Chapter 16

Value in the Emotional Register

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My reflection on the chapters in this volume[1] is prompted by an emotional response – or rather, a series of emotional responses. The first of these is my own emotional response to a publication by Edward Gibbon Wakefield: his "A Letter from Sydney",[2] published in 1829, which served to underpin his theory of "Systematic Colonization".[3] My response to Wakefield's arguments around the value of land prompted a wave of emotions in me, one that took me back to a second emotional moment. That second emotional moment was between contributors to the workshops which underpin this collection. I was struck, in listening to the impassioned debate between authors, how deeply they felt about value, its definition, its use, and the work it does in the world and in their scholarship. Questions about value are not only "academic" in nature, but are deeply felt. I was taken back to these fervent discussions by my own emotional response to Wakefield's discussion of the value of land.[4] This, then, made me particularly attentive to value in an emotional register, and I found myself reading the chapters contributed to this volume with an eye to emotional response, to feelings, or at least the traces of these that can be found in the chapters.

I do not subscribe to the still-dominant view that emotion and reason are "structurally opposed", with emotion pitted against reason, and with reason superior to it.[5] Thus I am not looking for traces of emotion that might belie the writer's objectivity, or point to illegitimate bias or lack of rationality. Rather, I posit that we learn from and intellectually (not just biologically) experience

1 My reflection concentrates on the chapters by Hoffmann, Kempter, Schwöbel-Patel and Teubner in this volume.

2 E.G. Wakefield, *A Letter from Sydney, the Principal Town of Australasia* (1829).

3 See, in particular, E.G. Wakefield, *Sketch of a Proposal for Colonizing Australasia, &c. &c. &c* (1829).

4 And, in revisiting the questions posed to authors in advance of the second workshop for chapters in this collection (online) in December 2020, I note that the editors were alive to the role of emotion, prompting the authors to consider "what are the affective qualities of values at work in your chapter? How do the affective qualities contribute to reproduction? Do they point up possibilities for intervention?" (on file with author).

5 R Grossi, 'Law, Emotion, and the Objectivity Debate', (2019) 28 *Griffith Law Review* 23, at 25.

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emotions: they are themselves, as Grossi writes, a valuable and equal part of our evaluative abilities.[6] Thus, reflecting on the feelings to value that emerge in this chapter is analytically important *and is to be valued*.[7]

I concentrate on emotions rather than on affect. Despite the recent "affective turn" in the humanities and social sciences, which is at least partly to be credited with a renewed scholarly interest in emotion, emotion and affect have significant differences, and affect theorists consciously set affect apart from emotion. For example, the authoritative *Affect Theory Reader* described affect as "forces insisting *beyond* emotion".[8] For the authors, affect is "the name we give to those forces—visceral forces beneath, alongside, or generally other than conscious knowing" which can drive individuals toward movement, or into states of suspension "(as if in neutral) across a barely registering accretion of force-relations".[9] Indeed, affect is about immersion in the world's "obstinacies and rhythms"[10] and this may or may not be an emotional process. Brian Massumi, translator of Deleuze and Guattari's *A Thousand Plateau's*, and thus responsible for introducing the word affect into the English language understanding of their work, explained meanwhile that neither affect nor affection "denotes a personal feeling".[11]

While there are a number of ways to understand emotion,[12] I concentrate on emotion as feelings. In this I draw on the recent *Elgar Handbook of Law and Emotion*, in which the editors write that emotions are things you feel "including anger, remorse, loyalty, empathy, compassion, moral outrage, disgust, and respect".[13] Finally, in writing this reflection I have sought to resist the urge to engage with the chapters in a more "traditional" analytical fashion: by summarising and analysing their central arguments, their form and structure, and distilling their contribution to the literature on value. This is familiar – comfortable – terrain for me (and maybe for most scholars). Instead, I wanted

6 Ibid. at 26; see also E. Kidd White, 'Images of Reach, Range, and Recognition: Thinking about Emotions in the Study of International Law', in Bandes et al. (eds.), *Research Handbook on Law and Emotion* (2021), 492; M. Nussbaum, *Upheavals of Thought: The Intelligence of Emotions* (2008).

7 Of course, the decision to take a "straight-laced" "objective" academic-style presentation may be, in itself, an emotive form of communication. With thanks to Geoff Gordon for this point.

8 M. Gregg and G.J. Seigworth (eds.), *The Affect Theory Reader* (2010), at 1.

9 Ibid.

10 Ibid.

11 B. Massumi, 'Foreword', in G. Deleuze and F. Guattari, *A Thousand Plateaus: Capitalism and Schizophrenia* (1987), translation by B. Massumi, at XVI.

12 See Grossi, *supra* note 5, at 25; see also *Stanford Dictionary of Philosophy*, 'Emotion', online at https://plato.stanford.edu/entries/emotion/ (last accessed 29 November 2021).

13 See Bandes et al., 'Introduction', in Bandes et al., *supra* note 6, at 2; Note this is not the only understanding of emotion in the volume, and the editors stress that a monolithic definition is unhelpful, and note the importance of stating one's working definition within the context in which one is writing, at 4.

to allow emotional reactions to remain central, rather than pushing them away in favour of a more "rational", "scholarly" or "academic" response. And I want to push against the idea that a chapter's contribution to the literature on value is only in the analytical register. I wanted to allow myself to feel these chapters, and respond to the emotions present in them. In doing so, I also hope to participate in a small way with scholarship that challenges the idea that scholarly analysis is about objectivity, dichotomised from emotion.[14] Rather, in reflecting on these chapters it seems to me clear that values are emotional, and that emotions are valuable. Moreover, it seems that emotions are important (dare I say valuable?) to understanding, or perhaps more broadly *coming to terms with*, value and its all-pervasive operation, as well as to how it is contested, and critiqued.

Reading these chapters with attention to emotion reveals at least four registers of emotion. First, there is my own emotional response to the chapters as reader (and now as writer). Second, there are the emotions of the authors whose chapters I am reflecting on, as revealed (either explicitly, or implicitly) in their writing. Third, there are the emotions that the authors ascribe (again either explicitly, or implicitly) to the subjects of their chapters, both theorists or writers with whose work they engage, and other subjects who appear in their chapters from presidents to "ordinary" people. Finally, there are the emotions that authors seek to elicit from the audience to whom they write (which may map inexactly onto the first category). Value thus appears in various registers, which cannot necessarily be separated from each other.

A. To Feel the Value (and Valuelessness) of Land

Earlier this year, I stumbled upon a mention of Edward Gibbon Wakefield, the "father" of the Theory of Systematic Colonization, on which South Australia – where I was born and grew up – was colonised in the 1830s. I had never heard of Wakefield himself, though Adelaide, capital city of South Australia, is peppered with his name: Wakefield St, Wakefield Road, Port Wakefield, Wakefield House; and he is memorialised on the foundation stones of the State Parliament building. This brief mention of Wakefield, his intriguing (and problematic) personal history, and Marx's engagement with his ideas,[15] led me to his "A Letter from Sydney".[16] "A Letter from Sydney" is Wakefield's fictionalised account, written anonymously from the perspective of an Australian

14 See for e.g., Grossi, *supra* note 5, arguing that there are ways of thinking about objectivity and emotion that "render the dichotomy between objectivity and emotion redundant", at 24.

15 W.J. Lines, *Taming the Great South Land: A History of the Conquest of Nature in Australia* (1991), at 64–8.

16 Wakefield, *supra* note 2; See also J Hohmann & C Schwöbel-Patel 'A Monument to E. G. Wakefield: New and Historical Materialist Dialogues for a Posthuman International Law' in M. Arvidsson and E. Jones (eds.), *International Law and Posthuman Theory*, (forthcoming, Routledge 2023).

settler colonial land holder, of the problem of making land valuable in the colonies. Wakefield's "A Letter from Sydney" was an elaborate fiction. Indeed it was actually written from Newgate prison, where Wakefield was serving a term of imprisonment for abduction, and Wakefield never, in fact, set foot in Australia.[17] "A Letter from Sydney" served as rhetorical underpinning for Wakefield's "Theory of Systematic Colonization", set out in his "Sketch of a Proposal for Colonizing Australasia".[18] This "Theory of Systematic Colonization" sought to make Britain's colonial endeavours in Australia not the expensive propositions they were at the time, but to transform them into profitable capitalist ventures by making colonial land *valuable*. This in turn underpinned his efforts with the British Colonial Office and Westminster to see a "company colony" established on his proposed principles, which would settle and exploit the "waste land" that was to become South Australia.[19]

In his "A Letter from Sydney", Wakefield writes of the wonderful estate he buys in the colony of New South Wales. He details the generous minerals that lie beneath the surface and the impressive timber growing upon it. He describes rich grasslands, dotted with trees like an "English Park".[20] And yet, he writes:

> I was told that an estate of 10,000 acres might be obtained for a mere trifle. This was true. I have got 20,000 acres, and they did not cost me more than 2*s*. per acre. But I imagined that a domain of that extent would be very valuable. In this I was wholly mistaken. As my estate cost me next to nothing, so it is worth next to nothing.[21]

It was this passage to which I had a visceral reaction. I felt entirely unmoored by reading it. Why?

The passage seemed to contain every possible wrong in the concept of value in a capitalist vein. On what possible calculation could land so beautiful, so rich in biodiversity, culture and history be worth "next to nothing?" For Wakefield, value meant only the ability to exploit and to profit from the land: to dig up the minerals, to cut down the timber, and to make a profit from it.

17 G. Pretty, 'Wakefield: Edward Gibbon (1796–1862)', in *Australian Dictionary of Biography*, online at https://adb.anu.edu.au/biography/wakefield-edward-gibbon-2763 (accessed 1 February 2022).

18 Wakefield, *supra* note 3.

19 This "company" colony model followed the chartered trading companies established in the 1600s in North America. See e.g., M. Birchall, 'History, Sovereignty, Capital: Company Colonization in South Australia and New Zealand', (2021) 16 *Journal of Global History,* 141–57. See further on Wakefield and the role of his thought S. Chalmers, 'The Utopian Literature of Systematic Colonization', (2022) *Law and Literature* [advance], and Hohmann and Schwöbel Patel, *supra* note 16.

20 Wakefield, *supra* note 2, at 4.

21 Ibid.

Because the cost of labour in New South Wales was high and workers were scarce; because the workers to support the infrastructure to export timber, to raise stock and process the commodities they produce, or to extract minerals was limited; Wakefield could not make a profit on his land. It was, therefore in his view, valueless.[22]

In addition, the appearance of Australian landscapes as "English parks" has recently been at the forefront of a fierce debate in Australia about Aboriginal management of land.[23] Colonisers and explorers often remarked upon this managed-looking landscape, but neglected to notice, or to give credit, that this was in fact the product of generations of careful Indigenous land-management strategies. Land was, instead, consistently presented as empty, as "waste".[24]

Wakefield was concerned with how to turn land into property. This quest to make a profit by turning territory into property is still very much alive in the world. Schwöbel-Patel engages with one contemporary example in her chapter. She asks what would happen if we took then US President Donald Trump's claim to "buy Greenland" seriously, rather than respond to Trump's claim with "a mixture of ridicule, outrage and amusing memes"[25] and see it as "absurdity in an absurd presidency"?[26] Schwöbel-Patel's chapter thus begins with the emotional response of commentators to Trump's proposed deal. Unlike these commentators, however, Schwöbel-Patel does not laugh off this idea. Instead, she urges us to place the comment in a longer history of both capitalist practice, and of theory on it. In an investigation of rentier capitalism and imperialism through the lens of Rosa Luxemburg's work on primitive accumulation, Schwöbel-Patel argues that it is important to take this seemingly eccentric offer seriously. This is because "the investigation of the propertisation of territory opens up a path to thinking about rentier capitalism, not only as a form of the accumulation of capital through rent, but more specifically as a form of contemporary imperialism that maps onto histories of imperialism".[27]

Trump's proposal to buy Greenland, and Wakefield's "theory of systematic colonization" are linked. They are both efforts – from the metropole – to extract value from the periphery: imperial rent.[28] In Luxemburg's terms, this is the "battle of capital against the social and economic ties of the natives, who are also forcibly robbed of their means of production and labour power".[29]

22 Ibid.

23 B. Pascoe, *Dark Emu: Aboriginal Australia and the Birth of Agriculture* (2018).

24 P.A Clarke, 'Adelaide as an Aboriginal Landscape' (1991) 15 Aboriginal History 54 at 58-60; see also Hohmann & Schwöbel-Patel, *supra* note 16.

25 Schwöbel-Patel, 'Real (E)State: Valuing a Nation under Imperial Rentier Capitalism', in this volume at 68–69.

26 Ibid., at 70.

27 Ibid., at 70–71.

28 Ibid.

29 Luxemburg, quoted by Schwöbel-Patel in this volume, note 8, at 350.

As scholars have pointed out, Wakefield's proposal for systematic colonisation was avowedly capitalist, and rested ultimately on the characterisation of South Australia as empty and unused.[30] Moreover, Wakefield's work, as Chalmers has recently argued, was imaginative and emotive and its importance lay in these qualities as much as it did in his "practical" proposals, even while critics used Wakefield's imaginative and emotional writing to discount the worth of his ideas.[31]

The erasure of the Indigenous People – the very people who for millennia managed, cared for and belonged to the land of Wakefield's fictional estate – provided the grounding for the land's value in terms of capital. A thin value attuned only to what can be extracted for profit in money terms.

However, as Schwöbel-Patel writes, colonialism was "not only about value extraction (raw materials), but also about testing new means of *valuing*".[32] Property was important in these methods, turning "waste" land into tradable units.[33] In contemporary Greenland, these forms of valuing include nation branding, adventure tourism (twinned uneasily with Greenland's unfolding destruction through climate change) and new frontiers of resource extraction (also twinned uneasily with the "green" economy). Greenland must capitalise on the desire to witness its beauty (and its beauty in the process of destruction). In contemporary Australia, no longer itself a periphery, new forms of valuing include neo-imperial structures of rent seeking in other peripheries, such as Indonesia, Nauru, and Greenland itself.[34]

Schwöbel-Patel's chapter is not overtly emotional in tone, though it engages with emotions in at least three ways. The first of these is mentioned above: the prompt for the chapter is the emotional response – ridicule and/or amusement – to Trump's comments on buying Greenland. The second is the overall context of Schwöbel-Patel's work, which includes her authoritative writing on branding and marketing in international justice, where "marketised global justice taps into our desire for spectacle" and "we are drawn towards the visceral, the dramatic, the sensational".[35] The backdrop to Schwöbel-Patel's work is emphatically concerned with the manufacture, manipulation, and exploitation of emotion. The third is in drawing our attention, and our emotions, to those who are best placed to understand (and to experience emotionally) the

30 See Lines, *supra* note 17; Birchall, *supra* note 21; Hohmann & Schwöbel-Patel, *supra* note 16.

31 Chalmers, *supra* note 21, at 4.

32 Schwöbel-Patel in this volume, at 74.

33 Schwöbel-Patel in this volume; see also B. Bhandar, *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership* (2018).

34 See Schwöbel-Patel in this volume, at 82. On Australia as an imperial, extractivist, power with specific attention to Nauru, see C. Storr, *International Status in the Shadow of Empire: Nauru and the Histories of International Law* (2020).

35 C. Schwöbel-Patel, *Marketing Global Justice: The Political Economy of International Criminal Law* (2021), at 250.

simultaneous value and valuelessness of land. These are those people who are displaced and denied in capitalist efforts to extract value from *their* land. In South Australia, new ways of valuing rested on erasing Indigenous peoples through the legal fiction of terra nullius, a fiction with which Australia as a whole is still reckoning.[36] Greenland was similarly characterised in international law.[37] But it is quite clear that such fictions cannot erase the deep ties between land and Indigenous peoples which are coded in Indigenous laws, and which rest on affective ties – the heart and the mind in balance – that exchange value cannot comprehend.[38] Even while global capitalism provides opportunities (or compulsion) to commodify these relationships and subjectivities, as discussed by Schwöbel-Patel in her chapter.[39]

Wakefield's efforts to see South Australia profitably colonised, and Trump's offer to buy Greenland both demonstrate the centrality of the propertisation of territory to value extraction, and in turn, the centrality of this process to colonisation and imperialism.[40] Schwöbel-Patel ends her chapter with muted hope, by turning the reader's attention to social value, which might point to ways of "disrupting capital's grip on land and ultimately imperial rent extraction". In the next section, I turn to consider other potential subversive, or disruptive, expressions of value.

B. Value Beyond Exchange: Hope and Fear in the "Spill Over" of Value and Valuing

Wakefield's explanation of value accords entirely with Marx's own conception of it.[41] As Hoffmann points out in his chapter, Marx stressed that value only makes sense within a capitalist system, where value has a particular role which relates to, and only has meaning in regard to, production and exchange.[42] But, as Hoffmann argues, Marx himself ultimately finds it difficult to think of, or mobilise, or indeed *feel* value only in this sense. Rather, there is an inherent tension in Marx's work on value, because despite his insistence that value can only be understood within capitalism, he also uses value in a second register: he uses, "value-laden language to denounce exploitation, hinting (at least) at an alternative conception of value outside and beyond capitalism"[43] and as

36 See *Mabo (no. 2) v. Queensland* [1992], High Court of Australia.

37 *Legal Status of Eastern Greenland (Denmark v. Norway),* PCIJ 26th session, 5 September 1933.

38 A. Kwaymullina and B. Kwaymullina, 'Learning to Read the Signs: Law in an Indigenous Reality', (2010) 34(2) *Journal of Australian Studies* 195–208.

39 Schwöbel-Patel in this volume, at 80.

40 Ibid., at 74–76.

41 Indeed, Marx identified Wakefield's theory of Systematic Colonization as hitting the nail on the head, as far as value within capitalism was concerned, K. Marx, *Capital* (1887), Vol. I, chapter 33.

42 Hoffmann, 'On the Value of Rights', in this volume, at 210.

43 Ibid.

"arguably […] linked with his […] diffuse yet recurrent reference to justice, to 'real' human nature (aka the 'real species being'), and to human dignity".[44] The multiple meanings of value, the more than single register within which it operates, means that feelings of disassociation and dissonance trouble Marxist conceptions of value. Kempter, who uses the theory of *Wertkritik* to understand value in his chapter, argues that what we call value has spiralled far beyond Marx's original meaning, conquering the "moral sphere of society". Thus "what used to be known as ideals and virtues now go by 'values'. Therefore democracy, liberty, the rule of law, human rights, but also decent private behaviour, family bonds, and many more desirable immaterial goods" are understood as "values".[45]

Teubner discusses the spill-over of value – specifically, of the profit maximising principle – in a capitalist system to areas beyond the economy. He argues that capitalist societies are surplus-driven societies.[46] He identifies this operation in the realms of (respectively) politics, science, education, and law: "It is the surplus of the system's own communication medium – power, truth/reputation, money, normativity, style, education/selection, faith – which is produced via the reflexive application of operations to further operations".[47] Arguably, this is the extension of value to conquer *all* registers of life, even if in some spheres, such as law, surplus value calculation is imprecise or even "almost invisible".[48] Teubner, however, focuses specifically on communication media. Using Systems Theory, he explains that the reflexive process involved – of augmenting its own medium of communication – makes possible the follow-up operations and increases the store of that medium. "Moreover, if this is established as a criterion of self-regulation, then the various surplus pressures become the driving dynamics of the expansion imperatives in modern society".[49] The result of a surplus driven system is that the surplus itself becomes the point.[50] For law, Teubner explains, conflict resolution ceases to be the orientation, rather, it is regenerating judicial authority that reigns.[51] But, he asks, what motivates the desire for this surplus, in realms beyond the economy? Teubner's answer is that "the special contribution of communication media in

44 Ibid.

45 Kempter, 'Against Value(s): Marx, Wertkritik and the Illusions of State, Politics and Law', in this volume, at 51.

46 Teubner, 'The Constitution of Non-Monetary Surplus Values', in this volume, at 33.

47 Ibid. This generalises Luhmann's theses on the profit principle of the economy for other function systems, N. Luhmann, *Die Wirtschaft der Gesellschaft* (1988), 55 ff.

48 Teubner in this volume, at 40.

49 Ibid., at 33.

50 Of course, Teubner notes, the surplus is not always a negative. In fact, surplus may have a positive social function across all these spheres. Ibid., at 39.

51 This links to Kempter's point that Wertkritik insists that it is money that is the goal, not the production of commodities, which is only the means to the end. See further discussion below part C of this chapter.

their area of application consists precisely in creating the motives (!) for accepting a communication".[52] They "exert an almost irresistible motivational force" through persuasion and coercion.[53] As Teubner notes, this force must operate in the emotional register: *desire* must be created. However, this desire is not to be equated with individual greed, rather the social construct of the desiring individual operates at a level apart from individual psychic processes, although both are mutually reinforcing: "Social processes are oriented toward surplus value production, as cool and detached calculations of success, which measure achievement, whether or not they are accompanied by individual greed for power, money, career, or reputation".[54] Coolness and detachment are, however, still emotions, even if the terms tend to suppress this character. The rationality of Systems Theory sits uneasily with emotions. That these desires are both socially constructed and operate beyond an individual's control, but also are deeply emotional on a personal level produces a dissonance that might open up new ways of understanding the surplus value production Teubner grapples with here.

While surplus value in all these realms has its socially beneficial function, the relentlessness and singlemindedness of the pursuit of surplus value is damaging, and leads to the monopolisation of other ways of being, doing, or valuing. With respect to the economy, for example, this leads to the tendency to describe everything as a problem of scarcity, solvable only by economic means. With respect to law, to juridify all disputes and offer the prospect of a "non-divisible justice" as a "false promise of salvation".[55]

Teubner here mentions "human rights ideology as the ideal of a just society" as part of the danger of the drive for surplus value in law.[56] Constitutional rights,[57] however, provide one of Teubner's examples of key opportunities to replace and constrain the impetus toward surplus value. As such, Constitutional rights are characterised as resting on the dispassionate and detached qualities of external self-limitation and control (qualities associated with communication in systems) rather than with individual or personal emotional experiences, which by implication Teubner aligns with human rights, and as problematic or undesirable.

This points back to the ambivalence that Hoffmann identifies and explores in his chapter with respect to the role human rights play. Hoffmann considers the critique of human rights, and the role they play in the current system of value production: he notes that all critiques "share in the charge

52 Teubner in this volume, at 35.

53 Ibid.

54 Ibid., at 36.

55 Ibid., at 44.

56 Ibid.

57 I am conscious that there is a long-standing debate about the virtues of *human* versus *constitutional* rights. See, for e.g., J. Bentham, 'Anarchical Fallacies', in J. Bentham, *The Works of Jeremy Bentham* (1843), Vol. 2.

that rights discourse obscures the political nature of the social and economic arrangements at issue (aka the system of value production)" and, thus, preclude these from being dealt with politically.[58] For some (the "right" critique) human rights place too much value on equality: rights, ultimately, "bestow[] value onto those deemed to be without it".[59] Of course, this connection between rights and *value as a person* has also long been pointed out by activists and thinkers who engage with rights, from Olympe de Gouges to Patricia Williams to Upendra Baxi, who have been keenly attuned to the connection between rights and personhood, and to the subversive potential of that claim.[60] The "left" critique, Hoffmann argues, on the other hand sees rights as obscuring inequalities and exploitation, and as "thereby implicated in the exclusion, exploitation, or outright elimination of certain categories of humans".[61] While rights might be useful as tactics in some situations, they are inherently implicated in maintaining the status quo and can only achieve small and piecemeal gains, never systemic transformation.[62] But, as Hoffmann notes, rights are certainly viewed "as sand, rather than oil, in the capitalist machine and as a definite impediment to an even freer maximization of surplus value".[63] These counter-points show that the value of rights cannot be so easily dismissed. That human rights are persistently a rallying cry for social movements of all types demonstrates their emotive force and appeal. Time and again, rights fail to be captured by elite or professional discourses and rules, and emerge in new guises to propel social agendas about what – and who – should be valued. Just as value itself exceeds its meaning in a capitalist system, so rights also do, and exist in tension with capitalist value production and as an "expression of its inner contradictions".[64] Rights, Hoffmann notes, irritate the system.[65] They cannot be understood merely as supportive of the current scheme of exploitative value production, but offer also subversive counter potential, exceeding efforts to deny them by critics on both the left and the right.

How else might we see – and feel – the contradictions or even the untruths of value? I now turn to consider this question.

58 Hoffmann in this volume, at 203.

59 Ibid., at 204.

60 See, for example, O. De Gouges, *Déclaration des droits de la femme et de la citoyenne* (1791); P. Williams, 'Alchemical Notes: Reconstructing Ideals from Deconstructed Rights', (1987) 22 *Harvard Civil Rights-Civil Liberties Law Review* 401; U. Baxi, *The Future of Human Rights* (2002).

61 Hoffmann in this volume, at 207.

62 Ibid.

63 Ibid.

64 Ibid., at 212.

65 Ibid., at 211.

C. Lies of Value

What role does value play in this capitalist system under which so many of us live? This is the question that is central to Kempter's chapter, which uses *Wertkritik* to analyse value and its role. Reading Kempter's chapter, I am struck by the way in which the two parts of the chapter – the chapter proper, and the sidenote, which concerns the COVID-19 pandemic, – seem to reinscribe the dominant approach to the distinction between reason and emotion. The main part of the chapter is presented in a style that is rational, analytical, objective. The sidenote, on the other hand, engages with disorder, panic, and irrationality: emotion-laden both in terms and style. This very contrast, however, opens up our ability – using emotions as part of our evaluative abilities – to better understand through Kempter's chapter how the COVID pandemic, and responses to it, illuminate understandings – and feelings – of how value operates in the world.

Kempter's chapter opens with the point that contemporary reflections on value and values are prompted by a "deep sense of crisis" about the form of modern socialisation and value's role in it.[66] In the first part of his chapter, Kempter gives us an exposition of the lies of capitalist value in a dispassionate style. *Wertkritik*, he argues, shows us that the purpose of capitalism is to make money (for capitalists). It has little to do with the needs or even desires of the population as a whole, and when abstract labour – the root of value in Marxist theory – becomes unprofitable, new sources of value will be found that appear increasingly divorced from the everyday lives of individuals. The state, and law, are fundamentally entangled in, and act as supports to, the system of capitalist wealth creation (for some). They cannot question its fundamental role in supporting capitalist value extraction. Kempter's argument is that a lie has been sold to the non-capitalist classes ("we"). We still look to the state as a structure separate from economy, in which (particularly in democracies) we have some sovereignty, and in which the good – or the will – of the people is an important factor. But this is not, in fact, how the state works. Yet Kempter remains dispassionate about this fundamental deception he shows through *Wertkritik*. In my reading, Kempter presents this analysis as incisive, but one that does not move him emotionally, even if an implicit invitation to the reader to respond emotionally is present. In this, he is perfectly in keeping with the other authors whose chapters I have engaged with, above. The style is familiar, comfortable, scholarly writing.

However, Kempter turns at the end of his chapter to a "sidenote", the coronavirus crisis, and "the march of folly and authoritarian progressivism".[67] In this section, Kempter allows emotions to sit front and centre. These are not only emotions that Kempter projects through his writing, but also those that

66 Kempter, in this volume, at 49.

67 Ibid, at 62.

he attributes to those experiencing the pandemic.[68] Kempter questions the way that capitalist states shut down "huge parts of the value producing machinery that drives their societies", as well as curtailed the "personal liberties of [...] liberal democratic subjects".[69] He argues that *Wertkritik* would predict that in such a situation, states would safeguard the running of economic machinery. However, instead, most states stalled economic production across a range of sectors, to protect the health vulnerabilities of their populations. Kempter states that the fundamental question of "why are capitalist governments so heavily damaging the capitalist economy on which they are dependent?" remains to be answered.[70]

Kempter rejects that there was a compelling public health rationale for the mass shutdowns.[71] Emotions here are prominent in his writing: he speaks of "fearmonging entire societies into a state of hysteria, hypochondria and obsessive compulsive disorder".[72] The "existential fear" of the pandemic is of the type "that is historically known to incite all kinds of irrational beliefs and behaviours".[73] Governments did not, in Kempter's view, respond in a "rational way – rational in the vernacular sense of securing the mechanisms of valorization of value which for better or worse is the very fabric of modern society".[74]

Instead, however, Kempter characterises the lockdowns as states choosing to "join in on a march of folly" that, he argues, will result in a "partial destruction of the economic foundation of their societies, of social life and the personal liberties they claim to be so proud of".[75] For an answer, Kempter looks to the affective register, to the psycho-social (as well as intellectual) constitution of post-modern subjects and post-modern societies.[76] It is as though, he argues, people believe that the economy is something that can be switched on and off when in reality, the well-being of people in a state depends on tax revenue from that economic activity.[77] However, despite his statement that *Wertkritik* would forecast protecting the creation of value, he also shows that *Wertkritik*

68 I would note that the analysis and discussion is centred largely on responses to the pandemic in Western, European states with developed economies.

69 Kempter in this volume, at 62.

70 Ibid., at 67.

71 Ibid., at 62–63.

72 Ibid., at 63.

73 Ibid., at 64.

74 Ibid., at 63. Arguably these economic and personal lockdowns can also be seen to safeguard capitalist production in the longer term, by ensuring the survival of a healthy workforce and the social welfare supports (such as healthcare) that in turn protect the productivity of those workers. This explanation would answer why states were convinced to take these COVID-related measures within a frame that recognises protection of the economy as the fundamental goal.

75 Ibid., at 63.

76 Ibid.

77 Ibid.

predicts irrationality and "a growing tendency to lose touch with reality".[78] Kempter also expresses deep anxiety about the seeming willing surrender of civil liberties during the COVID pandemic, associating this with "fear", "pessimism" and the "craving" for a "safe space of a new tech-supported police and surveillance state".[79] In this sidenote, Kempter's writing foregrounds an anxiety and disorientation. Perhaps that disorientation shares some similarities with my own, experienced when reading Wakefield's *Letter from Sydney*, a disorientation brought on when the terms of value seem disconnected from one's visceral experience of value.

For example, Kempter asks in his concluding section whether we are witnessing the end of the world, or the end of value? He states that

> [a]ll the illusions mentioned above – of the everlasting market economy, producing useful goods for the needs of man, an economy that can be tamed and regulated by the state and be put at the service of man [...] – have their origin in the belief in the naturalness and eternity of the modern form of socialization.[80]

We cannot, he argues, escape the "self-built mental cage" that is fetishisation of value.[81]

But what if the response to the COVID pandemic displays not irrational fear whipped up by scaremongering media, but ultimately, that people understand the structure of society and the economy to be based on fetishisation and alienation? What if the response shows not that we have an entirely alienated consciousness, but our acceptance of the economic shifts during COVID demonstrate that the economy in "normal" times bears little relationship with our well-being, whether objectively quantified or subjectively felt? Is this the disorientation and disconnect that prompts Kempter's chapter? Kempter concludes his chapter by stating that according to *Wertkritik*, "modern socialization on the basis of value has come to its end".[82] We must throw off the "fetishistic forms of 'values' – money, capital, labour, law, state, politics, democracy, human rights" and abolish them.[83] If we are already in a stage of capitalism where permanently high unemployment, precarious work, spreading impoverishment, already hollow welfare institutions, and the disastrous destruction of the natural world result from the production of value, where the fundamental protection is of money for profit's sake, then the suggestion that "we" need the economy rings hollow, and measures that

78 Ibid., at 64.
79 Ibid., at 64.
80 Ibid., at 65.
81 Ibid.
82 Ibid., at 66.
83 Ibid.

aim toward the protection of the vulnerable and toward public health seem less tragic, risky and hollow. Perhaps, though we are in a mental cage, we can see, or feel, our way out through the bars.

D. Conclusion

As the, at times hotly disputed, discussions at the workshops that gave rise to this volume show, the meaning of value is passionately contested. This is no doubt a good thing: value is the central motivating force of capitalism – and hence of our economic, political and social lives under capitalism. If we were to meet value and all the political, economic and social work that it does with ennui, this would be a cause for serious concern. In this reflection, I have sought to open myself up to value in an emotional register, and to remain attentive to how value is felt, in all its forms and facets, across the chapters. I can only tease out the threads here; the pull of the author's emotions opened by a word or phrase. The pressure on a string of feeling, as of a musical instrument, intended to resonate with the reader. The probing of the emotional traces left by scholars whose works the chapter authors engage with. I must also be open to the fact that I might misread any of these emotional signals or echoes. There are serious questions about reading emotions across time, geography, or culture.[84] But opening ourselves to the emotions, and engaging with them in this way, I suggest, will give us resources to understand, and to respond to, value in all its complexity and contradiction.

84 See Kidd White, *supra* note 6.