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Empty Land
No Man's Lands in Literature

Translated by Alan Fortuna

TRANSLATED INTRODUCTION FROM
LEERES LAND. NIEMANDSLÄNDER IN DER LITERATUR
BY DOROTHEE KIMMICH
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Preface

This book on no man's lands was originally intended to be the third part of a series on living things in modernist literature. *Lebendige Dinge in der Moderne* was published in 2011¹ and the book on similarity, originally planned as the second part of the series, was also published separately in 2018.² Therefore, though there may be a loose connection between the books, they do not share an inherent commonality, despite authors including Gottfried Keller, Siegfried Kracauer and Franz Kafka, appearing in all three texts. However, their appearance may constitute a sort of common thread.

Living things are perceived as uncanny as they begin to resemble human beings. The separation into subject and object, dead thing and living being is blurred. The question of the *agency* of things and structures is currently being discussed comprehensively and under various aspects in the wake of Bruno Latour, among others.³ One aspect of this is not to assume a subversion of differences, but to take a closer look at the similarity, more precisely at the many different similarities that connect people and things while also rendering them unique. Similarities, in the sense of "family resemblances" introduced by Wittgenstein⁴ provide a current set of categories that allow for complex and flexible differentiations while necessarily dispensing with clear distinctions. In a philosophy of similarity, phenomena are arranged around prototypes, and categories, therefore, they do not have sharp boundaries but granular transitions that resemble threshold or border spaces. In many contexts, similarity relations and comparative practices have an affinity with spatial notions in the sense of a certain degree of proximity or distance.⁵ It is precisely within this context that the systematic study of no-man's-lands begins.

In the following, then, no man's lands are to be understood less as literary motifs, but primarily as figures of reflection in relation to more or less of ownership and more or less of domination, and thus serve as indicators of something that at first glance has no place in our contemporary understanding of ownership. No man's lands in literature and in cultural theory stand for different, even contradictory narratives of space and property, each of which comments on and criticizes the other. In the context of colonial appropriation, they serve to justify theft as cultural progress. As a contrast to the pretentious world view of landowners, however, they represent a critical objection to the entire idea of ownership – especially regarding the possession of nature. They embody the disconcerting concept of non-ownership and of more- or less- ownership that provokes fantasies of conquest as well as dreams of safety.

¹ Dorothee Kimmich, *Lebendige Dinge in der Moderne*, Konstanz: Konstanz University Press 2011.

² Dorothee Kimmich, *Ins Ungefähre. Ähnlichkeit und Moderne*, Konstanz: Konstanz University Press 2017.

³ Cf. Bruno Latour, *Nous n'avons jamais été modernes: essai d' anthropologie symétrique*, Paris: La Découverte 1991. / Cf. Bruno Latour, *We Have Never Been Modern*, New York: Harvester Wheatsheaf 1993.

⁴ Ludwig Wittgenstein, *Philosophische Untersuchungen*, Frankfurt a. M.: Suhrkamp 1971, § 67, p. 57.

⁵ Cf. Robert Spaemann, "Ähnlichkeit", in: Robert Spaemann, *Schritte über uns hinaus. Gesammelte Reden und Aufsätze II*, Stuttgart: Klett-Cotta 2011, pp. 50–58, here p. 57.

Introduction: On the Theory of No Man's Lands

“Drawing a line”

Property is such a fundamental and self-evident institution of modern societies that it is rendered nearly invisible. Though, invisible only when individuals have access to property and there is not a threat of poverty. Nor is it invisible when excessive wealth becomes a threat to social order. Rather, the institutions of individual, state or community property as such have become nearly invisible.¹ “Ownership is an institution that both constitutes a thing-relation and a social-relation.”² Consequently it also establishes a unique relationship with the self. Owning a thing or piece of land does not only mean that one can freely dispose of it, earn a profit and resell it, but also that one can exclude others from it. In fact, in modern societies ownership, self-esteem, recognition and even identity enter into far-reaching alliances with each other. The modern subject is one who owns what he or she uses or needs, or to put it another way, only those who own what they use, and need are sovereign subjects.

Property guarantees power of disposal and the right to exclusion. These rights are protected by modern states and are considered to be a fundamental part of our civil rights and liberties. The protection of property and the liberty of ownership are not value-neutral regulations but normative principles. The protection of an individual's property precludes another individual from owning the same thing or the same piece of land. Inherently, this raises concerns regarding fair distribution, the political significance of such distribution, and the impact on the exercise of state power. Regardless of whether one agrees or disagrees with Karl Marx's arguments regarding surplus value in capitalist societies, there is no denying that contemporary societies distribute property and the right to ownership unjustly, indeed, radically so. In 2001, John Rawls spoke of a property-owning democracy whose stability is endangered by the unjust distribution of property.³ Though his thesis is not very surprising, the low resonance it generated is. Regardless, the belief that individuals have a fundamental right to property and that this belief is the basis of our modern legal system largely goes unchallenged.

The classical theories of property often do include a critique of such (i.e., Karl Marx) and date back to the 19th century. They are based on the theses of John Locke, David Hume and Jean-Jacques Rousseau. They have not yet been replaced by more recent theories of equal scope and significance. Currently, property theories are mainly discussed within the legal sciences; contributions from philosophy and the cultural studies are rarer than one would expect. Though theories of propertylessness are numerous and varied, ranging from the theological to the Marxist, a new understanding of ownership in terms of communal or partially communal property, of *commons*, is only gradually being recognized and is more likely to be espoused by community activists.⁴ The *commons* are material and immaterial resources that can in principle be used by all members of a community. These not only include air, and often water – though not always the fish that are in it – but ideally also include access to information.⁵

¹ Cf. Tilo Wesche, "Einleitung", in: *Deutsche Zeitschrift für Philosophie* 62 /3 (2014) (Schwerpunkt "Eigentum"), pp. 409–414.

² Tilo Wesche, Hartmut Rosa, "Die demokratische Differenz zwischen besitzindividualistischen und kommunitären Eigentumsgesellschaften", in: *Berliner Journal für Soziologie* 28 /1–2 (2018), pp. 237–261, p. 240, own translation, Dorothee Kimmich.

³ Cf. Erin Kelly (Ed.), *John Rawls. Justice as Fairness. A Restatement*, Cambridge Mass.: Harvard UP 2001; Thomas Piketty, *Kapital und Ideologie*, München: Beck 2020, p. 139–171.

⁴ These include Silke Helfrich (Ed.), *Wem gehört die Welt? Zur Wiederentdeckung der Gemeingüter*, Munich: oekom 2009; Id. (Ed.), *Commons. Für eine neue Politik jenseits von Markt und Staat*, Bielefeld 2012; Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action*, Cambridge: Cambridge University Press 1990; cf. the *International Journal of the Commons*, online at <https://www.thecommonsjournal.org>, last access 2.4.2020.

⁵ Cf. also Daniel Loick, *Der Missbrauch des Eigentums*, Berlin: August Verlag 2016, pp. 124 ff.

Therefore one can include open-source software as well as more traditional systems such as shared land, an example of which is still cultivated in the mountain regions of Swanetia in Georgia.⁶ Historical research on these *commons* trace their importance back to antiquity and the Middle Ages.⁷ Today, *commons* also indicate knowledge and other resources.⁸

No man's lands, i.e., stretches of land and areas that do not belong to anyone, have become so rare that they should be placed under "species" protection. They completely contradict the fundamental principle of ownership and of individual right of use, meaning they may not be used at all or used by many at the same time. Their respective legal status is ambiguous and thus it is unclear who may be excluded from their utilization. Today, when one uses the term *no man's land* it is usually being used in a metaphorical and not in a legal sense. However, both the metaphoric and the actual no man's lands – such as the oceans – pose a challenge to "Eigentumsvergessenheit"⁹ or "property obscurity".

"The primordial scene of the *nomos* opens with a drawing of a line in the soil,"¹⁰ Cornelia Vismann states in her essay, "Starting from Scratch: Concepts of Order in No Man's Land." She continues, "cultivation defines the order of ownership in space."¹¹ Cultivation, i.e., in its original meaning of tilling the earth, is the act of taking possession and thus the foundation on which the rightful claim of ownership rests. In order to catalogue, categorize, collect, interpret, and reflect on images and texts about no man's lands it is vital to discuss the connection between ownership and non-ownership, between cultivation and property, and colonization and appropriation; and also, to discuss fences, borders and ditches, or their gradual disappearance, in detail.

No man's lands often do not have a good reputation. They are considered lawless territories especially in times of flight and forced migration. No man's lands are known as places between borders where people are stranded without access to a state or legal status and without being able to obtain a passport. The people living in these no man's lands are fenced in, deprived of rights, and condemned to wait for their status or situation to change with very little care or support. No man's lands are generally regarded as dangerous places, as treacherous zones between front lines – as in the First World War.¹² They also demarcate buffer zones strewn with landmines – on the former German-German border (East vs. West) and in the still existing Korean Demilitarized Zone.

⁶ Cf. Luka Nakhutsrishvili, "Pein und Zeit. Fünf geschichtsphilosophische Fragmente aus Georgien", in: *literaturkritik.de* 10 (2018).

⁷ Peter Linebaugh, *The Magna Carta Manifesto: Liberties and Commons for All*, Berkeley, Los Angeles, London: University of California Press 2008; cf. in particular Chapter 12, "Conclusion", pp. 270 ff.

⁸ Cf. Andreas Weber, "Wirklichkeit als Allmende. Eine Poetik der Teilhabe für das Anthropozän", in: Silke Helfrich, David Bollier (Ed.), *Die Welt der Commons. Muster gemeinsamen Handelns*, Bielefeld: transcript 2015, pp. 354–372.

⁹ Rosa Wesche, *Die demokratische Differenz*, p. 239.

¹⁰ Cornelia Vismann, "Starting from Scratch: Concepts of Order in No Man's Land", in: Bernd Hüppauf (Ed.), *War, Violence and the Modern Condition*, Berlin, New York: De Gruyter 1997, pp. 46–64, p. 46; cf. Eric J. Leed, *No Man's Land. Combat and Identity in World War I*, Cambridge, New York: Cambridge University Press 1979; cf. also the novel by Kurt Oesterle, *Die Stunde, in der Europa erwachte*, Tübingen: Klöpfer, Narr 2019. Here, the devastated and abandoned battlefields of the First World War become the setting for a rapprochement between strangers and the stranded.

¹¹ Vismann, "Starting from Scratch", p. 47.

¹² Christoph Nübel, *Durchhalten und Überleben an der Westfront. Raum und Körper im Ersten Weltkrieg*, Paderborn: Ferdinand Schöningh 2014; cf. also texts, films and songs on the so-called Christmas Truce 1914; Herfried Münkler, *Der Große Krieg. Die Welt 1914 bis 1918*, Berlin: Rowohlt 2013; Paul McCartney, *Pipes of Peace*, Parlophone/EMI & Columbia Records 1983; Ralf Marcinczik, *Niemandland* (Comic), 2013.

Most of the time, however, no man's lands refer to the un-surveyed and stateless deserts, polar regions, or oceans. These areas can be dangerous but are primarily undeveloped and not under the control of a single state. No man's lands are therefore those areas of the earth that belong to no one or appear to belong to no one because no one cares for them, has chosen to enclose them or has laid claim to them. On the other hand, however, some areas have become no man's lands not because they are not wanted, but rather that they are contested terrain between two hostile, often impassable borders.

In a legal context a distinction is made between no man's lands which fall under constitutional law and no man's lands which fall under property law. The Latin term *terra nullius* means *empty land* in English. This includes, for example, international waters – both the waters' surface and the seabed – international airspace and all of outer space, as well as some overlapping air, land, coastal and sea areas. Ships sailing under no state flag on international waters or a disputed area between warring states are also referred to as no man's lands. The same is true for unclaimed pieces of land, though these have become quite rare. In the 21st century, there are only two territories that can still be described as real no man's lands in terms of constitutional law: Marie Byrd Land in Antarctica and the Bir Tawil area between Sudan and Egypt. Legally speaking, no man's lands are territories that are not subject to any state power.

The debate on no man's lands is therefore rather one of international law and is not subject to the ideas and parameters of private law. Although in legal history and theory these issues do frequently come in contact with one and other and are discussed. This is especially true if one treats *terra nullius* as a special case of *res nullius*, i.e., of ownerless objects in general.

In the non-legal, vernacular, on the other hand, areas that do not seem to belong to anyone are often referred to as no man's lands. Therefore, urban wastelands,¹³ dysfunctional spaces in large cities or particularly inhospitable areas on the peripheries of cities are often regarded as no man's lands, although they are usually not so in the legal sense. It is the infamous *terrains vagues*¹⁴ of the Romantic Period that have shaped our perception of no man's land. In this sense they are not necessarily deserts, polar regions or wilderness; though they *can* be wilderness, but do not have to be. Instead, in the vernacular, no man's lands are lands that have gone to seed, become savage, feral, or wild, due to human influences and are not natural wildernesses per se.

They are uncultivated areas in a double sense: *cultura* originally means cultivation and, as Albrecht Koschorke points out, is associated with the image of ploughing, of digging, of drawing lines, furrows and borders.¹⁵ However they are also left uncultivated because it is not possible for a certain form of culture, civilization or statehood to assert itself. Thus, cultivated, fertile land is distinguished from untilled, sparsely cultivated, barely or uncultivated space which is either pristine wilderness or a no man's land.

¹³ Cf. Andreas Feldtkeller (Ed.), *Städtebau: Vielfalt und Integration. Neue Konzepte für den Umgang mit Stadtbrachen*, Stuttgart, München: Dt. Verl.-Anst. 2001.

¹⁴ *Terrain vague* does not correspond exactly to what "fallow land" means. The term originated in French Romanticism and was first used by François-René de Chateaubriand in 1811, then by Honoré de Balzac and plays a major role in French modernism. Cf. Jacqueline M. Broich, Daniel Ritter, "Tagungsbericht 'Terrain vague: Die Brache in den Stadt- und Kulturwissenschaften'", in: *Romanische Studien* 1 /2 (2015), pp. 379–393.

¹⁵ Cf. Albrecht Koschorke, "Codes und Narrative. Überlegungen zur Poetik der funktionalen Differenzierung", in: Walter Erhart (Ed.), *Grenzen der Germanistik. Rephilologisierung oder Erweiterung?*, Stuttgart, Weimar: Metzler 2004, pp. 174–185, p. 174.

For while wilderness belongs to the natural environment and ultimately makes no statement about ownership and property relations, it is clearly a conscious decision, an assessment, often even a political act, to declare an area *terra nullius*.¹⁶ After all, though an area may “obviously” not belong to anyone this is indeed not always the case. The European colonizers of the 17th, 18th and 19th centuries made use of the idea of *terra nullius* in order to legitimize their claims of ownership in the colonies. The African continent as well as the American and Australian continents were not only considered wild but were also declared no man’s lands in order to justify their appropriation by the European colonizers.

The English *Common Law* of the 18th century explicitly permitted the settlement of “uninhabited or barbarous countries.” Legitimate ownership was deliberately not to be based on pure *occupatio*, i.e., conquest, but should also involve *cultivatio*, i.e., agricultural use. This required “culture and husbandry” and finally also “enclosure” and thus explicitly includes fencing off the territory.¹⁷ This view, particularly the notion that designated no man’s lands may be taken into possession under the condition of their cultivation, found its way into the property definitions of the Enlightenment philosophy and thus shaped political, economic and legal discussions regarding the concepts of possession and property for centuries thereafter.¹⁸ Ultimately the question of how property originates and how it can be legitimized does not have a simple or even a fundamental answer. Instead, its idea has always been linked to political and economic interests.

Who owns the earth? Who owns this prime piece of property and its bounty, its *mobilia*, the objects, plants, animals and things that were not created by man but are inherently pre-existing is a question that can be discussed from divergent perspectives? Since antiquity, the origin of property, both of movable objects and of land, has been discussed at length. Theology, philosophy and the legal sciences, later economics and cultural studies, have participated and continue to participate in this debate from different, sometimes contradictory perspectives and with very different interests. The arguments used in these debates are shaped by cultural, geographical, religious and often even confessional notions. They are seldom value- or purpose- free, but are most often linked directly to political and, above all, economic interests and are also connected with basic assumptions about the universality of *humanitas* or the value of cultures.

Theses and theories of ownership regarding movable goods and ownership of land have not always evolved simultaneously. The ownership of land is discussed within a wider political, international, and theoretical context and with greater methodological effort than the ownership of things. This is due to the fact that the ownership of things is usually located in the realm of private law, whereas the ownership of land is a matter of constitutional law, international law, legal philosophy and therefore often also of comparative legal approaches. To consider how people can acquire land touches on the question of to whom the world belongs before any land register entry and contract of sale is drafted. This issue has produced a significant surge of systematic philosophical accounts on the one hand, as well as various discourses or narratives on the other, the latter of which can be found not only in theoretical

¹⁶ This became politically and historically relevant around 1095 when Pope Urban II decreed that land inhabited by non-Christians qualified as no man's land and could therefore be colonised without hesitation. Cf. Pramod K. Nayar, *The Postcolonial Studies Dictionary*, London: Wiley 2015, p. 153. The injunction served to prepare for the first crusade to Palestine and the establishment of the crusader states.

¹⁷ Daniel Damler, *Wildes Recht. Zur Pathogenese des Effektivitätsprinzips in der neuzeitlichen Eigentumslehre*, Berlin: Duncker & Humblot 2008, p. 37 f.

¹⁸ Helmut Janssen, *Die Übertragung von Rechtsvorstellungen auf fremde Kulturen am Beispiel des englischen Kolonialrechts: Ein Beitrag zur Rechtsvergleichung*, Tübingen: Mohr Siebeck 2000, pp. 64 ff.; Alexander Proelß, "Raum und Umwelt im Völkerrecht", in: Wolfgang Graf Vitzthum (Ed.), *Völkerrecht*, Berlin: De Gruyter 2010, pp. 389–489; cf. Timm Ebner, *Nationalsozialistische Kolonialliteratur. Koloniale und antisemitische Verräterfiguren "hinter den Kulissen des Welttheaters"*, Paderborn: Fink 2016, pp. 113–120.

but also in literary texts. Therefore, the nature of possession and ownership – and indeed of non-possession – is not only of interest in a philosophical, indeed a legal philosophical sense, but it is also an issue that is discussed in the field of cultural theory and, of course, also in literature.

The following, however, will not provide a comprehensive history on the concept of possession or non-possession which spans from the Bible to Karl Marx to Thomas Piketty. It is rather a reflection on no man's lands, especially literary no man's lands, and their function, form, narration, and proliferation, and on how stories of possession or appropriation, loss and appropriation, ownership and propertylessness can be told, in other words, also on what literature has to say about property - and its opposite.¹⁹ The focus is not primarily on ownership per se, but above all on what happens in and with places and spaces that *are not at all*, or not *actually* owned.

The history and development of these narratives can be traced in detail and with historical accuracy from antiquity to the present. However, this will also not be focused on. Instead, a few relevant examples will be used to illustrate how the imagination of empty space is simultaneously linked to the history of reflections on property and narratives of self-sufficiency and happiness, as well as to stories of freedom, transformation and understanding. Equally, there are also writings about loneliness, loss, disorientation, and abandonment within the no man's lands.

These narratives, which are often reference ancient myths, tell of God's commandments and of exclusive salvation, as for instance of the people of Israel, and of newly constructed paradises, uninhabited islands, happy Elysium, caves of salvation, and unpopulated, fertile expanses – as in the case of the colonization of North America – as much as they tell of threatening deserts, littered urban wastelands, overgrown gardens and abandoned industrial sites. In the examples discussed below, the focus will not be on narratives that understand no man's lands in a merely dystopian sense²⁰ but on those which find productive aspects in the special status of a no man's land and thus specifically emphasize the ambivalent, contradictory, mysterious and fascinating character of these spaces.

2. Who Owns the Earth? On the History of Land Ownership

The principles of ownership and property have been discussed since ancient times especially concerning land. The following rule, eloquently written by Cicero, was in effect in ancient Rome in regard to the Stoa, “[S]unt autem privata nulla natura.”²¹ This does not mean that there could be no private ownership of land at all, i.e. that the world and all its lands should be owned by public institutions, but rather that originally the earth belonged to *no one* or to *everyone*. Appropriation usually occurred “*aut vetere occupatione, ut qui quondam in vacua venerunt, aut victoria, ut qui bello potiti sunt, aut lege pactione condicione sorte*”, i.e., through occupation of empty land, through conquest or a contractually regulated lottery.²² Those who were able to find “*in vacua*” and to appropriate this “empty” land which was not actively claimed by someone else, were among the lucky few who did not have to engage in conquest, lotteries or enter into a contract.

The question to what extent the Roman legal concepts of property have had an influence on pre-modern and modern legal theories and practices is disputed among historians and legal scholars. The term *terra nullius*, most certainly originated in the 19th century, rather late. It had previously only appeared in relation to *res nullius*: “Contrary to the views of some historians, our analysis will show that res

¹⁹ Cf. Inge E. Boer, “No-Man’s-Land? Deserts and the Politics of Place”, in: Id. et al. (Ed.), *Uncertain Territories: Boundaries in Cultural Analysis*, Amsterdam: Rodopi 2006, pp. 107–138.

²⁰ Cf. James G. Ballard, *Concrete Island*, New York: Jonathan Cape 1974.

²¹ Marcus Tullius Cicero, *De officiis. Vom pflichtgemäßen Handeln*, I, 21, transl., annotated and ed. by Heinz Guerner, Stuttgart: Reclam 1976, p. 20.

²² *Ibid.*, p.21.

nullius was a concept with a firm foundation in Roman legal sources, but terra nullius was merely derived from the Roman concept of res nullius by analogy.²³ Benton and Strautmann illustrate that the concepts of *terra nullius* did not derive exclusively from Roman law, but from various traditions, whereby ideological and political interests are mixed with legal and philosophical theses: “The diversity of interpretations and the language they employ suggest that the term *terra nullius* may be standing in for not a single doctrine but a legal orientation and a diverse set of practices.”²⁴

The above-mentioned idea appears to be plausible from a cultural-theoretical point of view as well; assuming there is a general legal orientation and an associated set of practices that regulate appropriation, transfer, possession, ownership, and use, then we are not referring to a set of specific laws, but rather to concepts or models that shape and regulate notions of property. In his monumental analysis of political and social inequality, Thomas Piketty emphasizes the “close ties between political order and property order” and concludes that every “inequality regime, every inequality ideology [...] is based on a theory of the border and a theory of property.” This in turn requires, according to Piketty, a history of ideas on property that focuses not only on economic, but rather on philosophical, legal, theological and political concepts, i.e., the ideological basis of property.²⁵ Precisely these concepts are raised in various historical literary texts in a wide range of genres and are analyzed for plausibility, equity and practicability. In this context, the differing evaluations regarding the “discovery” of an empty land or land described as such play a central role. Furthermore, its occupation – whereby this is often quite ambiguous – and its construction, use and cultivation – whereby here, too, very different practices of agriculture, settlement construction or military fortification come into question – are of significance. In addition to the theoretical justifications of property claims, the respective practices – may they be peaceful or violent – of appropriation are also vital. Almost always, however, the question of the ‘original’ owner was, and still is being discussed, though often the most dubious arguments are implemented.²⁶

Since the 17th and particularly in the 18th and 19th centuries, philosophers and legal scholars have tried to solve the issue regarding the legitimacy of property by answering the ontological question of the origin of property. The answers are inherently similar whenever an original natural state was assumed in which proofs of ownership were deemed unnecessary, unknown, or unrecognized. The natural-law version of the Christian Model in which God gives the earth to his children to use as they see fit, which can be found in the legal philosophy of the European Renaissance and Enlightenment, did not differ fundamentally from the ancient idea of a time without property and thus without forms of social order. Initially, the earth always belonged to all people, or rather it belonged to no one in a private-legal sense.²⁷ Appropriation then takes place through abandonment or usage. Traces of this concept can also still be found in today’s international law, for example within the concept of “common heritage of mankind,” and more specifically in the status of the moon, Antarctica and in Article 136 of the UN Convention on the Law of the Sea on the High Seas.²⁸

²³ Lauren Benton, Benjamin Strautmann, "Acquiring Empire by Law: From Roman Doctrine to Early Modern European Practice", in: *Law and History Review* 28 /1 (2010), pp. 1-38, p. 2.

²⁴ *Ibid.*, p. 11.

²⁵ Piketty, *Kapital und Ideologie*, pp. 20 f.

²⁶ This debate continues to this day in heated disputes, especially over the claims of so-called Indigenous people in Australia.

²⁷ Cf. John H. Elliott, *Empires of the Atlantic World. Britain and Spain in America, 1492–1830*, New Haven, Conn.: Yale University Press 2007; Brian Slattery, "Paper Empires: The Legal Dimensions of French and English Ventures in North America", in: John McLaren, Andrew R. Buck und Nancy E. Wright (Ed.), *Despotic Dominion: Property Rights in British Settler Societies*, Vancouver: University of British Columbia Press 2005, pp. 50–78, p. 51.

²⁸ Cf. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1998:179:0003:0134:DE:PDF>.

The most important ideas in this regard were developed by John Locke, Samuel Pufendorf, and Hugo Grotius, among others. John Locke confirms the postulated connection of property and work, or the cultivation (land), the creating, treating, processing, reworking (dependent on object) of it. He most certainly formulated one of the most influential theories on property in the fifth chapter of his *Second Treatise of Government* (1689):

The labor of his body and the work of his hands, we may say, are properly his. Whatsoever then he removes out of the state that nature hath provided and left it in, he has mixed his labor with, and joined to it something that is his own, and thereby makes it his property.²⁹

Locke begins his argumentation, as Cicero did before and Rousseau after him, with the following 'original' assumption: God has given the world to all humankind to share, but not merely to contemplate it, but rather to work (on) or cultivate it. The one thing that an individual principally owns (analogous to how all people originally commonly own the world) is his body. Accordingly, everything one creates with his own body is his property. Thus, in a sense, labor becomes the basic currency with which one can appropriate something. The well-known saying that a man shall have as much land as he "tills, plants, improves, cultivates,"³⁰ is derived from a combination of God's commandments and the natural limitations of bodily strength and needs. The condition for lasting peace, moreover, is that there be enough for everyone, which Locke presumes as a given. God created a world large enough to feed everyone; therefore, the possibility of resource scarcity, for example, is not mentioned.

Those, however, who do not work, who do not produce anything, but merely want to live on what nature provides them should not be allowed to own anything. In other words, this refers to those who do not have a conception of private property and are also not to be recognized as full-value citizens of a country, such as the 'wild Indian' who feeds on game, i.e., who relies on hunting and not on agriculture.³¹ Unlike animals, humans have to work in order to fulfil their destiny. Whether this be divine or anthropological Locke keeps cleverly ambiguous. In other words: those who do not produce are akin to wild animals and are therefore not to be considered, indeed should be left out entirely in terms of property law.

John Locke did not develop this theory within the context of purely philosophical and natural law debates; his thoughts are most definitely politically motivated. He, like Hugo Grotius,³² and Samuel Pufendorf, dealt intensively with the very concrete questions of property and ownership law raised by the European expansion since the 15th century. Daniel Damler³³ convincingly argues that the cause and purpose of the philosophical property discussion in the 17th and 18th centuries was the colonization of

²⁹ John Locke, "The Second Treatise of Government", chapter 5, §27, pp. 11f in: *John Locke and Ian Shapiro: Two Treatises of Government and a Letter Concerning Toleration*, ed. by Ian Shapiro, New Haven: Yale University Press 2003; Paul Corcoran, "John Locke on the Possession of Land: Native Title vs. the 'Principle' of Vacuum domicilium", in: *Proceedings, Australasian Political Studies Association Annual Conference*, Melbourne: Monash University, 24.–26. September 2007 (online access: digital.library.adelaide.edu.au/dspace/bitstream/2440/44958/1/hdl_44958.pdf, last access 2. 4. 2020).

³⁰ Locke, "Second Treatise of Government", §32, p. 113.

³¹ Cf. Loick, *Der Missbrauch des Eigentums*, p. 24.

³² Cf. Hans W. Blom, "Grotius' res nullius. Ein kosmopolitischer Streit über Eigentum und Allgemeingut", in: Michael Kempe, Robert Suter (Ed.), *Res nullius. Zur Genealogie und Aktualität einer Rechtsformel*, Berlin: Duncker & Humblot 2015, pp. 61–76; Reinhard Brandt, *Eigentumstheorien von Grotius bis Kant*, Stuttgart-Bad Cannstatt: Frommann-Holzboog 1974; Mathias Risse, *On Global Justice*, Princeton: Princeton University Press 2012.

³³ Cf. Damler, *Wildes Recht*.

the New World. This involved internal competition between the colonial powers: Spain, Portugal, England and the Netherlands, each of which disputed the territories already claimed by the others. Implementing the principle of the effective use of land, one could claim real ownership both against the Indigenous peoples, who were considered poor farmers, and against other colonial powers if one not only formally claimed the land, but worked it, cultivated it and made agricultural use of it. Similarly, Daniel Loick argues that “Locke’s theory of property cannot be properly understood if one disregards the situation in America [...]. The question of the legality of the appropriation of the American land by the Europeans [...] is not a minor extra theme of the Two Treatises but one of its main objectives.”³⁴

Locke’s idea of the division of land for the purpose of subsistence farming, which at first glance seems peaceful, he admits will ultimately fail without international treaties and civil legal contracts. However, though one may assume that these are the prerequisites for the appropriation of land, this is not the case. The consent of a second party as a prerequisite to legally acquire land is not essential. Rather, uncultivated land is at the disposal of whoever decides to sustainably cultivate it. A contractual stipulation can follow in order to exclude others’ claims in the future. Thus, ownership is not primarily created through a contractual relationship. The transition from the original state to the social state is determined by an act, by labor, and not by negotiation or contractual agreement.

The social contract does not describe a historical event, but rather creates a fictive state of nature as the origin of its narrative in order to justify a specific construction of the state. Moreover, this act is reflected in almost all theories of contractualism. Furthermore, various authors emphasize time and time again, “that the structure of the contract alone cannot provide the promised remedy for the deficiency in the state [...]”;³⁵ the above statement was made by Sigrid Köhler regarding a contractualistic overcoming of the state of nature. In essence it is not the structure of the contract, but the idea of *occupatio* and the subsequent *cultivatio* which underpin the narrative that Cicero and Locke, and later other colonists, applied with different justifications. Thus, even with Locke it is impossible to overlook the determination of borders. However, borders marking and defining certain areas are drawn *after* appropriation and do not *cause* the appropriation.

Rousseau provides quite a similar view in his *Treatise on the Origin and Basis of Inequality Among Men*. However, he does not emphasize the inclusive, but rather the exclusionary character of borders:

The first person who, having enclosed a plot of ground, bethought himself to say *this is mine*, and found people simple enough to believe him, was the true founder of civil society. How many crimes, wars, murders, how many miseries and horrors Mankind would have been spared by him who, pulling up the stakes or filling the ditch, had cried out to his kind: Beware of listening to this impostor; You are lost if you forget that the fruits are everyone’s and the Earth is no one’s.³⁶

This may be one of the most frequently quoted passages from Rousseau’s *Discours sur l’origine et les fondements de l’inégalité parmi les hommes* (1755). Here Rousseau discusses the fundamental question posed by the Académie in Dijon on the origin of human inequality within the natural law tradition

³⁴ Cf. Loick, *Der Missbrauch des Eigentums*, pp. 38 f, own translation, DK.

³⁵ Sigrid Köhler, *Homo contractualis* (habilitation dissertation, Bochum 2017, to be published), p. 70, own translation, DK.

³⁶ Jean-Jacques Rousseau, “*Discourse on the Origin and the Foundations of Inequality Among Men*”, in: Rousseau: *The Discourses and Other Early Political Writings*, ed. and transl. by Victor Gourevitch, 2nd Edition, Cambridge: Cambridge University Press 2019, pp. 115-239, p 165.

of Thomas Hobbes, John Locke and Samuel Pufendorf, all of whom take an anthropological, to a certain extent precultural and quasi-mythical original state of humanity as the starting point of their thoughts.

Unlike Hobbes, who postulates that in primeval times humans were as dangerous to humans as wolves, Rousseau imagines a nearly paradisiacal state of nature. He imagines earth as a no man's land, terra nullius, its fruits ripe for the picking and available to all. Thus, the earth belongs to everyone and to no one at the same time. This primeval state is reminiscent of the biblical pact that God makes with Noah and his sons after the Flood:

Then God blessed Noah and his sons, saying to them, "Be fruitful and increase in number and fill the earth. The fear and dread of you will fall on all the beasts of the earth, and on all the birds in the sky, on every creature that moves along the ground, and on all the fish in the sea; they are given into your hands. Everything that lives and moves about will be food for you. Just as I gave you the green plants, I now give you everything."³⁷

As long as humans adhere to the proprietary concepts of the Old Testament God the pact between God and man is valid, no further Flood is to be expected and peaceful coexistence is guaranteed under the sign of the rainbow. As a prerequisite it is necessary that the earth offers enough food and space for all inhabitants, and also that no one demands to own more than he or she needs to provide for himself or herself and their family. The multiplication of possessions, the exchange of goods, the division of labor and socialization are not envisaged, or they may, as in Rousseau's case, convey a sense of foreboding.

The verses from Genesis may resonate with some of Rousseau's readers, and the idea of a peaceful coexistence of all humans – without property, land registers and fences – will seem plausible above all to those who believe a mystical power of some kind, a God – a guarantor of peace on earth – to be self-evident.³⁸ But perhaps it will also resonate with those who are familiar with the (original) Christian vow of poverty revived by medieval monasticism, especially by the Franciscans. The latter is not a matter of naïve ideas of individual mendicant monks, but a holistic concept of life and faith sparking a debate which shook the Catholic Church to its core from the 12th to the 15th century and provoked countless legal treatises. The core of the discussion, in which William of Ockham was also involved, was the question of whether Jesus and his disciples had possessions, and if not, whether having possessions was heretical. Ultimately, the question of the relationship between having possessions and being human was hotly debated – the result was left open-ended. These questions have also been taken up in modern debates, for example by Antonio Negri and Michael Hardt, and by Giorgio Agamben in his *homo sacer* project.³⁹

The passage from Rousseau's treatise can easily be misused for polemical purposes of various ideological backgrounds, as it seems – when taken out of context – as if it were a rejection of private ownership of land in general and as if this in turn were the absolute solution to all conflicts that can arise in human coexistence. However, Rousseau's argumentation is not primarily concerned with reflecting on property relations, but rather with explaining the inequality and hierarchies that arise from them within and between different societies.

³⁷ "Genesis 9: 1-3", in: *New International Version of the Holy Bible*, ed. by Biblica (The International Bible Society), Grand Rapids: Zondervan 2011.

³⁸ Cf. Wolfgang Kersting, *Die politische Philosophie des Gesellschaftsvertrags*, Darmstadt: Wissenschaftliche Buchgesellschaft 2005.

³⁹ Michael Hardt, Antonio Negri, *Commonwealth*, Harvard University Press 2009, pp. 50 ff.; Giorgio Agamben, *The Highest Poverty: Monastic Rules and Form-of-Life*, Stanford University Press, pp. 109 ff.

It follows from this account that inequality, being almost non-existent in the state of Nature, owes its force and growth to the development of our faculties and the progress of the human Mind, and finally becomes stable and legitimate by the establishment of property and Laws.⁴⁰

This simple model suggests an ideal primordial state whose advantage is the total independence of the individual. The rhetoric with which Rousseau succeeds in describing the state of nature as a state of happiness is astounding:

As long as men were content with their rustic huts, as long as they confined themselves to sewing their clothes of skins with thorns or fish bones, adorning themselves with feathers and shells [...], as long as they applied themselves only to tasks a single individual could perform [...], they lived free, healthy, good, and happy as far as they could by their Nature be [...].⁴¹

This is as suggestive as it is implausible; the ideals of health, freedom and the good life contained therein, i.e., of integrity, self-sufficiency, and happiness – though rhetorically skillfully depicted – are not very convincing to the modern reader. On the other hand, the promise that self-sufficiency and happiness are connected echoes a long tradition of not only natural law contemplation, but also concerning one's worldview. This narrative of origins, which, as Whitney Baumann has pointed out, resembles the creationist idea of *creatio ex nihilo* and the empiricist idea of *tabula rasa*, implies a pre-historic mythical state of equity. This state of equity therefore always has a negative connotation regarding the social regulation of the division of property as we know it from historical times.⁴² Originally, then, the entire earth was said to be a *terra nullius*, and that was considered to be a good thing.

The value of this narrative as an explanation or with regard to the function and regulation of property is low, but the ideological implications should not be underestimated. However, depending on the given historical-philosophical orientation, it can serve as a justification of property as in Locke, as a kind of backward-looking utopia as in Rousseau, as a narrative with a pleading character and a cultural-critical impetus, as in Sigmund Freud's tale of the murdering primal horde or Hobbes' wolfish man.⁴³

The theoretically and aesthetically productive potential of an imaginary primeval time without property and ownership immediately becomes problematic within historical, concrete contexts. It was, and is, often difficult or impossible to determine whether various *terra* had in all actuality no owner. *Venire in vacua* seems to be a matter of interpretation and not of fact. When is a land empty? When there are no permanent residences? When there is no permanent cultivation? When there are 'only' nomadic inhabitants? Does the drawing of a boundary line mark ownership? Or does it require the consent of all those affected by such a line in the broadest sense? And who would this be in the case of an empty land? Finally, this raises the question regarding what actually is improper and dangerous about Rousseau's fences: is it the fact that one takes something *at all*, or is it rather that one takes something away *from others* in the process? Depending on whether you are depriving someone of something or

⁴⁰ Rousseau, "Discourse on the Origin", p. 193.

⁴¹ *Ibid.*, p. 171f.

⁴² Cf. Whitney Baumann, *Theology, Creation, and Environmental Ethics: From Creatio Ex Nihilo to Terra Nullius*, London: Routledge 2009.

⁴³ Cf. especially part IV, "The Return of Totemism in Childhood", in: Sigmund Freud, *Totem and Taboo and Other Works, The Standard Edition of the Complete Psychological Works of Sigmund Freud 13*, London: Hogarth 1978; cf. also Ulrike Brunotte, "Brüderclan und Männerbund. Freuds Kulturgründungstheorie im Kontext neuerer kulturanthropologischer und gendertheoretischer Ansätze", in: Eberhard T. Haas (Ed.), *100 Jahre Totem und Tabu. Freud und die Fundamente der Kultur*, Gießen: Psychosozial-Verlag 2012, pp. 209–242. Albrecht Koschorke, "Götterzeichen und Gründungsverbrechen. Die zwei Anfänge des Staates", in: *Neue Rundschau* 1 (2004), pp. 40–55; Elisabeth Roudinesco, "Freud on Regicide", in: *American Imago* 68 /4 (2011), pp. 605–623.

even stealing it, or whether you are simply surrounding an ownerless piece of land with a fence, the situation changes considerably. Is it a matter of enclosure or exclusion? Or is every kind of property a theft after all?⁴⁴

Ultimately, therefore, it will have to be clarified what can even be regarded as unclaimed and empty. Mine is not only mine, but also: not yours. This is obviously not an urgent problem for Locke: the earth offers enough space for everyone. And if Europe becomes too small, then new territory can easily be found in the inner regions of America, to which Cicero's *in vacua venerunt* applies, "The classification of the American country as 'wasteland' and the aboriginal use of land by hunting and gathering as 'fallow land' is the premise for the appropriation theories of European property philosophy and reveals its inherent racism."⁴⁵

But since the interior of the American continent(s) was neither empty nor completely undeveloped when the European settlers arrived, what is *terra nullius* to one is home to another. Concerning this matter, the perspectives of immigrant societies and Indigenous peoples differ diametrically as Matthias Asche and Ulrich Niggemann have pointed out.⁴⁶ They explain that the historical narratives of immigrant communities, also see empty land, deserts or *terra nullius* in areas where in reality there are settlements, people, agriculture and animal husbandry.

Therefore, the *topos* of empty space, which in various respects can be traced back to the legal traditions of Grotius, Pufendorf and Locke, repeatedly emphasizes that it is not so much *uninhabited* as *undeveloped* emptiness. Nevertheless, or precisely because of this, it draws the conclusion that it is land that can be appropriated. "The most important argument that was repeatedly used as evidence of the primitiveness of the Indigenous people was the reference to their nomadic character."⁴⁷ When viewing South Africa, Manchuria, Poland, German emigrant areas along the Danube, and above all the North American prairies through this lens, all would be considered empty land.⁴⁸

Michael Kempe and Robert Suter have shown how such a process of appropriation can be justified and carried out in detail: "*Res nullius*" – i.e., the comprehensive formula for something that, for various reasons, does not belong to anyone – is what they call 'a dangerous moment': the transformation of non-possession into possession."⁴⁹ They emphasize that there is "no simple sequence from *res nullius* to *res mea* and *res communes omnium*." The "unity of the difference of possession and non-possession" must be taken into account in all theories of the origin of ownership and property.⁵⁰

These are by no means events that only concern the historical acquisition of colonies, but rather ones that are of eminent political significance today. The political consequences the transition from non-ownership to ownership in the name of *terra nullius* can have today is made abundantly clear by the

⁴⁴ Cf. Pierre-Joseph Proudhon, *Was heißt Eigentum? Oder: Untersuchungen über die Grundlagen von Recht und Staatsmacht* [Qu'est ce que la Propriété? Ou recherches sur le principe du droit et du gouvernement, 1840].

⁴⁵ Loick, *Der Missbrauch des Eigentums*, p. 41; also cf. Cheryl Harris, "Whiteness as Property", in: *Harvard Law Review* 6 (1996), pp. 1707–1791.

⁴⁶ Cf. Matthias Asche, Ulrich Niggemann (Ed.), *Das leere Land. Historische Narrative von Einwanderergesellschaften*, Stuttgart: Franz Steiner Verlag 2015.

⁴⁷ Norbert Finzsch, "Der glatte Raum der Nomaden: Indigene Outopia, indigene Heterotopia am Beispiel Australiens", in: Claudia Bruns (Ed.), *"Rasse" und Raum: Topologien zwischen Kolonial-, Geo- und Biopolitik: Geschichte, Kunst, Erinnerung*, Trier: Reichert Verlag 2017, pp. 123–144, p. 125, own translation, DK.

⁴⁸ Cf. Ebner, *Nationalsozialistische Kolonialliteratur*, p. 25.

⁴⁹ Michael Kempe, Robert Suter, "Einleitung", in: Id. (Ed.), *Res nullius*, pp. 7–20, p. 7, own translation, DK.

⁵⁰ *Ibid.*, own translation, DK.

so-called “Mabo Case in Australia, this being one example of many. It was not until the 1970s that the colonialist concept of *terra nullius* was questioned here, as well as in many South American countries.⁵¹

The Mabo Case has become an exemplary case of colonial ownership and postcolonial assertion of cultural and local identity in the name of land ownership.⁵² “When the British colonizers declared Australia as *terra nullius*, to be freely appropriated and exploited, they not only ignored previously established social norms and customs,”⁵³ but the Indigenous people were also evicted from their land and forced to recognize the European property system, which in no way corresponded to their own ideas of space and land use. In the 1990s, the Australian Aborigines were recognized as the rightful original owners of the land.⁵⁴ Another case of similar political volatility is the Zionist belief of the entitlement to land in Palestine, which is not only based on the idea of original descent, but also cites the lack of cultivation of the area by the Arab population as a just reason for appropriation.⁵⁵ Recently, the explosive power of this dispute was made clear once again when Achille Mbembe compared the settlement policy and the construction of the wall in Israel or rather in the Palestinian territories with South Africa’s apartheid policy.⁵⁶

The discussion and justification of land ownership takes place in a borderland of legal, political, and philosophical argumentations that make use of theological and often mythological philosopheme of the origin of humankind. Complex justification and origin narratives emerge, which since the Age of European Expansion, have denoted the cultivation of land of vital importance. The congruence with Protestant inner-worldly asceticism, which manifests itself as a life of labor, has – where expansion, settlement, land-grabbing, and Protestant faith coincide – reinforced the justification and origin narratives. It should not be overlooked, however, that the *terra nullius* argument also applies where no Protestant labor asceticism manifests itself. The identification of property and subjective freedom of sovereignty and ownership has found a fundamental justification in idealist philosophy and has also entered a variety of political discourses in the course of the 19th and 20th century.

The link between property and the idea of sovereign control over what one possesses couples the freedom of the subject to its possession. G. W. F. Hegel summarizes this concept precisely: “All things can become the property of human beings, because the human being is free will and, as such, exists in and for himself [...]. Thus, to appropriate something means basically only to manifest the sovereignty of my will in relation to the thing [...].”⁵⁷ Property is described as the determination of the subject, as the fundamental form of the objectification of free will. According to Hegel, “the determination of property”⁵⁸ is that in the expression of free will the I becomes objective and thus also real. Put simply: without property, there is no I.

⁵¹ A very topical, though not entirely analogous, discussion revolves around so-called land grabbing. Cf. Stefano Liberti, *Landraub: Reisen ins Reich des neuen Kolonialismus*, transl. by Alexander Knaak, Berlin: Rotbuch 2012.

⁵² Cf. The Decision of the High Court of Australia: Mabo and Others v Queensland (No. 2) (1992) 175 CLR 1 F.C. 92/014 (online at http://www.austlii.edu.au/au/cases/cth/high_ct/175clr1.html, last access 1.8.2017).

⁵³ Loick, *Der Missbrauch des Eigentums*, p. 100.

⁵⁴ Cf. Janssen, *Die Übertragung von Rechtsvorstellungen auf fremde Kulturen am Beispiel des englischen Kolonialrechts*, pp. 64 ff.; cf. Proelß, *Raum und Umwelt im Völkerrecht*, pp. 389–489.

⁵⁵ Steffen Hagemann, “Verlassen und verwüstet – Eretz Israel zwischen Utopie und mythischen Regeln”, in: Asche, Niggemann (Ed.), *Das leere Land*, pp. 251–266.

⁵⁶ Achille Mbembe, *Necropolitics*, Durham, NC: Duke University Press 2016. Cf. e.g. p. 5.

⁵⁷ G. W. F. Hegel, *Elements of the Philosophy of Right*, ed. by Allen W. Wood, transl. by H. B. Nisbet, 15th Printing, Cambridge: Cambridge University Press 2011 § 44, p 76.

⁵⁸ Ibid.

The question then arises, even for Hegel, of what can be possessed, that is, what is a “thing,” a “non-autotelic thing” as per the definition.⁵⁹ According to Hegel, animals clearly fall under this category, as does one’s own body⁶⁰ as a thing that the subject has to appropriate. In both instances, we must regard this as a relationship of domination with correspondingly disastrous consequences. Finally, there is the question regarding the sovereignty of those who do not own anything – or merely their own bodies and their own labor.

Many of these questions were taken up in the field of critical economics, often by Marxists, and further developed in the critical theory of the Frankfurt School.⁶¹ Within this context, Adorno accuses idealist philosophy, and thus also Marx, of neglecting the object and criticizes its prevalent focus on the subject. “Preponderance of the object” was “suspicious” to philosophy.⁶² Even Marx, especially the early Marx, with his thought of “reification” and, according to Adorno, his even more bothersome idea of “alienation,” had contributed considerably to perceiving objects only in terms of their possible appropriation by subjects. Adorno formulates his idea in a way that may come as quite a surprise to some of his readers, “things congeal as fragments of that which has been subjugated,” the salvation of the subject is not to be expected from the mastery of things, but from the “love” of thing.⁶³

Instead of epistemology, sensation is called for, indeed “no sensation without a somatic moment.”⁶⁴ It is not the possession of a body or a thing that determines the subject, but the experience of having a share in the somatic – the objective – and thus always being a bit less– or at least not only – a subject. Following in the footsteps of this fundamental non-identity, Adorno states, “By tailoring its categories, traditional philosophy has bewitched what is heterogenous to it.”⁶⁵

Not only Adorno would like to see the role and potential of art situated within this context; the aesthetic seems to be able to free the heterogeneous beyond philosophical categories from its curse. In light of the topic discussed within the current work this would mean more precisely: to be able to conceive the subject proceeding from the object and thus to think freedom without ownership (of land). Thinking about property and ownership leads not only to fundamental questions of economic theory, but also to those of conventional European philosophy. Evidently, it is about epistemologies in which the aesthetic, the somatic, the emotional and art in itself take on a fundamental role and in which the relationship of subjects to their objects – and vice versa – must be renegotiated.

At first glance, these remarks may seem a little too categorical and over-systematic, but they turn out to be quite plausible and helpful when reading literary texts, for literary no man’s lands do indeed often turn their inhabitants into nobodies, detaching them from their identity and confronting them with new experiences. What appears at first glance to be a pathological loss of ego and a dramatic identity crisis, however, proves to be the exact opposite. Rather, it is about an experience of non-identity, which is not only experienced as astonishingly liberating, but is also the requirement for feeling – if not recognizing – heterogeneity.

It can be said that the literary history of no man’s lands is closely linked with the philosophical and legal history of property or concepts of property. It connects European law and colonial history and is

⁵⁹ Ibid.

⁶⁰ Ibid., §47, p. 78f.

⁶¹ Some of this, however, is discussed today more in ecology – possession and domination of nature – and in psychology or medicine – domination and exploitation of one’s own body.

⁶² Theodor W. Adorno, *Negative Dialectics*, transl. by E.B. Ashton, London / New York: Routledge 2000, p. 189.

⁶³ Ibid., p. 191.

⁶⁴ Ibid., p. 193.

⁶⁵ Ibid., p. 194.

based on an implicit, highly concrete and politically or economically effective cultural theory or its critique, which intertwines property not only with labor and law, but also with the sovereignty of the individual and even the concept of subjectivity in general.

3. Border deserts, playgrounds and spaces of possibility

No man's lands can thus be regarded in terms of a desire to possess them. However, an important aspect must be added to this concept, which emphasizes the possibilities that such a space offers when ownership remains unresolved and in limbo. The idea that it is possible to "use" land without a need to own or possess it – hence without the exclusivity of ownership precluding communal use – occupies not only economists but also philosophers and sociologists.

At the beginning of the 20th century, Georg Simmel may probably have been the theorist who dealt most intensively with the interdependence of spatial relations and socio-structural patterns. Thereby he also dealt with empty spaces, with border deserts, with a special kind of no man's land. In doing so he developed a concept that closely resembles a social buffer zone or a transitional space where negotiations can be conducted and conflicts can be resolved, behavior can be evaluated, and reconciliations can be attempted.

In his 1903 text "Über räumliche Projectionen sozialer Formen"⁶⁶ – accompanied by his famous "Exkurs über den Fremden" from 1908⁶⁷ – Simmel developed his idea regarding social or cultural no man's lands. In these places, which he also calls "Grenzwüsten,"⁶⁸ or border deserts, there are no landlords and no owners, no one to set the rules and no one to sanction their violation. This can be dangerous, but also productive. In his works, he first deals quite concretely and historically with so-called border deserts, i.e., areas which are left empty and are drawn around a country to secure the enclosed territory as was done by the UNPROFOR troops in the Yugoslavian war, for example, or were drawn in antiquity. For Simmel, these areas also represent a space of neutrality and objectivity in which encounters can take place that would otherwise not take place anywhere else:

An incalculable number of examples show us areas in which intercourse, accommodation, simple contact between opposing parties is possible, in such a way that here the opposition does not get a word in edgewise, without, however, having to be abandoned, that one does indeed go out of the boundaries that otherwise separate us from the adversary, but without crossing over into his, but rather keeping beyond this separation.⁶⁹

What is crucial here is the expression that opposites are present, and differences can be maintained. One can, however, temporarily and for a specific purpose, reside beyond the separation of *own* and *foreign* and thereby suspend certain conflicts without suppressing and without having to resolve them. It is a temporary "contact," or contiguity, which, however, is specifically *not* described as understanding or communication.

⁶⁶ Georg Simmel, "Über räumliche Projectionen sozialer Formen", in: Id., *Gesamtausgabe, Vol. 7: Aufsätze und Abhandlungen 1901–1908*, Vol. 1, ed. by Rüdiger Kramme, Angelika Rammstedt and Otthein Rammstedt, Frankfurt am M.: Suhrkamp 1995, pp. 201–220.

⁶⁷ Georg Simmel, "Exkurs über den Fremden", in: Id., *Gesamtausgabe, Vol. 11: Soziologie. Untersuchungen über die Formen der Vergesellschaftung*, ed. by Rüdiger Kramme, Angelika Rammstedt und Otthein Rammstedt, Frankfurt am M.: Suhrkamp 1992, pp. 764–771.

⁶⁸ Simmel, "Über räumliche Projectionen sozialer Formen", p. 215.

⁶⁹ Ibid., p. 219, own translation, DK.

Simmel's reflections are about social differentiation or questions of assimilation and integration of strangers into a community, as well as the negotiation of differences and their spatial preconditions. The stranger, according to Simmel, is the one who "comes today and stays tomorrow,"⁷⁰ who thus becomes – with reservations – part of society. The decisive factors for the success of cohabitation are therefore not parameters such as identity, communication, culture, or even cultural identity, but rather questions regarding zones of contiguity and the scope available for negotiations.

In the last section of his treatise *Über räumliche Projektionen sozialer Formen*, Simmel develops the idea of places and spaces in which *everyone* has this status, i.e., in which everyone is – more or less – a stranger and where everyone is – more or less – on the move, or at least not at home. These can be places of exchange and trade, i.e., markets, bazaars, and fairs. But Simmel also sees structurally similar possibilities in other places such as in special spheres of sociability, in churches, in art or in science. This applies to buildings concretely, but also figuratively. Applying Simmel's logic, a university, for example, is not only a place of research, but also a productive no man's land i.e., a place of social contact and negotiation of differences and similarities between groups and individuals who in everyday, non-university, life are not necessarily friendly to each other and certainly do not have to belong together.

Simmel's idea of no man's lands is thus anything but a mere description of an ancient concept of border security. According to his idea of an interdependence of space and social behavior, a certain type of behavior is formed in the no man's land. It is a kind of social anti-role play in which one can suspend the role of Protestant, animal rights activist, or communist for a time. No man's lands offer the possibility of testing an elastic model of identity in a flexible transition zone. Simmel's no man's land is never about principle; quite the contrary, it is about partially and temporarily bracketing principles:

Among the many cases in which the maxim: don't hurt me, for I won't hurt you determines behavior, there is none purer and more vivid than that of the desolate area that a group draws around itself; here the principle has embodied itself completely in the spatial form.⁷¹

Georg Simmel's no man's lands are spatial projections of social etiquettes. They enable negotiation and understanding under the special conditions of temporarily suspended identities and principles. This idea connects Simmel's concept of no man's lands with Gabriel Tarde's model of cultural "imitation,"⁷² which takes place in specific border lands where the "foreign" and the "autochthonous" can be negotiated.⁷³ The lesser-known German economist and social scientist Ernst Grünfeld also developed a comparable concept. In his essay on "peripheries" he emphasizes their role in "cultural change."⁷⁴ Grünfeld, like Georg Simmel, Ezra Park,⁷⁵ Gabriel Tarde⁷⁶ and also Jurij Lotman⁷⁷ discusses

⁷⁰ Simmel, "Exkurs über den Fremden", p. 764, own translation, DK.

⁷¹ Ibid.

⁷² Cf. Gabriel Tarde, *Die Gesetze der Nachahmung*, transl. by Jadja Wolf, Frankfurt a. M.: Suhrkamp 2009 (*Les lois de l'imitation. Étude sociologique*, Paris: Alcan 1890), own translation, DK.

⁷³ Cf. Robert Ezra Park, "Human Migration and the Marginal Man", in: *The American Journal of Sociology* 33 (1928), pp. 881–893, own translation, DK.

⁷⁴ Ernst Grünfeld, *Die Peripheren. Ein Kapitel Soziologie*, Amsterdam: N. V. Noord-Hollandsche Uitgevers Mij 1939, own translation, DK.

⁷⁵ Cf. Park, "Human Migration and the Marginal Man"; Michael Makropoulos, "Der Mann auf der Grenze. Robert E. Park und die Chancen einer heterogenen Gesellschaft", in: *Der Freibeuter* 35 (1988), pp. 8–22.

⁷⁶ Cf. Tarde, *Die Gesetze der Nachahmung (Les lois de l'imitation)*.

⁷⁷ Cf. Jurij Lotman, *The Universe of the Mind. A Semiotic Theory of Culture*, London, New York: Tauris 1990; Id., "Dynamische Mechanismen semiotischer Systeme", in: Id., *Aufsätze zur Theorie und Methodologie der Literatur und Kultur*, published by Karl Eimermacher, Kronberg, Ts.: Scriptor 1974, pp. 430–437, p. 430.

the connection between foreignness and spatial order, that is, the economy of distance and proximity in the context of integration and discrimination, stagnation, and innovation.

Even though these approaches may differ in individual aspects of their argumentation and also in terms of their examples and their empirical approach, they are united by the basic idea that modern societies cannot be grasped with parameters of foreign and own, identity and alterity or with the help of strict demarcations. Rather, the conceptualization of spatial models and their metaphors helps to formulate coexistence and contiguity, to describe contact zones and overlaps, dynamism and mobility.

In addition, the aforementioned theorists argue principally, albeit with differing justifications, that a specific spatial distance from the center of power and order gives rise to a space of relative disorder – not total chaos – in which innovative processes and cultural developments can take root. No new communities, no identities and certainly no homogeneous groups can emerge within no man's lands. Instead, they are spaces in which encounters, often fleeting, occur and contact takes place on a certain level without the participants having to fundamentally adapt or assimilate. These no man's lands cannot be permanently owned or inhabited, let alone built on, but only entered and left again from time to time. In no man's lands, no one has the right of domicile, no one is at home there, no one is a stranger, no one is Indigenous. They are spaces of more-or-less and not of either-or.

Theodor W. Adorno also pursues a similar idea in his *Negative Dialektik* when he states that the "reconciled state" does not annex "the foreign with philosophical imperialism, but has its happiness in the fact that it remains distant and different in the granted proximity, beyond the heterogeneous and the own."⁷⁸ The reconciled state is a state that knows no domination or at least no exploitation, neither of nature nor of human beings – and also no self-exploitation, for it is a way of thinking, beyond the concepts of the foreign and the own.

The places beyond the separation of "heterogeneous and the own" are spaces that should not hastily be defined as heterotopias. Simmel defined his concept more narrowly than Michel Foucault.⁷⁹ The Foucaultian heterotopia, as far as it can be defined at all, is an anti-place: access to it is usually strictly regulated and often, as in the case of a prison and a psychiatric institution – access to and exit from cannot be decided individually. The Simmelian no man's land, on the other hand, is part of the social space and, unlike institutions or private spaces, accessible to all. Though strangely enough it often remains below the radar regarding attention and regulation.

No man's lands are also not "non-places,"⁸⁰ as Marc Augé describes them, which signal the anonymous homelessness of postmodern human beings. No man's lands hold more creative possibilities than non-places; the relative anonymity that a no man's land promises also guarantees the necessary freedom to explore possibilities. They are spaces of crossing and passage that are symbolically and factually open because they tend to be under-regulated. However, a no man's land does not have a utopian character either; it is neither a space of happy intimacy nor a real paradise, but simply a mostly overlooked piece of land.⁸¹

⁷⁸ Adorno, *Negative Dialektik*, p. 192, own translation, DK.

⁷⁹ Michel Foucault, *Different Spaces*, in: *Michel Foucault, Aesthetics, Method, and Epistemology*, ed. by James Faubion, London/New York: Penguin Group 2000.

⁸⁰ Marc Augé, *Non-Places. Introduction to an Anthropology of Supermodernity*, transl. by John How London/New York.: Verso, pp.77f.

⁸¹ Even places like the famous Shangri-La from the novel *Lost Horizon* (1933) by James Hilton come very close to what one could call a utopian no man's land. Shangri-La is a kind of amalgam of Christian, humanist and Buddhist teachings. The enormous success – also cinematic (film adaptation by Frank Capra in 1937) – ensured that Shangri-La acquired a quasi-real status on the map of utopian no man's lands.

No man's lands are also not suitable for realizing the Habermasian ideal of a discourse free of domination. For they are not spaces in which understanding is sought; instead, they are inherently about communication in and of itself. It is not the interpretation and understanding of the other, the stranger, which is in the foreground, but rather the reconciliation of interests, the maintenance of distance, perhaps politeness, negotiation and the partial, pragmatic fulfilment of certain purposes that are sought. It is, as Simmel says, the practical exploitation of the neutrality of space and a "sphere of reservations exercised against others."⁸²

Strictly speaking, no man's lands are open spaces, in essence playgrounds, that not only invite children to play, but also offer adults the chance to playfully deal with outdated forms of behavior, make it possible to suspend certain rules on a trial basis, and stimulate the adoption of unfamiliar roles. No man's lands, wastelands or *terrains vagues* are fascinating places because they harbor a certain risk, may even provoke fear and anxiety, but they can also excite curiosity and stimulate creativity. The low number of regulations that characterize no man's lands not only invites occupation by colonizers but is also attractive to others who are *not* interested in property and ownership, i.e., to flâneurs, playing children, lovers, strays, dealers, thieves, artists and fantasists. As playgrounds and stages, they share similarities with theatre and art. No man's lands are neutral spaces in many respects and therefore offer more, or at least different, possibilities than spaces which are highly regulated. One could, by alluding to Robert Musil's "sense of possibility"⁸³, call them "spaces of possibility."⁸⁴ Therefore, it is not appropriation and ownership, but rather non-possession and an indifference towards ownership and use which characterize the treatment of no man's lands.

Unsurprisingly, literary texts often depict such spaces of possibility quite specifically as: islands and caves, forests, primeval forests, deserts, oceans, ruins, urban wastelands, industrial wastelands, but also as Elysium. In a recourse to itself, a literary text is (almost) always designed as a space of possibility as well. The occasional suspension or bracketing of identities and social roles, the partial questioning of norms and maxims, the testing of alternative ways of life, the negotiation of tolerances and margins of assimilation demand special conditions. In certain aspects, it is precisely the fictional worlds themselves that take on this function, and in doing so they draw on spaces that offer themselves as spaces of play or possibility. In other words, real no man's lands and their possibilities are spaces that always have a share in the fictional, the imaginary, the possible, because they invite us to try out something new and different beyond the everyday and the familiar. They resemble fictions in their potential for possibility and therefore function in literary texts as a foil and metaphor for literary self-reflection. Texts design spaces of possibility and at the same time understand themselves *as spaces of possibility*.⁸⁵

The following chapters contain analyses of prose texts from different literary periods from the 18th to the 21st century. They are arranged roughly chronologically; however, this is not intended to suggest a

⁸² Simmel, "Über räumliche Projectionen sozialer Formen", p. 217, own translation, DK.

⁸³ Musil coined this term in the 4th chapter of *Der Mann ohne Eigenschaften*, "If there is a sense of reality, there must also be a sense of possibility"; own translation, DK.

⁸⁴ "Spaces of possibility" is a term that comes from psychotherapy or psychotherapeutic game theory by Donald W. Winnicott. Cf. Jan Slaby, "Möglichkeitsraum und Möglichkeitssinn. Bausteine einer phänomenologischen Gefühlstheorie", in: Kerstin Andermann, Undine Eberlein (Ed.), *Gefühle als Atmosphären*, Berlin: Akademie-Verlag 2011, own translation, DK.

⁸⁵ Cf. Kathrin Passig, Aleks Scholz, *Verirren. Eine Anleitung für Anfänger und Fortgeschrittene*, Berlin: Rowohlt 2010.

teleological development, neither in the sense of increasing complexity nor in that of an increasingly utopian or dystopian character.

The following will not provide a comprehensive history of the motif of no man's lands. Such a history would have to include numerous other texts: desert expeditions, journeys to the poles and into the perpetual ice as well as stories of deserted islands and underwater voyages – all of which would have to be considered and analyzed. Such a task cannot be achieved here, nor was it pursued. Rather, the aim was to trace the literary epistemology of possession, property, subjectivity, freedom and loss that is connected to stories of no man's lands.

Literary texts are never illustrations of philosophical, theological or legal theories and thus will not be treated as such in this book. Therefore, they will not be cited simply as examples of the thematic concepts regarding no man's lands discussed in the opening chapter. No man's lands in literature use a different register, have a different style than those found in philosophy and theory. Genuinely uninterested in solutions, definitions and categories, the actions of land grabbing, community building, colonization, flight and exile, peace and salvation are not presented in literary texts as clearly assessable events, but belong to a discourse that Hans Blumenberg has called one of "unconceptuality"⁸⁶

Literary texts are particularly suitable for processing the equally contradictory and promising character of no man's lands without simplifying it. In many cases, order and disorder can hardly be distinguished, and it is impossible to say which is more dangerous. The fundamental uncertainty that always accompanies entering a no man's land, an uncertainty that can affect professional and gender identity just as much as religious convictions, social habitus and emotional stability, is always both a threat and an opportunity.⁸⁷ Unlike theoretical texts, which are rarely able to make such blurring productive, there are numerous literary texts that do not dissolve the character of no man's lands in favor of one side or the other, but map them onto each other. However, this also applies to a number of texts on cultural theory, such as those by Siegfried Kracauer, Walter Benjamin and Michel Leiris, which occupy a space between literature and theory and therefore also play a role in the following chapters.

In addition, the aspect of a certain political orientation was decisive for the present selection of texts. I was less interested in a clear reference to contemporary questions of politics and state. Rather, I used texts that examine questions of cultural theory in terms of their political significance, that is, texts that address the subjects of belonging to a community, a family, a gender or a religion on the one hand, and discrimination, exclusion, exile and withdrawal into no man's land on the other. All texts process a deep structure in which the difference between order and disorder becomes precarious.

This precarious relationship of space, order and power affects the identity, behavior and self-image of the people in a no man's land in very different but always highly relevant ways. The inhabitants of no man's lands are – or become – in many respects no-men themselves, which in turn can prove to be extraordinarily dangerous or equally gratifying. The *terra nullius* has a precarious status, it is always at risk of being conquered or incorporated. It is a disturbance in the system of property and ownership and provokes reflections on the legitimacy of the latter. Unlike wilderness, it does not promise great adventures, but rather small ones. One of these adventures is to be not a somebody but a nobody in the no man's land.

⁸⁶ Cf. e.g. Hans Blumenberg, "Ausblick auf eine Theorie der Unbegrifflichkeit", in: Id., *Ästhetische und metaphorologische Schriften*, selected and with a postface by Anselm Haverkamp, Frankfurt a. M.: Suhrkamp 2001, pp. 193–209, own translation, DK.

⁸⁷ For this reason, *clearly* dystopian or *clearly* utopian variants have not been selected here, although they can of course also encompass and negotiate no man's lands.