with him against whom he has declared such an intention...and one may destroy a man who makes war upon him, or has discovered an enmity to his being, for the same reason, that he may kill a wolf or a lion; because such men are not under the common law of reason, have no other rule, but that of force and violence, and so may be treated as beasts of prey, those dangerous and noxious creatures, that will be sure to destroy him, whenever he falls into their power (§16).

The others have manifested “enmity,” and therefore are treatable as wild savages. What, then, is this “settled design” against the life of another human being?

And hence it is, that he who attempts to get another man into his absolute power, does thereby put himself into a state of war with him; it being to be understood as a declaration of a design upon his life. For I have reason to conclude, that he who would get me into his power without my consent, would use me as he pleased, when he had got me there, and destroy me too when he had a fancy to it: for nobody can desire to have me in his absolute power, unless it be to compel me by force to that, which is against my right of my freedom, i.e. to make me a slave...he who makes an attempt to enslave me, thereby puts himself into a state of war with me (§17).

Thus, he who puts himself into a state of war is he who “would get me into his power without my consent.” The question is: who are these potential enslavers? For Locke, on the one hand, they are the absolute monarchs of his time. It could refer to certain tendencies in England toward a possible return of the divine right of kings. However, it refers equally to the absolute monarchies of continental Europe, including “Ceylon,” which he mentions expressly, and India. Although they are unaware of it, all of them have positioned themselves in a state of war with Locke’s “us.” On the other hand, he refers to those who live in the natural state and resist the transformation into a civil state. This refers to the indigenous peoples of North America, who also have placed themselves into a state of war, no matter how much they are unaware of it. In all of them Locke now projects the will to enslave as much him as his “us.” In reality, of course, none of them want to enslave anybody.

Who are Locke’s “us”? They are not the English or the English bourgeoisie. They are all those who defend humankind, the law of reason that God put in the human heart; finally, they are those who impose natural law. And, yes, they are Locke and the English bourgeoisie. They incarnate this, but not as an established group, but as missionaries of humankind. They discover that the entire world has risen up against humanity, except for those that defend it. It is a question of a true state of war since

there is no judge among factions. However, where there is no judge, then everyone is a judge. War decides the result; and this war anticipates the final judgment:

And therefore in such controversies, where the question is put, who shall be judge? It cannot be meant, who shall decide the controversy; everyone knows what Jephtha here tells us, that ‘the Lord the judge’, shall judge. Where there is no judge on earth, the appeal lies to god in heaven. That question cannot then mean, who shall judge? whether another hath put himself in state of war with me, whether I may, as Jephtha did, appeal to heaven in it? Of that I myself can only be judge in my own conscience, as I will answer it at the great day, to the supreme judge of all men (§21, see also §176).

For the just side the state of war implies that it is the side that defends humankind, a right of war. It is not necessary to make war, however the right of war has it a priori and will necessarily be a just war of defense of humankind. This implies the right of the bourgeois revolution in the civil state:

As he that in the state of society, would take away the freedom belonging to those of that society or commonwealth, must be supposed to design to take away from them everything else, and so be looked on as in a state of war (§17).

Despite the existence of judges in the civil state, the right to war persists since the judges can be at the service of forces that fight against humankind. There is neither law nor constitution that impedes this right:

Where an appeal to the law, and constituted judges lies open, but the remedy is denied by a manifest perverting of justice, and a barefaced wresting of the laws, to protect or indemnify the violence or injuries or some men, or party of men, there it is hard to imagine anything but a state of war (§20).

Also, the civil state is governed by the state of nature and natural law. If the civil state is not guided by natural law, it is positioned in a state of war with “us.” There is no judge in as much as everyone is a judge. The right to intervene is maintained. However, not only did the subjects of the civil state have this right, but also any human being in any part of the world, insofar as he defends humankind. Consequently, the English bourgeoisie can intervene under the condition that they impose natural law.

In this way, Locke imputes that the entire non-bourgeois world exists in a state of war against humankind. He feels, therefore, called to make war in defense of humankind against a world in arms, although they don’t know that they are in arms. This war is just war. He can, then, conquer everyone, but all of his conquests will be done through just wars. Through this, he can legitimately demand, moreover, reparations from the conquered to compensate their war costs, in light of the fact that by defending themselves they fought an unjust war. Therefore, the bourgeoisie acquires with

justice the entire world's property. That is to say, it can conquer the world, adjudicate the world's riches, and they will never have carried out an unjust war nor robbed anything.

Locke wants, then, wars fought on the part of the bourgeoisie to conquer the entire world and to adjudicate all of its riches. He wants at the same time that this is a just war and that the conquest of the riches be legitimate and without theft. By this, he imputes to the entire world the will to make war on the bourgeoisie, in order to be able to make just war against them. He imputes to the entire world the desire to enslave the bourgeoisie and strip them of their property so that the bourgeoisie can strip the entire world of their riches. If the rest of the world resists, then they are no more than wild beasts to be destroyed in the name of humankind. The destruction is transformed, then, into a consequence of the imposition of human rights.

That God is the final judge represents nothing more than the transformation of the bourgeoisie into the ultimate judge that, in anticipation of the final judgment, condemns and punishes the world in the name of natural law, which are humankind and the law of reason at the same time. In this way, Locke formulates the classical prototype of the inversion of human rights that continues to be the categorical framework under which liberal empire sees its imposition of power on the whole world. In effect, to the present all wars fought for empires are considered just wars – so just that the adversary cannot reclaim any human rights. The human rights of the adversary do not exist, and who would reclaim them also positions himself in a state of war against humankind. In the Vietnam War, the U.S. troops fought the Vietnamese in their own country. However, from the Lockian point of view, the U.S. did not attack Vietnam; rather, the Vietnamese launched a war of aggression against the U.S. From this point of view, the U.S. fought a just war and Vietnam an unjust one. The reason for this consists of the fact that the Vietnamese rose up against natural law, and therefore against humankind. Since in such a situation everyone is a judge, the U.S. had the right to war to defend humankind. Consequently, theirs was a just war of defense, while the Vietnamese launched an unjust war of aggression. Therefore, they could be burned alive with napalm without interfering with any human rights, since whoever has risen up against humankind, by their own will has renounced their human rights and can be eliminated like a feral beast.

This was the justification that the government of the U.S. actually used, which is a direct derivation of the political theory of Locke, who to this day is considered a founding father and framer of human rights from the U.S. point of view. A similar argument was utilized in the war against the Sandanistas in Nicaragua. The U.S. declared its right and obligation to intervene militarily in reason of this same law of nature of Locke. The Sandanistas had risen up against humankind; consequently, the U.S. had the right to intervene.⁴ They did not even concede any human rights to the Sandanistas. Ronald Reagan spoke of extirpating a cancer, which implied vindication of their destruction and the negation of human rights in relation to them. The war against them, fed by the U.S. government was a terrorist war only comparable with the terrorist war of the Shining Path in Peru. When the international tribunal in The

Hague condemned the U.S. for aggression in Nicaragua, the U.S. did not comply with the condemnation, dis-authorized the tribunal and renounced its membership. The U.S. justifies its blockade of Cuba in like manner. Today, there is a hunt of defenders of human rights in Columbia. The same schema justifies it and the U.S. government itself has supported it many times.⁵ For the same reason, that government has not ratified the declaration of human rights of the U.N. or the corresponding convention. It is, in effect, incompatible with the Lockian tradition of human rights. John Locke is the classic thinker of the inversion of human rights: he annuls the human rights of all those who exercise resistance to bourgeois society and logic precisely in the name of those human rights. In today's communications media this inversion occupies a great measure of the dominant positions. Locke continues to be the thinker that determines, to this day, the categories of interpretation of the human rights on the part of liberal empire.⁶

With this we have the central schematic of Locke's argument. This is tautological. The question of who is the aggressor in a conflict and who is not does not result from a judgment about reality, but a deductive judgment. The reason that one has the reason: thus, we can resume the tautology. It is the apocalyptic part of the schematic. The war of one that, a priori, has reason is a war in anticipation of the final judgment. "Apocalypse Now" begins with Locke. At the same time it is a thought that dissolves the human rights precisely in the name of those rights. These are no more than the rights of the bourgeoisie and those who concede to the bourgeoisie. Still, Locke argues in the name of human rights.

This is the general schematic. Locke later specifies two situations determined by his epoch. One is the legitimization of forced labor in the form of slavery. The other is the legitimization of the expropriation of the lands of the indigenous peoples of North America by the European conquerors. These legitimizations are sought equally within the purview of human rights. Both are equally based in the above analysis of the state of war.

4. The Legitimization of Forced Labor by Slavery

Locke derives the legitimization of forced labor in very simple terms from his own analysis of the state of war and from his declaration that the adversary that fights in an unjust war loses all of their human rights as a result of their own decision to take up arms against humankind. That is, no one is stripped of their human rights but those who strip them from themselves.

Locke begins with the human right to never be the slave of anyone:

This freedom from absolute, arbitrary power, is so necessary to, and closely joined with a man's preservation, that he cannot part with it, but by what forfeits his preservation and life together. For a man not having the power of his own life, cannot, by compact, or his own consent, enslave himself to anyone, nor put himself under the absolute, arbitrary power of another, to take away his life, when he pleases. Nobody

can give more power than he has himself; and he that cannot take away his own life, cannot put another power over it (§23).

The human being is not only free, but is obliged to be so: liberty cannot be renounced. However, according to Locke, liberty legitimizes forced labor because liberty can be lost, even if no one may renounce it. Liberty is lost in the case of beginning an unjust war, which is a war against humankind. It is lost in fact by a negation implicit in an unjust war. Consequently, Locke can proceed:

Indeed having, by his fault, forfeited his own life, by some act deserves death; he, to whom he has forfeited it, may (when he has him in his power) delay to take it, and make use of him to his own service, and he does him no injury by it. For, whenever he finds the hardship of his slavery outweigh the value of his life, 'tis in his power, by restoring the will of his master, to draw on himself the death he desires (§23).

The conclusion seems logical. If the defeated that has waged unjust war loses all of its humanity, then the victor acquires absolute, arbitrary power over him. The victor can legitimately kill him, but he can also delay his death to enjoy his work in terms of forced labor, and with it “causes no injustice.” If he does not want him, he maintains the right to suicide. Locke sustains this cynicism. He repeatedly insists on this as fact. Locke calls this power a “despotic power.” He begins declaring again that nature does not grant this power under any circumstances:

Despotic power is an absolute, arbitrary power one man has over another, to take away his life, whenever he pleases. This is a power, which neither nature gives, for it has made no such distinction between one man and another; nor compact can convey, for man not having such an arbitrary power over his own life, cannot give another man such power over it (§172).

However, and as a consequence of this human right, the exact contrary is given. That is to say, a legitimate despotic power:

For having quitted reason, which God hath given to be the rule betwixt man and man, and the common bond whereby humankind is united into one fellowship and society; and having renounced the way of peace, which that teaches, and made use of the force of war to compass his unjust ends upon another, where he has no right, and so revolting from his own kind to that of beasts by making force which is theirs, to be his rule of right, he renders himself liable to be destroyed by the injured person and the rest of mankind, that will join with him in the execution of justice, as any other wild beast, or noxious brute with whom mankind can have neither society nor security. And thus captives, taken in a just and lawful war, and such only, are subject to a despotic power, which as it arises not from compact, so neither is it capable of any,

but is the state of war continued. For what compact can be made with a man that is not master of his own life? (§172).

And he adds:

The power a conqueror gets over those he overcomes in a just war, is perfectly despotal (§180).

They do not own their own lives, despite staying alive as prisoners of war. However, for having risen up against humankind they have lost their liberty and all their human rights:

Forfeiture [or loss of liberty] gives...despotal power to lords for their own benefit, over those who are stripped of all property (§173).

They are now legitimately enslaved, if the conqueror wants it so:

Who being captives taken in a just war, are by the right of nature subjected to the absolute dominion and arbitrary power of their masters. These men having, as I say, forfeited their lives, and with it their liberties, and lost their estates; and being in the state of slavery, not capable of any property, cannot in that state be considered as any part of civil society; the chief end whereof is the preservation of property (§85).

Locke invests a good deal in this absolute arbitrariness that the victors have over their captives. He calls the despotic power that results “the authentic condition of slavery” (§23), “is nothing but the prolongation of a state of war between a lawful conqueror and a captive” (§23).

This legal arbitrariness includes, for Locke, the rights to kill, use as slave, and mutilate and torture at his pleasure. Locke argues this in the face of historical facts:

I confess, we find among the Jews, as well as other nations, that men did sell themselves; but, 'tis plain, this was only to drudgery, not to slavery. For, it is evident, the person sold was not under an absolute, arbitrary, despotal power. For the master could not have power to kill him, at any time, whom, at a certain time, he was obliged to let go free out of his service: and the master of such a servant was so far from having an arbitrary power over his life, that he could not, at pleasure, so much as maim him, but the loss of an eye, or tooth, set him free (Exodus 21) (§24).

Locke, however, does recognize this despotic power of the authentic slavery and the conquerors in a just war against the defeated.

Again, Locke concerns himself with the property of the vanquished:

For supposing [the children of the conquered] not to have joined in the war, either through infancy, absence, or choice, they have done nothing to forfeit them [their goods]: nor has the conqueror any right to take them away, by the bare title of having subdued them, that by force attempted his destruction; though perhaps he may have some right to them, to repair the damages he has sustained in war, and the defence of his own right, which how far it reaches to the possessions of the conquered we shall see by and by (§182).

The conqueror, if he have a just cause, has a despotical right over the persons of all, that actually aided, and concurred in the war against him, and a right to make up his damage and cost out of their labour and estate, so he injure not the right of any other (§196).

So that he that by conquest has a right over a man's person to destroy him if he pleases has not thereby a right over his estate to possess and enjoy it...but 'tis damage sustained that alone gives him title to another man's goods (§182).

However, from the properties must be financed the “losses suffered by the conqueror” (§183). The conqueror does not steal: he simply charges for the costs he has incurred in conquest. As the conquerors wage just war, this charge is totally just. All is legal, and everything belongs to the conqueror. The enslaved even have to pay the costs the enslaver has incurred enslaving them. In this way, Locke can consider slavery as legal beyond any limit. With this the slavery of the day that had been imposed in all of America -- and in Locke's time with great force in North America -- had positive consequences. That all men are equal by nature was for the conquerors by the simple fact that it implied the legality of the forced labor by slavery of the conquered.

Locke defends slavery in more extreme terms than any previous writer. The Aristotelian justification of slavery appears paternal next to the absolute legitimacy of the arbitrariness defended by Locke. Thus, Locke surpasses Hobbes by a great deal. Hobbes saw slavery as an actual situation that had no legitimacy for being so. In Hobbes the social pact does not include slaves, which results in war between society and slaves anterior to the pact. Consequently, he considers slavery illegitimate, with the slave having the right to rebel. Locke changes this. He also insists that the social pact does not include slaves; however, according to Locke, the law of nature has legitimately condemned the slave to the state in which he finds himself.

Locke's position is infamous. But he elaborates it in terms so extreme so that whatever treatment the liberal conquerors give to the vanquished seems minor compared to what they could legally do. As great as the brutality may be, it can never reach the grade of brutality that the conquerors have legal right to. Thus, they seem “moderate.”⁷

5. The Legitimate Expropriation of the Indigenous People of North America

Locke's argument begins again with the state of nature, in which no one is a slave and no legitimate despotic power exists. Now he will say that in this natural state all the world is common to man:

God, who hath given the world to men in common, hath also given them reason to make use of it to the best advantage of life, and convenience. The earth, and all that is therein, is given to men for the support and comfort of their being. And though all the fruits it naturally produces, and beasts it feeds, belong to mankind in common, as they are produced by the spontaneous hand of nature; and nobody has originally a private dominion, exclusive of the rest of mankind, in any of them, as they are thus in their natural state: yet being given for the use of men, there must of necessity be a means to appropriate them some way or other before than can be of any use, or at all beneficial to any particular man (§26).

Locke does not say that the earth “belongs” in common to all men, but that it belongs in general to “humankind.” He looks for the mechanisms of legal appropriation of the earth for particular human beings.

In the natural state every one can take whatever lands that he or she wants. However, one cannot take the amount of land that one wants, but only that extension of land that one effectively works and not according to caprice. This involves a state of things in which it is impossible to accumulate, since every product of the land is perishable. Accumulating products would not make sense because surplus products spoil. This changes with the use of money, which can be accumulated indefinitely because it is not perishable. Therefore, in the natural state without money, effective working of the land gives the measure of private appropriation of land and everyone can hardly occupy a small part of land. All the rest of the land still belongs in common to humankind:

Thus the grass that my horse has bit; the turfs my servant has cut; and the ore I have digged in any place where I have a right to them in common with others, become my property, without the assignation or consent of anybody. The labour that was mine, removing them out of that common state they were in, hath fixed my property in them (§28).

The one who cultivates the land owns it. It does not interest Locke if the labor is individual. It does interest him that property is now individual. By this is also acquired “the turfs my servant has cut.” However, this property is limited:

As much as anyone can make use of to any advantage of life before it spoils; so much he may by his labour fix a property in. Whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy (§31).

The conclusion for Locke is very simple. The peoples of North America do not have property rights over all their lands, but only over that part that they effectively cultivate. All the rest is common and belongs to humankind. Therefore, the European or English or whoever wants to, can go and take it. The indigenous peoples do not have even the slightest right to impede them. Whoever takes the land, owns it:

Thus labour, in the beginning, gave a right of property, wherever anyone was pleased to employ it, upon what was common (§45).

Thus in the beginning all the world was America, and more so than that is now (§49).

This has a consequence within the schema of Locke's argument. If these peoples now defend their terrain, they are rebelling against the law of nature and humankind. By this, they wage an unjust war against the invaders, who, by making just war, can kill them as wild beasts, submit them to despotic power and enslave them. Moreover, the invaders can charge the defenders the cost of the war as reparations for the "losses suffered by the conqueror" (§183). Seen from Locke's point of view, the indigenous peoples have lost all their rights and properties.

This explains why Locke analyzes with such detail what has validity in the state of nature prior to the formation of the civil or political state. According to Locke, there still did not exist such a civil state in America. However, Locke wants much more than that.

According to what he has said up until this point, the conquerors have the same right to the land as the indigenous peoples. They enter into a natural state in which everyone can occupy the land that they effectively work for their needs. However, the lands cannot be accumulated beyond this limit, which ironically serves conquest. Locke needs an argument according to which, from the moment of conquest, land can be accumulated infinitely.

Locke cannot revert to the argument about the passage to a civil state made through a social contract. He cannot suppose such a contract. He constructs, then, a different pact, for which he gives the following affirmation:

God gave the world to men in common; but since he gave it them for their benefit, and the greatest conveniences of life they were able to draw from it, it cannot be supposed he meant it should always remain common and uncultivated. He gave it to the use of the industrious and rational, (and labour was to be his title to it;) not to the fancy or covetousness of the quarrelsome and contentious (§34).

He seeks now a pact that effectively ensures the "greatest conveniences of life." According to Locke, neither common property nor labor in the state of nature can ensure this:

The greatest part of things really useful to the life of man, and such as the necessity of subsisting made the first commoners of the world look after, as it doth the Americans now, are generally things of short duration; such as, if they were not consumed by use, will decay and perish of themselves (§46).

There cannot be a clearer demonstration of anything, than several nations of the Americans are of this, who are rich in land, and poor in all the comforts of life (§41).

An acre of land that bears here twenty bushels of wheat, and another in America, which, with the same husbandry, would do the like are, without doubt, of the same natural intrinsic value. But yet the benefit mankind receives from the one, in a year, is worth five pounds and from the other not worth a penny (§43).

Locke constructs, therefore, a common human accord that goes beyond “all society and by pact.” The right to unlimited accumulation of the land follows from the accord over the use of money and private property:

It is plain, that men have agreed to disproportionate and unequal possession of the earth, they having by a tacit and voluntary consent found out a way, how a man may fairly possess more land than he himself can use the product of, by receiving in exchange for the overplus, gold and silver, which may be hoarded up without injury to anyone, these metals not spoiling or decaying in the hands of the possessor (§50).

Now the conquerors can occupy the land without the indigenous peoples having the right to defend it, to the time that they leave the narrow limit of possession in which the natural state to be able to accumulate land without limit:

Yet there are still great tracts of ground to be found, which (the inhabitants thereof not having joined with the rest of mankind, in the consent of the use of their common money) lie waste, and are more than the people, who dwell on it, do, or can make use of, and so still lie in common. Though this can scarce happen amongst that part of mankind, that have consented to the use of money (§45).

This accord over the use of money unites, for Locke, private property, the superior development of productive forces, and the zeal of accumulation. This “express or tacit” accord breaks the mark of the state of nature, even though a civil state has been formed, and has a universal scope. The accord over money permits Locke, on the one hand, to argue the right of the conqueror derived from the natural state – all land belongs to humankind – with the other right to break the limits of the natural state itself. In the state of nature, everything is in common. However, once land is occupied, it remains so thanks to this accord about the use of money. The conqueror can enjoy the natural state, but it is not limited by it, although a civil state has not been formed. The indigenous people cannot reject this accord. As soon as they accept money, they tacitly accept the accord and are now subject to it. If they do not submit, they will be

rebellious against humankind and treated as wild beasts. That is to say, they will be trapped without exit.

Not surprisingly, almost all of the indigenous population of North America was exterminated in the course of applying the strategy that Locke delineated.

6. The Method of Deriving Human Rights from Locke and its Critique

Locke does not offer a list of human rights, but rather offers the orientation points that establish the derivation of all possible human rights. He expressly mentions four basic orientations:

- 1) “All men by nature are equal” (§54).
- 2) “He that cannot take away his own life, cannot give another power over it” (§23).
- 3) About despotic power: “This a power, which neither nature gives, for it has made no such distinction between one man and another; nor compact can convey” (§172).
- 4) God gave the earth “to all mankind in common” (§25).

In fact, Locke splits the frame of derivation that these four basic orientations apporportion. There is no doubt that Locke did not invent such basic orientations. They come from the first English Revolution of 1648-1649. They are found in that time among the independents and, above all, among the Levelers. They are the banner of that revolution, whose maximum expression was equality. This was directed against the despotism of the king and the aristocracy. It rejects slavery, which at that time was not yet an exclusively racist institution directed against blacks, but against all colors, including whites. The exclusivity of slavery to blacks was a recent development in the first half of the seventeenth century. However, the rejection of slavery was equally directed against indentured servitude. The independents and Levelers insisted that land had been given to humankind in common in order to demand access for peasants to the land and release the artisans from the regime of the urban guilds. Their utopia was a society of small producers in which everyone would have access to independent property. In the center of their vindication of equality was the concrete human being that necessitated a society in which all could live in a dignified manner and satisfy all one’s needs equally, based on the right to private property. This is not a radical egalitarianism, but an egalitarian tendency thought on the part of groups excluded from economic and political liberties.

Locke had to break from the framework of human rights present in the first revolution. Leading up to the Glorious Revolution, those elements of human rights had been marginalized. The Glorious Revolution was the definitive victory of a bourgeois society with an imperialist vocation – which Locke’s political theory offered. His is not a book about politics so much as a book that does politics. He provides the framework of legitimacy for the bourgeois revolution and, thus, stabilized it.

To realize this, Locke effects his inversion of the framework of human rights from the first revolution. He accomplishes this by changing the subject of human rights, substituting the living, corporal subject, which is a subject of needs, with an abstract

subject that is proprietary. The proprietary subject is seen now as the base for property. With this, human rights as dignifying the human person as a concrete subject of needs is substituted for dignifying property. However, not all property is dignified; for Locke, property is a system of competence and efficiency. The enemies that Locke sees also defend their own property. The indigenous peoples of North America defend their lands as property. However, this is a different kind of property from Locke's point of view. It is property seen as a manner of living for concrete persons. English peasants and small urban artisans conceive property in the same way. Locke inverts the relation to constitute persons whose way of life is constituted by the logic of property, which is the logic of accumulation. This is the property that he affirms. From this point of view, that other property is illegitimate and negates the property he sustains. Locke affirms the property of possessive individualism, as Macpherson calls it.

Between the first English revolution and the Glorious Revolution legitimated by Locke appears this clash of contrary conceptions of property, and consequently of human rights. In fact, Locke substitutes human rights themselves with rights of a social system, for which human beings are no more than supports. This is insofar as human beings lose all of their rights and can only reclaim rights emanating from his social system's own logic, which now is the bourgeois social system. Locke carries this point to the extreme. When he speaks of the natural state he still speaks of fundamental rights: the right of the physical integrity of the human being and the right to property. But in the course of his essay Locke changes this and sustains only one fundamental right, which is property. The corporal integrity of the human person is also transformed into property rights, which in this case is the right to property over the right to the body itself. That is, Locke sees the person's own individual integrity as simply derived from the property system and its logic. Not even a trace of the previous dignity of the human person remains in any system of property. Locke now says that "the chief end [or civil society] is the preservation of property" (§85), and can then conclude that the possessors of despotic power have it "for their own benefit, over those who are stripped of all property" (§173). This power is despotic because once all property is private it acquires the same private character as the body itself. As for human persons, they do not maintain any right to physical integrity. Because of this, when all property becomes private, the power of the lords is absolutely arbitrary and includes the right to kill, torture, mutilate, and enslave. All of this is the consequence of his concept of property, which is the subject of human rights.

The inversion of human rights that Locke effects, can be summed up in a formula that he does not yet use, but which expresses his point of view well: no property for the enemies of property. This formula can synthesize all the inversions of human rights that Locke effects. It is the formula that legitimizes the terrorism of the bourgeois system. It already appears in the French Revolution in the following terms: no liberty for the enemies of liberty, as Saint-Just expresses it. Karl Popper assumes this same formula when he affirms that there is no tolerance for the enemies of tolerance. It is not surprising that Popper has been the court philosopher for totalitarian dictators of national security, above all in Uruguay and Chile. However, the same formula

appears in the Stalinist purges in the discourses of the lawyer Wyschinski, adapted to that system. Thus, this is the formula in which modernity in all of its systems, as much as it sustains human rights, legitimates the violation of those rights, precisely in their own name.

The formula legitimates the “despotic power” about which Locke spoke, and always had been utilized in order to construe it. It erases the human rights of the human person that are prior to any social system, and substitutes them for rights of the system that are declared human rights. The formula is universal and can be adapted to all changing circumstances that appear in the history of modernity. In this way, the current strategy of globalization is supported in this same formula and has changed again all the human rights of the dignity of the concrete human person in order to invert them in terms of a right of the globalized system on top of human rights, argued in the name of these same rights. The private bureaucracies of the big companies are presented subjects of the “law of reason” and the true trustees of human rights. With this they have acquired “despotic power” as constituted by John Locke. The form in which the war in Kosovo was carried out again shows a case example of this use of human rights. Once again legitimate “despotic power” appears, which now, in the name of human rights, destroys an entire country. The method is repeated; all that changes are the words. However, the theme that always appears is the “reason and common equity, which is that measure God has set to the actions of men” (§8), the violation of which is “a trespass against the whole species, and the peace and safety of it, provided for by the law of nature” (§8), from which the accusation that the enemy “has declared war against humankind” (§11). The enemy is then a wild beast against which rises a legitimate despotic power that can destroy it at its whim. The method assures that against he who is interpreted as violator, human rights are not valid because the defense of his rights results in another transgression against that law of reason and implicates he who defends the violator in the crime being pursued.

Locke derives slavery, the extermination of indigenous peoples and the colonization of the world as demanded by human rights themselves. His law of reason was the unlimited accumulation within the system of private property. Since the end of the sixteenth century talking about private property as natural law ceased and was substituted by the efficiency and competitiveness according to the laws of the market. In pursuit of these, human rights are negated in the same way that Locke initiated, without the formalism changing, and one more time the very logic of the system takes the place of human rights, expropriating them from human beings. Well, much before Locke appears something similar to this formalism in the patriarchy. The male, in his masculinity, is presented as the incarnation of humankind, the law of reason that God established for the acts of human beings, transforming the woman into a potential wild beast to tame and, in case she does not remain tamed, to be destroyed. After Locke, it appears with racism starting in the eighteenth century. There, the white man takes this position of the law of reason, as representative of humankind against those peoples considered to be of color.

On the other hand, in Locke the inversion of human rights is linked with utopianism. He treats a technological progressive utopianism. This progress substitutes service for the concrete human being. On the other hand, the promises of this progress seem so infinite, that at its side the disrespect of human rights appears to be of little significance.⁸ The perspective of progress overwhelms the possibility of insisting on the rights of concrete humans, apparently as soon as they hinder the march without distortion of the accumulation that ensures this progress. This utopianism accompanies the whole history of capitalism to this day, and arises with consequences similar to Soviet Stalinism. In no case is utopia a problem in and of itself. Rather, the transformation of utopia into a motor for the inversion of human rights.

This utopianism has the appearances of utilitarianism. For example, Hayek says:

A free society requires certain morals that in the last instance are reduced to the conservation of lives: not to the conservation of all lives because it would be necessary to sacrifice individual lives in order to preserve a greater number of other lives. Therefore, the only moral rules are those that carry up the “calculus”: property and the contract.⁹

The calculus is apparent and deceiving, because it presupposes to know what will happen in the future. However, it is shown as an effective instrument for the negation of human rights. They denounce the “sacrifice of individual lives” as violations of human lives. The calculus of lives, on the other hand, now denounces the defense of human rights as a dangerous obstruction that impedes “the preservation of a greater number of lives.” This reasoning results in an easy incrimination of the defenders of human rights. Again, “humankind” crushes the human rights of the dignity of the person.¹⁰ The annihilation of entire countries and the extermination populations are transformed into a possible service to humanity and human rights, with which human rights themselves disappear, remaining simply a myth.¹¹

The critique of this inversion of human rights and their transformation into a legitimization of the violation of human rights through their transformation into a categorical imperative for their violation has a history. Basing himself in Nietzsche’s critique of morals, Carl Schmitt brilliantly analyzes some aspects of the phenomenon, above all in his book about the concept of the political. However, his is a critique that in no way recuperates human rights. On the contrary, he faults the rights themselves for the inversion that is done to them. Therefore, a critique results that runs directly into the fascist ideology of the thirties. Schmitt makes it seem that absolute enemies to be destroyed are constituted by means of human rights. Upon blaming human rights for the problem, he attacks them. He does not dissolve the inversion of human rights, but extends it. Schmitt attempts a humanization of the conflicts by overcoming this creation of absolute enemies so that the conflictive relationship can be a relationship between real enemies that do not mutually make their enmity absolute. But this solution implies the abolition of human rights themselves. He creates an absolute enemy, more absolute still than that which occurred in the case of the inversion of human

rights. These absolute enemies are now those who would continue affirming human rights and must be eliminated before the promised situation of appeased conflicts among real enemies can come about.¹² These reflections fulfill an important role in fascism, and they explain why fascism considered communism and liberalism together as an absolute enemy. It turns out to be a remedy worse than the illness.¹³

The only response to the inversion of human rights can be the recuperation of the human rights of the concrete human being. For this, I want to start with a quote from Albert Camus, taken from *The Rebel*:

The end justifies the means? It is possible. But who justifies the ends? To this question, which historical thought leaves hanging, rebellion responds: the means.

In effect, human rights are not ends. The inversion of human rights always transforms them into a result of an action means-end, in which the calculable means are sought to realize the end, in order that they become an end that must be objectified. However, objectified ends are transformed into institutions. The institution could impose and, consequently, can be realized by adequate calculable means. The institution is now identified with human rights and comes to be democracy, market, competition, and institutionalized efficiency. Taking these institutions as ends, the means are sought to impose them. Only that imposing them requires the violation of human rights precisely in the name of which they are actuated. The mode of human rights as ends devours the human rights of the concrete human being that is their origin. Thus occurs the inversion of human rights, which now act as a categorical imperative to violate human rights.

Camus, then, questions the means. When human rights are imposed as ends, the means contradict these rights. In this way, the means reveal the true end. There are not human rights, but the imposition of a determined institutionalism that implies the imposition of domination. The means reveal the end, not the declaration of the purposes of the action. The means speak their own language, which is the language of reality. The language of the means reveals the degree to which the purposes are false.

The history of the West is a history of annihilations of countries and the extermination of populations and cultures. This is what the language of the means says. The language of purposes, on the other hand, is completely different and speaks of the white man's burden to civilize the world and bring it human rights. The history of the West is a history of hell. In hell, however, the devils that maltreat the condemned are not themselves maltreated. They believe that they are in heaven, and speak out loud about human rights.

To this is counter-posed the language of the means, which constantly contradicts the language of the declared purposes. Only beginning with this language of the means can human rights be recuperated. Human rights are not ends; they are the interpellation of the means that are used to achieve the ends. The discussion about human rights should be a discussion about the compatibility of the means with respect to these rights. Human rights, consequently, judge over the means.

In this sense, the reclamation of human rights is, as Camus says, a rebellion. It is a rebellion of the human being as living subject, rebelling against its transformation into an object. Equally, it rebels against being transformed into an object of human rights treated as an end.

7. Locke's Schema and Postmodernity

In fact, Locke develops a schematic for the inversion of human rights that has made history to the present. The schematic is for the modernity that, according to Lyotard, could be called the meta-narrative of legitimacy. It makes present the structure of all modernity that follows, and is constantly adapted to new historical situations. In it, modernity is founded.

However, note the fact that when Lyotard speaks of meta-narratives or modernity he does not speak of this. He mentions two other grand meta-narratives, which come as much from the thinking of Rousseau as from Marx. However, he hides the meta-narrative prior to these two, which precedes them and in relation to which the thinking of Rousseau and Marx appears. Moreover, these two thinkers are incomprehensible without the schematic presented to us for the first time by John Locke. Rousseau and Marx are critics of this basic schematic. Rousseau makes his critique starting with the concept of the citizen and Marx with the human being as lacking being. But both of them confront the schema derived from Locke.

In Lyotard, on the other hand, Rousseau and Marx appear as the founders of modernity. By this, he concludes that there is postmodernity to the degree that these respective critics of modernity lose their force. In Lyotard, however, the names of Rousseau and Marx appear as a function to designate all of the great movements of emancipation that the history of the nineteenth and twentieth centuries faced as an unrestrained avalanche of this modernity, from which Locke reveals first his underlying schematic. He treats the great movements of slave emancipation, which brought the abolition of slavery in the nineteenth century, Jewish emancipation at the end of the eighteenth century, the movement of the emancipation of the workers, the emancipation of women, the pacifist movement, the emancipation of the colonized cultures of the world, and of indigenous cultures, and the independence of colonized countries.

When one reviews these grand movements of human emancipation, they call attention to the fact that they include the vindication of all those human groups that Locke denounces as “dangerous to humankind,” as “degenerate,” as “noxious beings,” as people that have trespassed against “the whole species” and that, according to Locke, must be treated as “wild beasts.” Those that fought in the nineteenth and twentieth centuries for their emancipation are precisely the “wild beasts” of the basic narrative of legitimacy of modernity as derived from Locke. They are the ones who reclaim the human rights that modernity negates. Locke does not recognize human rights and negates them expressly, although he does it in the name of human rights. He does not concede any human rights to any non-bourgeois culture, to the peoples who resisted colonization and conquest. All of them are no more than wild beasts that the bourgeoisie can eliminate as savage animals. The forces that introduce human

rights into modernity are the emancipation movements. In effect, with these movements the human being as subject of rights appears. Human rights are not derived from any property, but exactly from the fact of being a human being. They appear in the twentieth century in the declarations of human rights. However, the United States' 1776 declaration of human rights only addresses human rights in name. The rights there enunciated are thought in the terms of the political philosophy of Locke, who is the true father of this declaration. And equally because the forced labor of slavery remained in full force almost a century after the declaration. Taking into account the 1776 declaration's Lockian character, slavery does not present even the slightest contradiction. In the sense of this declaration, liberty is slavery, liberty is exterminated. The great emancipation movements introduced human rights into modernity. The declaration of human rights of the United Nations at the end of World War II includes them. However, the government of the U.S. has not ratified this declaration, testifying to the fact that the conflict remains pending.

If Lyotard now identifies modernity with these emancipation movements and with the thought of Rousseau and Marx, the declaration of the loss of force of these thinkers as "meta-narratives of modernity" acquires a special connotation. That which he now announces as postmodernity simply runs into the declaration of a modernity *in extremis*, which rejects whatever legitimacy of human emancipation and returns to dissolve human rights such that they have been formed starting with these movements of human emancipation. A naked modernity returns, which now considers all human emancipation and all resistance to the system as a "wild beast" to be eliminated.

It is then noted, that this thought of Locke does not present a theory about reality. It is something very different. It constitutes a categorical framework to constitute reality itself. It constitutes reality, and therefore is never refutable. If one assumes this categorical framework, reality is as Locke claims it to be. One cannot show another, unless he carries out a critique of this thought as a categorical framework. But this critique can never show a different reality from that which is seen by someone who assumes this categorical frame to be constitutive of reality itself.

However, it is not a categorical frame that simply establishes bourgeois society, but all modernity. As soon as modern society is totalized, this categorical frame appears clearly. Locke formulates it in the form of bourgeois society, and this can only be interpreted in terms of the schematic that Locke develops for the first time. This is not a theoretical invention of Locke, but a discovery. He discovers and formulates the categorical frame corresponding to this totalization of bourgeois society. Upon totalizing, Stalinist socialism developed an analogous schematic beginning with socialist property, which repeats, in transformed terms, the schematic developed by Locke. In this case it also fulfills a role of categorical framework, that constitutes reality and is irrefutable as well. Something similar occurred with fascism. If one takes the reference to the "human species" and the "law of reason," from Locke's schema by which Locke enacts his inversion of human rights, and replaces them with "the will to power," then the Lockian schema appears in fascist terms. It is evident, then, that all of modernity, upon totalizing and expulsing human rights as rights of human emanci-

pation, constitutes its reality in terms of the schema of Locke. This schema is revealed therefore as the categorical frame for all of modernity, appearing as variations that Locke did not foresee.

If there were a society outside of modernity, it would have to be a society beyond this founding schema of modernity. Many today are aware of this necessity. However, through the strategy of globalization our current society has again produced a new totalization based on this categorical frame discovered and developed by Locke. He regards this totalization only as a project; our society, on the other hand, has the means to impose it again.

NOTES

1. According to Maurice Cranston, *John Locke, a Biography*. 1957, cited by C. B. Macpherson, *The Political Theory of Possessive Individualism*. Oxford University Press, 1983, pg. 253, note 5.
2. According to Poliakov, León. *Geschichte des Antisemitismus*. V. Die Aufklärung und ihre judenfeindlichen Tendenzen (Historia del antisemitismo. V. La ilustración y sus tendencias antijudías). Worms, 1983, pág. 110.
3. This position was the result of a radical reform in the prior centuries in Europe. See Williams, George H. *La reforma radical*. México D. F., FCE, 1983. On the independents and the holy parliament, see Kofler, Leo. *Contribución a la historia de la sociedad burguesa*. Buenos Aires, Amorrortu, 1974; Macpherson, C. B., op. cit.
4. While Oscar Arias, President of Costa Rica, was working hard to achieve peace in Nicaragua (toward the end of the 80s), U.S. government made public a document stating the following: “The United States will work in good faith to support the diplomatic effort to ensure compliance with the Esquipulas accord. But we will not support a paper agreement that sells out the Nicaraguan people’s right to be free...” (La Nación, San José, 5. IV. 1989).

This right to freedom was objective and did not have anything to do with the popular will that supported the Sandinistas in good measure. It was instead “the human being” of John Locke in the name of which the government of the U.S. appointed itself as supreme judge. If the majority of the population did not want to be free, according the “natural law,” the government ascribed to itself the right to force people to be free! It is nothing less than the basic argument intrinsic to the entire process of the colonization of the world.

5. During the VII Conference de los Ejércitos Americanos (CEA), as part of the Conferencia de los Servicios Secretos de los Ejércitos Americanos, that took place in Mar del Plata, Argentina, in November of 1987, all autonomous organizations protecting and defending human rights were declared equivalent to subversives and communists. As far as communists have human rights, the organizations in defense of human rights became communists and were treated as such.

6. But not only liberal empire. Upon presenting this article, I read again the discourses of the fiscal general of the USSR during the Stalinist purges of the 30s. His argument follows the schema of Locke, only substituting private property for public property, which was dominant at the time in the USSR. See Theo Pirker (ed.). *Die Moskauer Schauprozesse 1936-1938*. Munchen, DTV, 1963, pág. 141. Discursos de A. J. Wyschinski, Fiscal de los Procesos. Wyschinski saw the accused equally in rebellion against human kind, and declared that in defense of these that they had to be killed like “rabid dogs.” These rabid dogs returned during the aerial attack that the U.S. government launched against Libya with the purpose of assassinating Khadafi. Bush declared then that Khadafi had to be killed like a “rabid dog.”
7. Macpherson’s analysis, extremely lucid in several aspects, is totally blind to Locke’s apology to slavery forced labor; as he is also blind to the entire issue of inverting the logic of human rights. Macpherson talks instead about Locke’s “extravagant language” (p. 240). And in regard to Locke’s apology of slavery he said, “Locke, obviously, justified also slavery, but he did not do it on the ground of a different rationality. Locke only justified slavery when a man has lost his right to life through his own actions, which are judged to merit his death (section 23). Apparently, Macpherson concludes, Locke thought death in this case as being an act of justice toward a natural criminal (p. 246, note 1).” This is the only reference, in Macpherson’s book, to Locke’s take on human rights, which is normal in most of the bibliographies about Locke.
8. About the works of technical and economic progress, Locke says, “I agree that the observation of these works gives us occasion to admire, revere, and glorify their author; and, adequately directed, they could be of greater benefit for humanity than the monuments of charity to show that with such force hospitals and asylums have been raised. Those that invented, for the first time, the press, discovered the compass, or made public the virtue and correct use of quinine, did more for the propagation of knowledge... than those that constructed colleges, houses of labor, or hospitals.” John Locke, *An Essay concerning Human Understanding*, 2 vols. New York, Dover, 1959. II, p. 352.
9. Hayek, Friedrich von. "Entrevista," in *Mercurio* (Santiago de Chile), 19. IV. 1981.
10. In an interview, Col. Pail Tibberts (who at the age of 27 was the principal pilot in the Hiroshima atomic bomb drop on August 6, 1945) talked about what he considered most important about the aerial attack. The reporter asked him:

A. J.:-- What is the most important thing you did in your life?

P. T.:-- Obviously having formed and operated the 509 group, training to use the bomb... Originally I was told that the Europe and Japan would be bombed simultaneously. I daresay that I saved thousand of lives by doing it.

The interview was conducted by Andres Jiménez, reporter for the Columbian magazine *Semana*. Reproduced in *La Nación*, 22. VIII. 1999.

Evidently, Tibberts considered the attack on Hiroshima as a service to human rights. He effects the “calculus of lives” of the same kind as Hayek. If this type of calculus is admitted to be valid, there is no human barbarity that cannot be presented as being in the service of human rights.
11. Hayek distinguishes a good liberalism from a bad one. Good liberalism starts with Locke, bad liberalism with Rousseau. Certainly, human sacrifice at the service of human abstractions are not compatible with “bad individualism.” Is this why it is bad? See Hayek, Friedrich A. *Individualismus und wirtschaftliche Ordnung* (Individualismo y orden económico). Zürich, 1952, pg. 12.

12. Carl Schmitt dice: Humanidad-Bestialidad. Y: Quien dice humanidad, quiere engañar.
13. Schmitt, Carl. *El concepto de lo "político"*. Buenos Aires, Folios, 1984. (Der Begriff des Politischen. Berlin, Humblot, 1963). Ver Hinkelammert, Franz J.: "El concepto de lo político según Carl Schmitt", in Lechner, Norbert (ed.), *Cultura política y democratización*. Buenos Aires, CLACSO-FLACSO-ICI, 1987.