

# Law, Property, and the Geography of Violence: The Frontier, the Survey, and the Grid

Nicholas Blomley

*Department of Geography, Simon Fraser University*

Physical violence, whether realized or implied, is important to the legitimation, foundation, and operation of a Western property regime. Certain spatializations—notably those of the frontier, the survey, and the grid—play a practical and ideological role at all these moments. Both property and space, I argue, are reproduced through various enactments. While those enactments can be symbolic, they must also be acknowledged as practical, material, and corporeal. *Key Words: property, space, violence.*

[L]aw is a creature of both literal violence, and of imaginings and threats of force, disorder, and pain . . . . [I]n the absence of such imaginings and threats there is no law . . .

—Sarat and Kearns (1992a, 1)

Diverse scholars have long identified a relation between state law and violence.<sup>1</sup> For John Locke, three hundred years ago, the sine qua non of political power was law's right to create the penalty of death. More recently, Max Weber defined the state and its law as that which monopolizes the violence that is transformed into legitimate force within a territory. Derrida (1990, 925) has argued that “[L]aw is always an authorized force. . . . [T]here is no such thing as law . . . that doesn't imply *in itself, a priori, in the analytic structure of its concept*, the possibility of being 'enforced', applied by force” (emphasis in original). Political geographers have also acknowledged a special linkage between violence and the state more generally (East and Prescott 1975, 3; Muir 1975, 80; Johnston 1990, 559).

Yet despite the routine association between law and violence within Western political theory, it still sticks in the throat. In providing the definition in political geography classes, for example, I have found a hesitation from the students and myself. We mouth the definitions, but hurry from their implications. This is because, of course, violence and law appear antithetical. Liberalism tends to locate violence *outside* law, positing state regulation as that which contains and prevents an anomic anarchy. The rule of law is deemed superior, given its ability to regulate violence in a civilized and humane way. The result, as John Keane (1996, 7) notes, is a “frozen political imagination” towards violence.

This article, drawing from a small but important literature (for example, Cover 1986; Brady and Garver 1991; Sarat and Kearns 1991, 1992a, 1992b; Agamben 1998), seeks to contribute to the analysis of law and

violence. Much of this writing, not surprisingly, concerns capital punishment (for example, Sarat 1994, 2001) where the relation, although complex, is more evident. This article, however, focuses on violence's relationship to private property in land. I will argue that violence plays an integral role in the legitimation, foundation, and operation of a regime of private property. In so doing, I seek to make a second claim concerning space. Despite our own discipline's violent entanglements, geographers have also been generally reluctant to consider the violences of state law (though see Wisner 1986, Hewitt 2001). I will argue that there is an intrinsic and consequential geography to law's violence as it relates to private property. I shall invoke three spatializations—the frontier, the survey, and the grid—and argue that they play an important practical and ideological role in property's legitimation, foundation, and operation.

## Property

To have a property in land is to have a right to some use or benefit of land. Such a right is necessarily relational, being held against others. Put another way, property rights “regulate relations among people by distributing powers to control valued resources” (Singer 2000b, 3). Property's “bundle” of rights includes the power to exclude others, to use, and to transfer. Such rights are enforceable, whether by custom or the law. Defined thus, such rights can include both a share in a common resource and an individual right in a particular thing (MacPherson 1987). For the purposes of this article, I focus on the latter.

Despite its apparent individualism and rarefied legal appearance, private property must be acknowledged as social and political in its effects, origins, and ethical implications (Hollowell 1982; Boulding 1991; Singer and Beerman 1993; Rose 1994; Singer 2000a). As Hollowell (1942/1943, 133) argues,

If the core of property as a social institution lies in a complex system of recognized rights and duties with reference to the control of valuable objects, and if the roles of the participating individuals are linked by these means with basic economic processes, and if, besides, all these processes of social interaction are validated by traditional beliefs, attitudes, and values and sanctioned in custom and law, it is apparent that we are dealing with an institution extremely fundamental to the structure of human societies as going concerns.

Prevailing arrangements of property in land have important implications for social ordering. “The balance of power in a society,” noted John Adams, “accompanies the balance of property and land” (Adams 1969, 367). Access to property, including land, is an important predictor of one’s position within a social hierarchy, affecting class, race, and gender relations. Clear social differentials exist in access to real estate; 10 percent of U.S. households, for example, hold approximately 90 percent of equity (Geisler 1995, 18). This affects differences in wealth, health, and well-being: property owners in many urban areas, for example, have seen their wealth increase significantly, while renters have not. The growing homeless population is also locked out of access to real property of any sort. Women and racial minorities are also often disadvantaged by the prevailing regime of property, whether as objects (Smart 1989) or legal subjects (Delaney 1997).

Property is social in other important ways as well. Property discourse offers a dense and pungent set of social symbols, stories, and meanings. The formation of national identity is, in part, a meditation on the meanings and significance of land as property, evidenced in frontier stories in the United States (Ellis 1993) or mythologies of the English garden (Darian-Smith 1999). Property also offers an important means by which we assign order to the world, categorizing and coding spaces and people according to their relationship to property. This has both material and symbolic effects. A homeless person, for example, can experience the exclusionary logic of property in a very direct sense (Mitchell 1997). At the same time, one’s standing in relation to property has long been used in evaluations of one’s political and moral worth.

When we talk about land and property, we are not simply talking about technical questions of land use, but engaging some deeply moral questions about social order (Ryan 1984). “Choices of property rules ineluctably entail choices about the quality and character of human relationships,” argues Singer (2000b, 13), “and myriad choices about the kind of society we will collectively create.” Should property owners be empowered to discriminate against people on the basis of ethnicity? Should settler societies seek reparations with aboriginal

peoples? Who has rights to use publicly owned land? Does the state have a legitimate interest in regulating activities to advance environmental goals? Is private property defensible?

For all these reasons, many social struggles and contests turn on issues of land and property. Many of these unfold in the Third World, where the politics of land are closer to the surface (Azuela 1987; Rolnik 2001). They are also evident in the West, the focus of this article. This may be fairly explicit (for example, local property owners protesting a homeless shelter in their neighborhood as a threat to their equity) or it may be more subtle (for example, poor residents opposing gentrification, seeing it as a threat to their rights to remain in an area) (Brigham and Gordon 1996; Blomley 1998).

In thinking through the ways in which property and social relations intersect, it seems to me useful to recognize, borrowing from Carol Rose (1994), that property is not a static, pre-given entity, but depends on a continual, active “doing.” For Rose, this enactment centers on what she terms “persuasion”—that is, communicative claims to others. As I note below, this can include story-telling, such as Locke’s influential “creation-myth” of property. But property is also enacted in more material and corporeal ways (Delaney 2001). Bodies, technologies, and things must be enrolled and mobilized into organized and disciplined practices. Thus, English settlers saw the building of fences and the clearing of land as clear acts through which land in the New World could be appropriated (Seed 1995). Real property, more generally, must be enacted upon material spaces and real people, including owners and those who are to be excluded. Police officers must enforce the law. Legal contracts must be inscribed, signed, and witnessed. Citizens must physically respect the spatial markers of property.

In both property’s discursive and material enactments, I suggest, space is powerfully present. But space, like property, is active, not static. As recent writings have suggested, we can also think of space as a sort of enactment, or performance (Gregson and Rose 2000). Space itself is not only produced through performance, but is simultaneously a means of disciplining the performances that are possible within it. These social performances are citational, reiterating past performances and thus reproducing dominant norms and practices at the same time as they diverge from them. Similarly, the enactment of property is dependent upon spaces, whether everyday or imagined, material or discursive. The enactment of property, in turn, helps constitute those spaces, investing them with particular valences and political possibilities. Again, this can be powerfully regulatory—expectations of appropriate social activities within certain spaces clearly

serve to discipline social life. The location of activities can affect the way in which they are socially policed. Sleeping is fine if it occurs in a private space, while public sleeping, conversely, is often ruled “out of place” (Cresswell 1996).

What, then, of property and corporeal violence? We do not often link the two. In part, as I shall suggest below, this may have to do with the importance attached to discourse, the effect of which can be to obscure an attention to materiality and the body. It may also reflect the tendency of some scholars to view property as socially productive or beneficial (Pipes 1999). While violence can, indeed, be productive, the effect of this view has nevertheless been to again obscure property’s violences from view. Yet even for those who are more skeptical of property’s benefits, a similar result can occur. For example, Rose (1994) views property as essentially a regime of persuasive sociality and shared understandings. Violence figures in her treatment only as an external threat to persuasive communication. “Property regimes cannot bear very many or very frequent uses of force;” she (1994, 296) argues; “*force and violence are the nemesis of property* and their frequent use is a signal that a property regime is faltering” (emphasis added). I do not doubt that property can be a medium of nonviolent meaning. Moreover, I would agree that there are possibilities within property that can be socially progressive and beneficial. Much of my own work has attempted to think through precisely these questions (Blomley 1997, 1998; Blomley and Pratt 2001). Violence can also be, in Rose’s terms, “persuasive”: that is, linked to shared understandings. Yet to ignore or even consciously exclude violence from an analysis of the social workings of property seems to belie its evident realities. Property, space, and corporeal violence, I argue here, are closely entangled.

## Property, Space, and Violence

In thinking through the violent geographies of property, I extend the framework of Sarat and Kearns (1992a). They argue that violence is central to law’s project in three domains: legitimation, origin, and action. At all these levels, we need to recognize that violence has a geography (Hewitt 1983; Taussig 1984; Namaste 1996). Space matters to violence, being “more than a passive template for the inscription of violence or an object to be manipulated to create political representations. Space [becomes] a power and an animated entity” (Feldman 1991, 28). Imprisonment, to take an obvious example, works practically to the extent that it constrains movement through space (a point noted in a quite particular

way by Hobbes [1651] 1988, 261). But it is clear that violences also depend on certain representations and imaginings of space. As Feldman’s (1991) remarkable account of the geographies of violence in Northern Ireland reveal, material landscapes—such as the interrogation center—encode state violences, sanitizing and denying such violences at the same time as they signal their inescapability. Territorial imagery and constructions of “inside” and “outside” are put to work to justify violences, whether of the state or of paramilitary organizations.

In making sense of the legitimation, origins, and workings of property, thus, I isolate three geographic concepts—the *frontier*, the *survey*, and the *grid*, respectively—as especially worthy of note. In so doing, I do not wish to suggest that these three concepts are exclusively powerful to my analysis. We can deploy a variety of other spatial concepts, I suspect, to similar effect.<sup>2</sup> Moreover, these categories should be treated as spatializations—that is, as always and ever recursively related to social relations—rather than as spaces in the abstract. Further, while my account focuses on pairing particular concepts, such as legitimation and the frontier, the potential relationships transcend these associations. So, for example, the establishment of colonial property regimes obviously implicates both legitimation and action. Thus, while the survey plays an important role in the origins of property, so do the frontier and the grid. My analysis, overall, is necessarily suggestive rather than definitive. While much of my account is conceptual, I will draw on a number of examples, including some based on my work and life in British Columbia, Canada. For the moment, I also bracket a consideration of the ethics of legal violence and the link between discourse and practice. I consider these questions below.

## Violence Gives Property a Reason for Being

[T]hat which legitimizes an act of domination is not external to the performance but part of its performance.

— Coutin (1995, 526)

Liberal law, it has been said, is concerned with the drawing and policing of boundaries (Walzer 1984; Vismann 1997). While these are partly internal to law (for example, the boundary between public and private), law itself requires the construction of a constitutive outside with reference to, and against which, it sets itself apart. And violence is integral to this construction. Waldenfels (1991, 100) identifies “the great divorce” between reason and violence deeply embedded within Western political thought: “Since the time of the ancient Greeks, on the one side

of the borderline we find agencies of order such as Reason (*Nous*), Law (*Nomos*), or right (*Diké*) confronted with chaotic, blind, and brute forces of pure violence (*Bia*) on the other side.” Arguably, law is possible only to the extent that it has such an outside against which to define itself. That constitutive outside is at once radically set apart and deeply embedded within law. Giorgio Agamben (1998, 18) speaks of “the capacity of law to maintain itself in relation to an exteriority,” pointing in particular to the violence that is imagined as beyond state sovereignty yet simultaneously captured within it.

Law tends to deflect questions of its own innate violence to the violence that makes law necessary. Yet when law is forced to confront its violences, it authorizes them “as a lesser or necessary evil and as a response to our inability to live a truly free life, a life without external discipline and constraint” (Sarat and Kearns 1991, 222). Thus, Hobbes’ *Leviathan* promises “a way of taming violence by producing, through social organization, an economy of violence” (Sarat and Kearns 1991, 223).<sup>3</sup> Such categorizations shape our ethical response. Thus “students who block entrances to buildings or occupy a vacant lot and attempt to build a park in it are defined as not merely disorderly but violent; the law enforcement officials who gas and club them into submission are perceived as restorers of order” (Friedenberg 1971, 43).

The construction of that which is deemed law thus rests on the definition of a violent world of nonlaw. The inscription of a *frontier*—which may be figurative, temporal and spatial—is integral to this process.<sup>4</sup> The effect is to create a distinction such that law’s violence—rational, regulated, advancing common goals—is separated from and imagined as a counter to the “anomic or sectarian savagery beyond law’s boundaries” (Sarat and Kearns 1992a, 5). Without such a division, of course, the commonplace distinctions between terrorist and reasonable force, or murder and execution, break down (Williams 1983, 329–31).

Similarly, the very existence of that deemed property has long relied upon a distinction to a domain of nonproperty. Inside the frontier lie secure tenure, fee-simple ownership, and state-guaranteed rights to property. Outside lie uncertain and undeveloped entitlements, communal claims, and the absence of state guarantees to property. Inside lies stability and order, outside disorder, violence, and “bare life” (Agamben 1998). This is evident in the Western foundational narratives that tell property’s story, which often begin from an a priori and usually violent world before property, such as Locke’s ([1690] 1980, §124) world of “fears and continual dangers” (see also Blackstone [1765] 1838). For Hobbes, this space behind the frontier was one where “there can be no

propriety, no dominion, no *mine* and *thine* distinct; but only that to be every man’s that he can get, and for so long as he can keep it” (in Fitzpatrick 1992, 77). The absence of government and property, Hobbes ([1651] 1988, 186) argued, underpins a life of “continual fear, and danger of violent death; And the life of man, solitary, poor, nasty, brutish, and short.”

But these worlds without property are also located in space that is before History. “In the beginning,” claims Locke ([1690] 1980, §149), “all was *America*” (emphasis in original). And it is here that the violent frontiers of property are more sharply spatialized. Western notions of property are deeply invested in a colonial geography, a white mythology, in which the racialized figure of the savage plays a central role.<sup>5</sup> “Disorder on law’s part cannot . . . be located in law itself. The sources of disorder must exist outside of law—in the eruptions and disruptions of untamed nature or barely contained human passion against which an ordering law is intrinsically set. The savage was the concentration of these dangers and the constant and predominant want of the savage was order” (Fitzpatrick 1992, 81). Peter Fitzpatrick (1992, 65) documents the ways in which the law of the European Enlightenment reduced the world to European universality: “That which stood outside of the absolutely universal could only be absolutely different to it. It could only be an aberration or something other than that which it should be.” Rather than a multiplicity of legal possibilities, difference was positioned relative to the West. European legal identity, he argues, entails the mapping of the colonial subject as purely negative (“*ni foi, ni loi, ni roi*”), from which the positivity of Western law is derived.

This is a strikingly geographic exercise, in which, as Burke put it, “[t]he great Map of Mankind [is] unroll’d at once” (in Fitzpatrick 1992, 65). For many classical European writers on property, the space of the savage was one of the absence of law and property and the concomitant presence of violence. For nineteenth-century legal theorist John Austin, the figure of the savage is also foundational. Imagined as incapable of an appreciation of legal rights and duties, including property, the savage is deemed prepolitical and thus set irrevocably apart from the West (Fitzpatrick 1992, 78–81).<sup>6</sup>

Jeremy Bentham offers a more explicit example of the frontier that separates the spaces of property and violence. Property, for Bentham ([1843] 1978, 52), was “an established expectation” that requires the security provided by law for it to exist: “Property and law are born together, and die together. Before laws were made there was no property; take away laws, and property ceases.” In the absence of security, property fails, and so does

economic activity. The colonial landscapes of North America, he claimed, offered a striking contrast between the domain where property and security coexist and its antithesis—the violent spaces in which property is absent:

The interior of that immense region offers only a frightful solitude; impenetrable forests or sterile plains, stagnant waters and impure vapors; such is the earth when left to itself. The fierce tribes which rove through these deserts without fixed habitations, always occupied with the pursuit of game, and animated against each other by implacable rivalries, meet only for combat, and often succeed only in destroying each other. The beasts of the forest are not so dangerous to man as he is to himself. But on the borders of these frightful solitudes, what different sights are seen! We appear to comprehend in the same view *the two empires of good and evil*. Forests give place to cultivated fields, morasses are dried up, and the surface, grown firm, is covered with meadows, pastures, domestic animals, habitations healthy and smiling. Rising cities are built upon regular plans; roads are constructed to communicate between them; everything announces that men, seeking the means of intercourse, have ceased to fear and to murder each other. (Bentham [1843] 1978, 56; emphasis added)

Geography, of course, has long been associated with the actual and conceptual mappings of savagery (Godlewski and Smith 1994). For example, Ellen Churchill Semple carved out a conceptual frontier between “advanced” and “lower” societies, according to their relation to land and violence. She placed great emphasis on the relation between “a people and its land” ([1911] 1968, 51, 53), where the land serves as “the ultimate basis” of a people’s “fundamental social activities,” distinguishing and ranking societies according to the intensity and development of property relations in regards to the land. At one extreme could be found “nomads” such as the Shoshone, “who are accredited with no sense of ownership of the soil” (54). “Lower” societies, she suggested, are also characterized by internal violences. “Social deformities” such as “infanticide, abortion, cannibalism, the sanctioned murder of the aged and infirm, honorable suicide, polyandry or persistent war” (66) are linked to the demographic and economic constraints associated with a weaker “land-bond.” Among pastoral nomads, for example, war is deemed “the rule” (89). Conversely, the civilized state, which emerges with the development of permanent settlement, sedentary agriculture, and industrialism, contains a people who embrace “the possibilities of every foot of ground, of every geographic advantage” (Semple, 59).<sup>7</sup>

But the construction of a constitutive outside to property and its violences has not disappeared; the trope of the “frontier” that separates the West from the “savage” is

still powerfully operative. Only this can explain, for example, the media fascination with recent land conflicts in Zimbabwe. Unnamed “drunken” and “baying mobs,” “howling war cries,” and “shouting with delight” are described invading the private spaces of the home, threatening and inflicting violence on (usually named) white farmers (Blair 2000, A14). While such attacks are abhorrent, the enframing of the struggle is also revealing, setting an anarchic and violent black world that seems to show no respect for property rules and rights against an ordered, settled world of agrarian familialism. Notably absent, of course, are the legalized colonial violences of dispossession that underpin such violences (Moore 1997).

As Neil Smith (1996) has so powerfully documented, the frontier metaphor also remains important to property and its politics in the West, as the inner city becomes discursively constituted as an urban wilderness of savagery and chaos, awaiting the urban homesteaders who can forge a renaissance of hope and civility. Contra Turner (1961), then, the frontier is not closed. “[T]he notion of closure . . . falsely represents the American relationship to real property in terms of fixity and stability by denying the ongoing processes of property transfer”; urban space, in fact, is “unclosed, available for continual, ongoing closure” (Ellis 1993, 127, 31). Despite this—or perhaps because of it—legal violences in inner cities have, if anything, become more intense, fueled by revanchist state policies that seek to reclaim the city by redrawing the frontier.

Elsewhere, I have tried to make sense of the ways in which some powerful interests justify and represent gentrification in Vancouver, with particular reference to notions of property and entitlement (Blomley 1997). Several tropes seem to reoccur, the effect of which is to mark out a frontier between positive forms of property and its antithesis, embodied by the indigent, the homeless, and the renter. Indeed, the poor are, if anything, imagined as a threat to property, not only because of their assumed complicity in property crime but also because, by their presence, they destabilize property values, both economically and culturally. Perhaps in that sense, Bentham’s ([1843] 1978) propertied geography that maps out the “two empires of good and evil” is still in evidence. The contrast with the unpropertied “fierce tribes” with their “implacable rivalries” and the healthy and smiling habitations of the propertied is remapped in contemporary urban landscapes. To quote one media commentary on gentrification of Vancouver, a “world of difference” is said to exist between the settled space of a gentrifier and the feral “night life” outside, characterized by the unnamed bodies of the “dazed, drugged, and drunk” (Bula 1995).

## Violence Provides the Occasion and Method for Founding a Property Regime

[E]very state is born of violence, and . . . state power endures only by virtue of violence directed towards a space.

—Lefebvre (1991, 280)

Walter Benjamin ([1921] 1996) makes an important distinction (which he later collapses) between law-preserving violence, through which the law acts and, presumably, legitimates itself, and law-making violence—that is, “the historical violence which establishes new law, or a new legal order, to take the place of the old” (Wolcher 1996, 51).<sup>8</sup> Legal orders, Robert Cover (1986, 1607) insists, are commonly “staked in blood.” The American Declaration of Independence, he notes, was underwritten by a pledge of “our lives, our fortunes and our sacred honor” (1606). Such a mutual pledge was not taken lightly, given that the leaders of the rebellion had engaged in a legal act of treason, for which the penalties were a degrading and terrible death, loss of estate, and “corruption of the blood.” Kenneth Foote (1997) argues that violence is central to American national identity, given the necessarily violent nature of colonial settlement. Yet such foundational violences are frequently forgotten, or are rationalized according to some higher logic, such as manifest destiny. Violence—whether legal, extralegal, or illegal—“has been frequent, voluminous, almost commonplace” in American history (Hofstadter and Wallace 1970, 3).

Such a process is geographic at several levels. Norbert Elias (1998), for example, has explored state formation as the historical establishment of the “monopoly mechanism,” whereby the monopoly of organized violence becomes increasingly centralized through the elimination of rival centers of organized violence within a territory. Charles Tilly (1990) also grounds the process of European state formation on the spatial organization of violence, whether through the monopolization of violence within the state, violent conflicts between states, or the creation of state institutions to provide support for such war-making.

Similarly, the establishment or redefinition of regimes of property is often predicated upon the mobilization of violence. Such violences both underwrite and complicate the white mythologies of the frontier. Both the establishment of colonial property regimes and the creation of the propertied world of the West inside the frontier have their violences.<sup>9</sup> Such violences have also had their geographic expression, in which the survey has played a particularly interesting role. Again, I can only be briefly illustrative here. I focus on two examples—rural England in the sixteenth and seventeenth centuries and British Colum-

bia in the late nineteenth century. In choosing two distinct examples, I also hope to make an obvious but important point: the implication of the survey in property’s violence must be thought of, like all the spatializations I consider, as contextual and contingent, rather than a transcendental force. Further, while my examples are historical, it should not be forgotten that in various ways, contemporary entitlements and inequalities of property still rely on these foundational surveys and the ways they facilitated violent deterritorialization and reterritorialization.

### The Early Modern Survey

The English countryside of the late sixteenth and early seventeenth centuries saw a simultaneous revolution in the survey, the map, and real property. Traditionally, surveys were conducted by a manorial official or overseer who, at the court of survey, was charged with receiving tenants for the performance of ritualized ceremonies of homage and fealty and reviewing the customary rights that made up a manor, based on the testimony of “true and sworn men.” But by the end of the sixteenth century, the surveyor had been redefined as a technical expert whose task it was to measure the land itself (see McRae 1993, 335).

For P. D. A. Harvey (1993, 8), “The map as we understand it was effectively an invention of the sixteenth century.” While maps were “little understood or used” in 1500, by 1600 “they were familiar objects of everyday life” (7).<sup>10</sup> Pictorial and itinerary maps increasingly gave way to surveyed maps, drawn to scale. Formal estate mapping became increasingly common from the 1570s and 1580s on, serving not only a functional purpose but also as “a statement of ownership, a symbol of possession such as no written survey could equal” (85).

While one should be cautious of identifying historical turning points, it is clear that this period also saw significant changes in land tenure, with the intensified erosion of common rights, and a shift towards a commodified market in land.<sup>11</sup> England of the Elizabethan period saw “agrarian warfare” (Tawney 1912, 237), as enclosures gathered pace and commons were enclosed and tenants evicted; by 1700, only one-quarter of the enclosure of England and Wales remained to be undertaken (Butlin 1979, 175). The very meaning of real property also underwent a significant change, with “a hardening and concretion of the notion of property in land, and a reification of usages into properties which could be rented, sold, or willed” (Thompson 1993, 135). It was in this period that modern conceptions of real property became hegemonic: “[T]he bourgeois idea of land

law—the relation between *persona* and *res*, with no obligation other than to hold and use for personal profit—began to be applied with a vengeance” (Tigar and Levy 1977, 206).

Maps and cadastral surveys are generally treated as the handmaiden of property, or as a model of the real world (Dickinson 1979, 32). Andrew McRae (1993, 1996), however, emphasizes the active role of the survey in this transformation, both through the map itself and through didactic treatises written by surveyors, the effect of which was the reconstruction of rights to land as something that could be

clearly and objectively . . . determined, in a manner which precludes competing or loosely held customary claims. Land ownership is thus figured as reducible to facts and figures, a conception that inevitably undermines the matrix of duties and responsibilities that had previously been seen to define the manorial community. In the perception of the surveyor, the land is defined as property, as the landlord’s “own.” (McRae 1993, 341)<sup>12</sup>

If, as Tigar and Levy (1977) note, emergent concepts of property turned on the relation between person and thing, so did the survey and its maps, which drew from the Renaissance rediscovery of linear perspective (Edgerton 1975). This was to make possible the view that space in general, and property in particular, were disembedded from lived relations and social relations. In 1570, Euclid’s *Elements of Geometry* was published in an English translation. Surveyor John Dee, in a lengthy preface to this book, drew attention to the etymological association between “geometry” and “land-measuring” and praised “[t]he perfect Science of Lines, Plaines, and Solides [which] (like a divine Justicier,) gave unto every man, his owne” (quoted in McRae 1993, 345).<sup>13</sup>

Harvey (1993, 15) hints that the redefinition of cartography was more than a technological shift, narrowly defined: “[W]hat made the cartographic revolution of the 16th century was not simply the discovery and acceptance of new techniques. . . . [I]t was a revolution in the ways of thought of those who used them.” Timothy Mitchell (1991) notes the ways in which Western modes of seeing serve to present the world as set before and logically prior to a disembodied viewer. The effect, as he puts it, is to “enframe” an a priori world of objects. The abstract space of the survey helps make a world that exists, not as a set of social practices, but as a binary order: individuals and their practices set against an inert structure. Space is marked and divided into places where people are put. In the process, space is desocialized and depoliticized. Yet, at the same time, enframing conceals the processes through which it works as an ordering device. Similarly, the

cadastral survey can be said to have played an active role in the inauguration of a revolutionary enframing of land and property.

But what of violence? Most immediately, the redefinition of property, partly inaugurated by the survey, was vehemently and often violently opposed. Fences and hedges were torn down, enclosed lands invaded, and officials harassed. Interestingly, this was done in the name of property, albeit based in custom: “Reduced to its elements their complaint is a very simple one, very ancient and yet very modern. It is that what in effect, whatever lawyers may say, has been their property, is being taken from them . . . To take into your hand what is other men’s land, that is the grievance. To restore common to common again, that is the obvious remedy” (Tawney 1912, 333, 334).<sup>14</sup> The struggle to reclaim the commons was often violent. Thus, for example, in 1569, “an armed band pulled down enclosures near Chinley, in Derbyshire, threatened to kill the encloser, and rescued by force those of their number who were arrested” (Tawney 1912, 320). Wrightson (1982, 175) also notes the “order in this disorder,” arguing that opponents of enclosure acted in defense of traditional rights, often resorting to legalistic rituals (such as a pledge of loyalty to the Crown) while demonstrating an ability to exploit law’s ambiguities.<sup>15</sup>

State violences also intensified. While technically the lawbreakers were sometimes not “the peasants who pulled down enclosures, but the landlords who made them in defiance of repeated statutes forbidding them” (Tawney 1912, 330), it is interesting to note that the criminal law did not necessarily reflect this. Douglas Hay (1992) notes a striking peak in executions in the late sixteenth and early seventeenth centuries, with perhaps 500 to 1,000 executions per year.<sup>16</sup> About 75 percent of executions were for property crimes, at least until the 1820s. Wrightson (1982, 156) describes the law of the era as “savage . . . concerned with the exemplary punishment” of offenders.

Some commentators, including Hay, explain this peak by referring to the economic distress of the era; as one contemporary wryly noted, at a time when all other commodities had risen in price, only the life of a man had grown cheaper (in Wrightson 1982, 156; Lawson 1986). While high food prices and rural poverty may have played an important role, Wrightson cautions against a simple association between poverty and state violence, but he points to a link to the redefinition of property. The increase in capital punishment, he argues (164), may reflect a “toughening of attitudes” on the part of the more prosperous toward customary property rights. Increasingly, “certain ambivalent but customarily tolerated practices, such as the retention of a portion of grain by threshers, pulling wool off sheep’s backs, gathering kindling, or

gleaning, were beginning, in some places, to be redefined and prosecuted as theft" (166).

## The Survey and Colonial Settlement

In his discussion, McRae (1996, 196) notes that the most significant developments in surveying actually occurred in Ireland, where two and half million acres were seized in retaliation for the 1641 uprising, with the survey now put to work in the "harsh logic of colonization." If the world outside the West provides a means by which Western property is legitimized—an anomic world without property is distinguished from the ordered violences of law—the colonial project also sees Western property regimes imposed upon and locally reworked within such spaces, often with violent consequences (Crush 1996).<sup>17</sup> For Edward Said (1993, 7), the relation between imperialism and land is a fundamental one: "At some very basic level, imperialism means thinking about, settling on, and controlling land that you do not possess, that is distant, that is lived on and often involves untold misery for others." Eric Wolf (1990) documents the ways in which the shifting requirements of capitalism meant the enforced and legalized transformation of tenurial systems in many parts of the globe. The establishment of new forms of property was achieved, in part, by law and violence, the conjunction of which has been aptly termed "*lawfare*: the effort to conquer and control indigenous peoples by the coercive use of legal means" (Comaroff 2001, 306; emphasis in original). For some commentators, the historical violences of colonialism are not unconnected with contemporary forms of legal violence. After 400 years, according to McFarlane (1990, 18), the settler society of Canada "still derives its ultimate legitimacy from the same source: brute force."

This remarkable and continuing transformation of global property relations under colonialism has occurred in distinct and diverse ways, of course. It is again the surveyor, "the point men of British imperialism" (Edney 1993, 62), whom I wish to emphasize, given the survey's role in "the imposition of a new economic and spatial order on 'new territory', either erasing the precapitalist indigenous settlement or confining it to particular areas" (Kain and Baigent 1992, 329).

In their broad survey of cadastral mapping, Kain and Baigent (1992, 328) note that "[T]he survey was one of the most powerful instruments available to each of the royal colonies . . . for establishing their different political ideals by way of allocating land, their prime resource." As Gordon Dickinson (1979, 48) notes, the development of accurate surveys was a priority in many colonial territories,

serving to "organize, control, and record the settlement of 'empty' lands, a process which in the New World often involved wresting control from indigenous peoples" (Kain and Baigent, 335). Moreover, the survey served more than instrumental ends. It arbitrated between an acknowledged regime and those forms of property deemed to lie "outside" the frontier. If colonial possession was dependent upon dispossession, the survey served as a form of organized forgetting (Brealey 1998). More abstractly, the effect of the survey was to render space as an object of calculation: "The survey, with its triple artillery of map, sketches, and journal, was a strategy for translating space into a conceivable object, an object that the mind could possess long before the lowing herds" (Carter 1988, 329). As noted, in so reifying property as an abstract space, the survey and its maps played an important role in the redefinition of tenurial relations in newly colonized territories.

But the colonial survey, and the property relations that it helped reconstitute, also had a particular relation to state violence—most immediately in relation to the military. State authorities quickly came to recognize the role of the army in providing detailed, national surveys—for example, the British GSGS (Geographical Services, General Staff) or the French Service Géographie de l'Armée (Dickinson 1979). Mathew Edney (1994, 18) traces the ways in which the European military in colonial territory became powerfully shaped itself by an Enlightenment worldview in which maps were seen "as metaphors for both the process of scientific research and the ideal of the ordered state of nature." As such, military science embraced the rationality that the map promised. For reform-minded officers in the eighteenth century, then, "the essence of military science was geometry, geography, and their point of contact: mapping" (Edney 1994, 18). Edney argues that the map helped create a detached view of military operations in which colored squares on a map could stand in for real people, thus allowing military conflicts to be "dehumanized and reduced to pure geometry" (19).

As Kain and Baigent (1992) note, different modalities of surveying served different models of property. Thus, the Indian Revenue Surveys established a British model of absolute proprietary rights in place of the Mughal system, while the "Virginia method" facilitated the establishment in the U.S. of large plantations based on slave labor. Similarly, the relations between state violence, the survey, and the foundation of a property regime received particular local inflections in British Columbia. Cole Harris (1997, xii) has argued that colonialism in British Columbia was very much about violence, and very much about land: "In detail colonialism took many forms but



it . . . depended upon force to achieve its essential purpose: the *transfer of land from one people to another*" (emphasis added).<sup>18</sup> He (48) describes the importance of physical violence to early colonial power in British Columbia, premised on "a politics of fear." Summary executions, show trials, corporal punishment, and attacks of native settlements were frequent (cf. Galois 1992).<sup>19</sup> But even after the establishment of a state presence in the area that was to become Greater Vancouver in 1858, the threat of violence was still present, even if its actual use was moderated somewhat: "Battles were unnecessary; shows of force and a few summary executions did much to establish the new realities. In a newly acquired territory where other forms of control were unavailable, the quick, brutal, episodic application of sovereign power established its authority, and fear bred compliance" (Harris 1993, 67).

Colonialism also marked the creation of new spaces of property. In a few short decades, the geographies of property underwent a fundamental redrawing, as the systems of land ownership of the various First Nations who had used and settled the area were obliterated and subdivided by European settlers. The process by which that redrawing occurred entailed a variety of localized processes, including disease and economic disruption. It also seemed to have involved a variety of representations of native people and land on the part of the dominant society that made aboriginal title transient at best. Colonial ideologies in British Columbia held that native peoples "had been and remained primitive savages who were incapable of concepts of land title and who most certainly should not be perceived as land owners" (Tennant 1990, 40). But this transformation was also predicated on practical activity, in which the survey played a critical role (Clayton 2000). Thus, within British Columbia, a detachment of Royal Engineers was charged with mapping out land parcels and tiny native reserves in the area that would become Vancouver, facilitating an incredibly rapid redrawing of the geography of the area.

But violences, either implied or actual, were undeniably present (Blomley 2000). Such violences were not simply a secondary adjunct to the discursive realm (for example, the instrument through which ideology was put into practice), but were of importance in their own right as a vector of colonial power. Again, violence was not only an *outcome* of law, but its *realization*.<sup>20</sup> The establishment of a Western liberal property regime was both the point of these violences and the means by which violent forms of regulation were enacted and reproduced. Space, property, and violence were performed simultaneously.

Such violences were evident from the beginning. In 1860, for example, Colonel Moody of the Royal Engineers, charged with laying out the initial cadastral grid for the

Greater Vancouver region, became concerned that intertribal conflict was threatening white settlers. He blamed the Squamish in particular, and threatened "to wipe out the entire Squamish Tribe with gunfire" (quoted in Roine 1996, 13). Yet, once established, Harris (1993, 67) argues, the land system itself became the most important form of disciplinary power: "It defined where people could and could not go as well as their rights to land use, and it backed these rights, as need be, with sovereign power . . . the land system itself became powerfully regulative. Survey lines and fences were pervasive forms of disciplinary power backed by a property owner, backed by the law, and requiring little official supervision." As we shall see below, such spatial grids continue to be a powerful form of disciplinary power.

Physically, that process was sustained and underwritten by the latent violences of colonialism (directed mostly at native people), but it was also sustained, both practically and ideologically, by the survey. Following Robert Sack (1986), the survey helped facilitate a conceptual emptying of space. Territoriality conceptually separates a bounded space from the things and relations that inform it, thus imagining the space as a purely abstract and empty site that has meaning only in terms of the logic of private property. In what amounted to a remarkable form of "anticonquest" (Pratt 1992), a native space—dense with meanings, stories, and tenurial relations—could thus be conceptually remapped as vacant land.

While the modalities of power have changed over the ensuing century, the colonial remaking of space and property continues to exert social and ideological effects in British Columbia. Only very recently has there been any willingness on the part of the dominant society to acknowledge the possibility of an aboriginal claim. Even so, this has been confined to "Crown" lands, with privately held land exempted from the land claims process. The fact of dispossession, in combination with racist "Indian" policy and structured inequalities in labor, educational, and housing markets, has relegated many native peoples to the economic and political margins of the colonial map. The violences of the survey still echo in contemporary settler societies, as we shall see (Berger 1992).

### **Violence Provides a Means through which Property Acts**

Law, of course, can entail a genuine attempt at crafting nonviolent remedies. Even when legal agents use violence, it may well be of a distinct form (both more bureaucratic and requiring certain legitimations that nonlegal violence may eschew). Yet, both of these things

said, violence—whether threatened or implied—is one means through which law acts in the world. Violence is not aberrant, but central to law. It is not exceptional, but quotidian. Violence is not only a product of power, but also its vector.

Law “deals pain and death,” wrote Cover (1986, 1609) in his remarkable essay, pointing us to the routine violences done with the active or tacit acquiescence of legal institutions and officials. This does not imply malevolence or the abuse of power; rather, legal violence is sanctioned violence. The use of lethal force by police officers, the violence done in the battlefield, and the execution of convicted felons are all clear examples of such sanctioned legal violence. But violence is also imposed on other bodies through more routine legal acts, through forms of legal inaction, or through threatened or implied means. It is the mundane and routinized ways in which law is often “enforced” that demands the most careful inquiry, Cover argues. The violence visited upon an abused woman following a police decision not to intervene in a domestic dispute or the implied violence that maintains discipline in jail could both be seen as acts of violence, despite intentionality.

For violence need not be physically enacted to be operative; it can be continually implied (Hale 1923). The possibility of violence makes its realization often unnecessary. In his discussion of the eighteenth-century English assizes, Hay (1975) argues that the *spectacle* surrounding capital punishment—redolent with majesty, vengeance, and mercy—made the *actual* violences of the death penalty less necessary. Cover (1607) takes the case of the sentencing of a convicted defendant:

[H]e sits, usually quietly, as if engaged in civil discourse. If convicted, the defendant walks—escorted—to prolonged confinement, usually without significant disturbance to the civil appearance of the event. It is of course grotesque to assume that the civil facade is “voluntary” except in the sense that it represents the defendant’s autonomous recognition of the overwhelming array of violence ranged against him, and of the hopelessness of resistance or outcry. . . . [M]ost prisoners walk into prison because they know they will be dragged or beaten into prison if they do not walk.

Yet the violence that is done in the name of law appears uncoupled from the legal enterprise. Cover (1986) describes the pyramid of violence that characterizes legal enforcement, so that a command to do violence—such as a death penalty—works its way through complicated hierarchies of legal personnel in such a way that it appears to emanate from everywhere and nowhere at the same time. The effect is to make the words of law—for example, judicial decisions—appear uncoupled from their deeds. In

his discussion of a U.S. capital trial, Austin Sarat (1994, 142) notes the ways in which judicial language seeks to distinguish “the killings that it opposes and avenges from the force that expresses the opposition and through which its avenging work is done.”<sup>21</sup>

Property can also be said to “act” (or be enforced) in potentially and actually violent ways. This is particularly so when we remember that property is fundamentally concerned with legally defined and policed relations between individuals. At its core, property entails the legitimate act of expulsion, devolved to the state. The textbook definition of property as the right to exclude, like the definition of the state as that which has the legitimate monopoly of violence, is usually hurried over by scholars of property. But this speaks more to the class location of academics than to the everyday workings of property as experienced by many. For the homeless person, the renter, the squatter, the indigenous person, or the trade unionist, the violence meted out by the state in defense of the right to expel is too often undeniable.

Periodically, however, these violences become more visible, as particularly graphic or excessive deployments of violence occur. The British miners’ strike of 1984–1985, for example, saw a massive mobilization of state violence—ultimately in defense of the property rights of the employer (Blomley 1994). Challenges to the state monopoly of violence can also push issues of property’s relation to force to the fore. The armed standoff at Oka, Quebec in 1990, involving the Canadian Army and Mohawk sovereigntists defending aboriginal land rights, was one extreme case (York and Pindera 1991). The case of the farmer in Norfolk, England, who killed a burglar, citing his right to expel and the failure of the state to protect his property, is another (Gillan 2000).<sup>22</sup>

Yet, while important, these are extreme cases, representing a rupture in the economy of legal violence. The critical point is that violence need not be meted out for it to be operative. Rather, it can be said to act in more internalized, yet no less disciplinary ways. Norbert Elias’s discussion of the importance of “self-constraint” in modern society is instructive here. Self-policing, deeply engrained in the social habitus, “requires the individual incessantly to overcome his momentary affective impulses in keeping with the longer-term effects of his behavior . . . [It instills] a more even self-control encompassing his whole conduct like a tight ring, and a more steady regulation of his drives according to the social norms” (Elias 1998, 59).<sup>23</sup> For Elias, this transition is integrally related to changes in the monopolization of violence. A society with a more stable monopoly of force is one that can sustain more complex social interdependencies. Such social formations nurture moderated and self-disciplined

forms of individual and social behavior that are attentive to others. In turn, such forms of behavior become part of the habitus, second nature to social actors. Hence, with modern society, “physical violence is confined to barracks; and from this storehouse it breaks out only in extreme cases . . . into individual life” (57). Yet this displacement of violence to “the margin of social life” (57) does not signal its disappearance, as with the evolutionary models outlined above, such as Semple’s. For Elias, “[P]hysical violence and the threat emanating from it [still] have a determining influence on individuals in society, whether they know it or not” (57). That influence is not the uncertain and varied one associated with earlier expressions of violence, but becomes more depersonalized and measured. Yet it is still there:

[A] continuous, uniform pressure is exerted on individuals by the physical violence stored behind the scenes of everyday life, a pressure totally familiar and hardly perceived. . . . The monopoly organization of physical violence does not usually constrain the individual by direct threat. A strongly predictable compulsion or pressure mediated in a variety of ways is constantly exerted on the individual. This operates to a considerable extent through the medium of his own reflection. It is normally only potentially present in society, as an agent of control; the actual compulsion is one that the individual exerts on himself. . . . Physical clashes, wars, and feuds diminish. . . . But at the same time the battlefield is, in a sense, moved within. (Elias 1998, 57, 60)<sup>24</sup>

While there are problems with Elias’s analysis, the concept of “self-constraint” is suggestive. The day-to-day workings of a property regime are also reliant upon the policing of the self. The environment of the everyday is, of course, propertied, divided into both thine and mine and more generally into public and private domains, all of which depend upon and presuppose the internalization of subtle and diverse property rules that enjoin comportment, movement, and action. Nudity in one’s home is allowed; sex in the street is indecent; vegetables should be planted in the back garden; shopping malls are for shopping; the worksite is private: by entering into it, one’s status changes, and so on.

Moreover, Elias’s phrase cited above—the “physical violence stored behind the scenes of everyday life”—alerts us to the ways in which a property regime and its internalized violences are spatialized in the cadastral grid. The spatially defined environments in which we move—the homes, workplaces, streets, neighborhood, shops, and so on—can serve to reflect and reinforce social relations of power through complex and layered spatial processes and practices that code, exclude, enable, stage, locate, and so on. The effects are complex, entailing “the

assignment of a particular meaning to lines and spaces in order to control, at first glance, determinable segments of the physical world. Upon further reflection, however, it is clear that the objects of control are social relationships and the actions and experiences of people” (Delaney 1997, 6). Property is particularly important here, as Delaney notes. The codes of access and exclusion that structure the uses of the grid are saturated by conceptions of property. Such conceptions can be quite formal—consider the issue of public access to semiprivatized spaces, such as shopping malls—or they can be somewhat less formal, such as my “right” to a parking spot on the street outside my house. All are positioned within property’s grid.<sup>25</sup>

The grid, as Harris (1997) notes above, is a pervasive form of disciplinary rule, backed by sovereign power. As we make sense of and navigate the grid on a daily basis, we internalize and reproduce the “self-restraint” associated with property. Jennifer Nedelsky (1990) alerts us to the particular ways in which we inculcate legal subjectivity with reference to the boundaries that, in part, distinguish “mine” from “thine.” Parenting manuals encourage adults to teach their children to respect “boundaries” and identify things in the world they can claim as their property. In simply walking down the street, we teach children to obey the spatial cues that mark property; as any parent will acknowledge, small children are inherently disrespectful of these subtle boundaries. Mariana Valverde (1996) draws on the construction of the child as illustrative of the contradiction within liberalism between autonomy and the subjects’ lack of capacities for autonomous rule. For liberal theorists such as Mill, children must be forced to attain the capacity and desire for self-government. Illiberal means can achieve liberal ends, Valverde argues, through a form of “self-despotism” captured in the notion of “habit,” which presupposes that “doing things in a certain way repeatedly and routinely, until that way of doing things becomes ‘second nature,’ eventually creates a positive desire for the very activities and schedules we were forced to follow as children or we forced ourselves to follow as adults” (358).

The grid clearly has an instrumental importance to the second nature of property, making possible a capitalist market in parcels of land and facilitating the creation of the boundaries that are so vital to a liberal legal regime. But again, the grid has a more complicated place in a regime of property. A territorialization of property serves to displace attention from the violences between social subjects to the territory itself. Thus, a defense of property relations becomes posed as a defense of the grid (“It’s the law of the land”). Property itself is imagined as the relation between an owner and an inert space, rather than a politicized and perhaps violent set of relations between

owner and others (including nonowners): “In property law . . . the situation is not that persons are recognized as having power over others but that power resides in the property which they own” (Cotterrell 1986, 94). As Richard Sennett (1990, 48) suggests, the cadastral grid thus neutralizes space, emptying it of its contingencies, histories, and violences.<sup>26</sup>

But we must be cautious here: for many of us, the property grid is relatively easy to negotiate. If, in so doing, we internalize the violences of property and thus make actual violences less necessary, perhaps this is to be welcomed. But of course, the negotiability of the grid—and our relation to property’s violences—are determined by our social location. As an owner of land, I not only have a clear place within the grid, but also have a vested interest in its existence. Others, however, are less easy to position within the grid. Property’s “outlaws”—such as the homeless, beggars, or sex-trade workers—can thus experience the actual violences of law in an unmediated form.

Jeremy Waldron (1990, 296) offers a powerful example of the linkage between property’s outlaws and the grid:

Everything that is done has to be done somewhere. No one is free to perform an action unless there is somewhere he is free to perform it. . . . One of the functions of property rules . . . is to provide a basis for determining who is allowed to be where. . . . The rules of property give us a way of determining, in the case of each place, who is allowed to be in that place and who is not.

Regulations that restrict the use of public space in many North American cities—such as bylaws that forbid panhandling or sleeping in public parks—have, despite appearances of impartiality, essentially punished homeless people, given that homeless people are *de facto* excluded from private property: “Since private places and public places between them exhaust all the places that they are, there is nowhere that these actions [such as sleeping] may be performed by the homeless person. And since freedom to perform a concrete action requires freedom to perform it at some place, it follows that the homeless person does not have the freedom to perform them” (Waldron 1990, 315). Donald Mitchell (1997, 321, 322) argues that the effect is to create the public sphere as “intentionally exclusive, as a sphere in which the legitimate public only includes those who . . . have a place governed by private property rules to call their own. Landed property thus again becomes a prerequisite of effective citizenship . . . In essence we are recreating a public sphere that consists in unfreedom and torture.”

Gendered violence is also understood legally in relation to the grid, with the law differentiating violence against women to the extent that it is coded

public or private (Hatty 1995; Sanger 1995; Fenton 1999): “Historically, women have suffered first as victims of violence within spaces constructed as the private sphere, and second as victims of the law’s privatization of the violence they experience” (Sanchez 1998, 551; see also Smart 1989). But sexual violence, of course, is not exclusively private. In her analysis of the spaces of the sex trade, Lisa Sanchez (1998, 577) also recognizes that “[v]iolence needs a space, and the law provides for it.” The law shapes a variety of “interaction spaces” within which commercial sex is more or less tolerated depending on the degree to which it is rendered private or public. Property’s grid constitutes such spaces. In public places, the state engages in periodic forceful displacement and harassment of women sex-trade workers (partly through the enlistment of local property owners). The effect is to force women into concealed spaces, thus increasing their vulnerability to the sexual violence of men. While such violences may be extralegal, they are not radically distinct from law, Sanchez insists. Rather, law is said to effectively “create a safe space for violence—a space where violence has no witness” (575). Hence, “law constructs boundaries between legitimate and illegitimate violence and produces sociospatial zones in which violence is tolerated” (547).

Such violences in the name of property are endemic. Perhaps, as marginalized urban populations continue to grow and revanchist political sentiments intensify (Smith 1996) we should expect them to increase.<sup>27</sup> The very naturalization of the grid makes these violences, in turn, appear prepolitical. The grid is treated as abstract, objective, and prepolitical by virtue of its spatiality. Space appears as inert and *a priori*.<sup>28</sup> As Cresswell (1996, 159) puts it, spaces “appear to have their own rules, not the rules constructed for them.” In much the way that the modern map encourages a view of property as concerned with a person and a space, so the way the space of the grid is imagined tends to deflect blame. Rather than focusing our attention on the socially differentiated violences of property and law, the temptation is to blame the outlaws for their own location, absent a critical analysis of the mappings and displacements that prefigure those locations. The propertied divisions that force the poor into public space or women sex-trade workers into unsafe spaces disappear. Thus, the violences unleashed against such outlaws appears either as outside law itself (in the case of sexual violence) or as a disinterested and objective policing of collective norms.

A telling example, which speaks not only to the violences of the grid but also to the workings of the frontier and the survey in property’s enactments, is provided by Sherene Razack’s (2000) analysis of the murder of Pamela George. An aboriginal prostitute, George was picked up in

a red-light district in Regina, Canada by two white men and then brutally murdered. Central to Razack's account are the ways in which the naturalizations of the grid served both to diminish the perceived culpability of the accused in the murder and to conceal the structural violences that, in symbolically and materially "placing" George, made her a likely target of sexual and racialized violence. George was "considered to belong to a space to which violence routinely occurs, and to have a body that is routinely violated"; conversely, "her killers were presumed to be far removed from this zone" (Razack, 93). As a result, George was effectively blamed for the violences visited upon her. But George's very location in this space, Razack (97) insists, needs to be related to colonial dispossessions—the "violent expulsions and spatial containment of Aboriginal peoples," caught up with the remapping of colonial space, which have forced many native peoples to the urban margins in a dynamic "consolidated over three hundred years of colonization." Yet these margins are themselves located beyond a symbolic frontier that separates the whiteness of the middle-class world of the murderers from the racialized spaces of prostitution.

### The Ethics of Legal Violence

To invoke "violence"—as compared to, say, "force"—is to imply a moral transgression. Violence, we tell our children, is wrong. How, then, do we treat law's violence? As Brady and Garver (1991, 1) put it: "[W]e deplore violence and wish to restrain it, we applaud justice and wish to promote it, and are confused about the relation between what we deplore and what we applaud." Let me be clear: to say that law is violent is not necessarily to say that such violence is obviously unethical. And of course, it need not be. I am willing to acknowledge the possibility of a just war. Any form of property, to the extent that it entails enforceable claims, necessitates violence as a final resort.<sup>29</sup> Further, legal violence is not entirely prohibitive; it can, of course, prove productive, creating new solidarities and political possibilities.<sup>30</sup> Moreover, to *reduce* property to violence is also problematic, as Hannah Arendt (1970) would argue. Claims to property can also be used to sustain community networks (Blomley 1998) or resist dispossession (Blomley 2002). So what is gained, ethically, by saying that law and property are also violent?

There are several possible answers to this challenging question upon which, for now, I can only touch. One response is to hold law hostage to its own words and to recognize, with Austin Sarat and Thomas Kearns (1991), that a refusal to acknowledge law's violences renders those violences invisible and impersonal. Law is heavily invested

in uncoupling itself from its violences, which are done "to a stranger by a stranger, far removed from the events, interpretive acts, and judgments that triggered the process. . . . [T]he awful acts almost seem to have no cause" (Sarat and Kearns 1991, 212). In acknowledging the prevalence of legal violence and recoupling the physical violences of the law with its interpretive acts and judgments, we hold up to scrutiny the distinctions between legal and extralegal violence and between law and society more generally. As noted, this need not force us to reject legal violences out of hand. But it does oblige us, at the very least, to subject them to critical scrutiny. And again, those distinctions can be not only self-serving, but also the justification for frankly unethical applications of violence.

Law is social and political in both effect and constitution (Blomley 1994). *Legal* violences, to that extent, are *social* violences (Fraser 1991). The violences of law are socially selective. People are subjected to differentiated violences largely as a function of the ways in which they are racially and social marked (McKinnon 1993, 30). Hay (1992, 18) warns us of the ethical significance of this selectivity: "The coercive impact of law is the most important element for those who, in fact, are the most direct victims of its violence, the poor; the legitimation of the word is most compelling to those predisposed to believe it, who share it, who articulate it." When we remember that legal theory is, almost without exception, written by those who are the beneficiaries rather than the victims of law's violence, this claim is an unsettling one. Similarly, the violences of property tend to be visited upon certain socially marked peoples. Such violences are also deployed in particular spaces, as Mike Davis (1991), Smith (1996), and others have noted. Thus, the marginalized peoples and spaces of North American cities experience property's violence in a much more immediate sense than do the populations that benefit from such violences. Feminist legal scholars have also noted the differentiated ways in which women experience violence, pointing to the construction of some forms of violence as public and thus within law's purview, while others are designated private and thus escape legal regulation (Frohmann 1997; Fenton 1999).

The violences of property, however, need not be construed in exclusively negative terms. Surely Pierre-Joseph Proudhon ([1840] 1966, 177) goes too far in his sweeping claim that "[p]roperty is homicide." While perhaps it *can* be, property is also open to a variety of other possibilities (Waldron 1988; Singer 2000a). While prevailing social relations encourage the dominance of a possessive, individualist model of private property, this is not the only possibility. Property can also accommodate

notions of common or public property. In this sense, property rights are like all others: they have an expansionary logic (Bowles and Gintis 1987; Blomley and Pratt 2001).

Yet recognition of the progressive potential of property must not blind us from an acknowledgement of the often-oppressive effects of its *actual* workings and social distributions. This was brought home to me with force during my research on gentrification in Vancouver's Downtown Eastside (Blomley 1997, 1998, 2002). The lived reality for many here seems to be predicated less on the "quiet enjoyment" of settled entitlements than on the everyday threat of enforced displacement and dispossession. Here, at least, property seems to have a lot to do with force and violence. The violences of property are not confined to displacement. New modalities of policing, whether public or private, mobilize the language of "broken windows" ideology, which relies in turn upon certain particular understandings of property. Over sixty women, many of them sex-trade workers, are currently designated as "missing" from the Downtown Eastside, half of them aboriginal. Many fear that many of these women were murdered. One suspect is currently facing murder charges relating to fifteen of these women. This sexual and racial violence is perhaps also predicated upon phallogocentric claims to the ownership of women's bodies, especially aboriginal women (Smart 1989, Razack 2000), and reliant in addition upon gendered codings of property and public and private space (Hubbard 1998; Sanchez 1998).

Practices and representations of property seem, moreover, to intersect. Discourses of property in the city appear to rely upon a marginal space, such as the Downtown Eastside, as a foil or constitutive outside, legitimating programs of development and "improvement" as a result (Blomley 1997). But this space also reveals property's violence in other ways. The creation of that which we term Vancouver was—and is—reliant upon the violent dispossession of the original occupants of the site: the aboriginal peoples who, for millennia, have used these lands (Blomley 2000). In acknowledging property's violences, in other words, we can acknowledge the social benefits of such violences, yet we must also confront the inequalities that they help sustain.<sup>31</sup>

Uncovering and analyzing legal violence, however, is not an easy project. If there are violences to property, it is very easy to treat these—like legal violences more generally—as impersonal, inevitable, and apolitical. Property regimes can easily appear to be simply part of the landscape (Blomley 1998), and as such their violences can appear to be of the order of things. But, of course, property is powerfully legal *and* social in many ways. As I

have suggested, the tendency to desocialize property's violence has a lot to do with the ways in which those violences get spatialized. Denaturalizing space thus provides us with a way of resocializing law.

## Words and Hands<sup>32</sup>

A long and illustrious stream of critics and commentators have all, in various ways, drawn attention to the ways in which Western legal and property regimes, far from being counterposed to violence, are in fact imbued with it.<sup>33</sup> Yet while the association between law and physical violence was easy to make thirty years ago, at least from one theoretical perspective (cf. Wolff 1971) it has become a little harder to make this claim. Perhaps this has something to do with the centrality accorded discourse within legal and social studies. A rich array of writing within legal studies, for example, centers on its narrative structure, ranging from those who treat legal discourse as a particular semiotic system to those concerned with its rhetorical qualities and including more critical treatments of its narrative form (Brooks and Gerwitz 1996). For some, the literary quality of legal discourse places it at the core of the human project (White 1994). For others, law's stories are a site of oppression, as well as means of destabilizing law (Ewick and Silbey 1995). While such legal oppressions are frequently deemed violent, there is a tendency to treat such violences as exclusively discursive.

Scholars on property have followed suit (Rose 1994). There is certainly a lot to be said for such an attention to the textuality of property. At the very least, it serves to open up a space for the exploration of its social dimensions (Hollowell 1982; Radin 1993). There is a striking silence in this discussion, however. Take, for example, the question of colonial dispossession in the Americas. For many property theorists, the process by which dispossession is said to have occurred provides further proof of a discursive analysis. Thus, native people were assumed to not be landowners precisely because they "had done nothing to signal their proprietary claims" (Rose 1994, 295). Or, to be more exact, if they had signaled their claims, they had not done so in a way that was "persuasive" to colonial settlers. This is not to deny the force and violence that were threatened or applied by colonial powers; yet, for Rose (1994, 296), "[s]uch culture-conflict stories, upsetting as they are, must reinforce the point that seeing property is an act of persuasion and seeing property also reflects some of the cultural limitations in imagination."

This analysis does seem to have some explanatory strength, echoing some of the powerful arguments for the

instrumental importance of “imaginative geographies” in dispossession and domination (Said 1979). Struggles over space are not only “about soldiers and cannons . . . but also about ideas, about forms, about images and imaginings” (Said 1993, 7). The enactment of property, in both its routine and extreme forms, obviously entails persuasive narratives, the construction of meaning, and representations. Yet in thinking, for example, about dispossession, I am left with an unease at the rapidity with which the “soldiers and cannons” are skated over or rendered secondary to discourse, where discourse is treated as always and only textual and linguistic.

While violence can itself be “persuasive” (that is, discursive), my argument here is that it also has an important materiality. In focusing exclusively on the discursive dimensions of law and property, we forget the physicality of law, including its material violences (Cheah and Grosz 1996; Wealt 1996; Hyde 1997). The challenge, then, becomes one of thinking through the ways in which violence entails both practice and representations. This is not easy, however; indeed, for some the task is impossible, in that violence takes us beyond words.<sup>34</sup> But law is not just a language game. Its discourses cannot be isolated from material practice, but must be thought of as dialectically related to them (Greenhouse 1992; Coutin 1995). In ignoring this corporeality, we threaten to “prettify the force and violence out of the law” (Weisberg 1992, 178).<sup>35</sup> Cover (1986, 1605) insists that law “is never just a mental or spiritual act. A legal world is built only to the extent that there are commitments that place bodies on the line. . . . It reminds us that the interpretive commitments of officials are realized, indeed, in the flesh.”

## Conclusion

If we are interested in the geographies of law, we would do well to attend to its violences (Blomley, Delaney, and Ford 2001). At the same time, an attention to violence is incomplete without a critical geographic imaginary. Violence is important to property in terms of its origins, actions, and legitimations; yet such violences are also powerfully geographic. Space gets produced, invoked, pulverized, marked, and differentiated through practical and discursive forms of legal violence. And property’s violence is itself instantiated and legitimized, yet also complicated and contradicted in and through such spaces.

The geographies of property, like the geographies of power, must be treated as “an integral, rather than an additional, part of the picture” (Allen 1999, 205). I have tried to suggest that spatiality makes a difference to the

effects and modalities of property’s violence in particular ways. The frontier, which appears as a neutral boundary, serves as a condition of possibility for property’s violence, distinguishing and constituting at one and the same time. The survey is deeply implicated in the often-violent establishment of property regimes, serving as a practical form of networked power. At the same time, the surveyor plays an important role in the inauguration of a particular view of space as detached and alienable and thus is deeply implicated in the ideological creation of property. The distinctions between property regimes that the survey helps constitute are themselves dependent on deeply entrenched differences between those forms of property that lie within the frontier and those that lie without. The survey, moreover, is a practical act that produces the grid. Violences here are operative internally, as a form of self-despotism. More importantly, those who transgress the grid or are hard to place within its meanings can experience legal violences—often in the name of property—in very direct ways. Again, the naturalness of the grid and its distinctions can naturalize those violences.

That said, if space is a powerful medium through which property is enacted and by which its violences are legitimated, we must also acknowledge that the relation can become a little more ambivalent. The spaces of violence—such as the survey, frontier, and grid—must be recognized as social achievements, rather than asocial facts (Butler 1991). As such, we are forced to recognize their contingency and ambivalences. Socialized space can prove contradictory—for example, forcing forms of state violence that may work against its very legitimacy (cf. Watts 1997). The enactment of property is never completely contained by dominant regulatory norms but, like power more generally, is open to “inventive reinterpretation, fluid negotiation and subtle translation” (Allen 1999, 205). The success with which the “doing” of property occurs is always and ever conditional and contingent. Technologies may fail. Social networks may unravel. Social subjects may, of course, intentionally rework or contest the performances to which they have been assigned. But this is by no means necessary: individuals need not consciously fashion resistant practices to be engaged in political projects. The complexities of doing may lead to practices and discourses that complicate, compromise, or contradict the “imperatives” of dominant orderings. I can only hint at some of these ambivalences here; they point to the need for further research (Blomley forthcoming).

For example, while the legitimation of law’s violence is predicated on the construction of a space of the Same (reason) from which the Other (violence) is excluded, the

Other is always present in that Space: “[R]eason and violence do not live in different worlds” (Waldenfels 1991, 101).<sup>36</sup> This can force legal violence to reveal itself when threatened: “If reason wants not only to be valid but to survive and realize itself, it cannot, as matters stand, restrict itself to the soft forces of its own. . . . [R]eason, which by itself rebuts violence, reaches for violence when threatened” (Waldenfels 1991, 101). This can generate crises of legitimation, as evidenced in particularly violent ruptures such as the Oka siege in Quebec and the Rodney King beating in Los Angeles in 1991, or ongoing excesses, such as the death penalty.

Similarly, the survey must also be regarded as a social enactment, and thus far from inevitable, uncontested, or epistemologically straightforward (Carter 1999). Cadastral surveying in British Columbia, for example, turned out have been intensely hard work (Harris 1989), only sporadically deployed due to cost, and itself the target of native resistance. While the archive on English sixteenth-century surveying is patchy, evidence exists of local opposition (Morgan, Key, and Taylor 2000).<sup>37</sup> The movements between survey and territory in colonial spaces are complicated and deeply political (Friel 1981). The grid does not exist absent the social and political relations and practices that give it meaning. If, by our actions, we reproduce the grid—or even produce it—we can also contest it. Everyday transgressions and disturbances, as well as more formalized political actions (such as “take back the night” marches), can destabilize the rules of property and the spatial imaginaries with which they are associated (Cresswell 1996).

Yet all this does not detract from my central purpose here: to underscore the importance of the association between property, violence, and space. If we live in a world saturated by property, it seems to me important to think about its ethical dimensions, its simultaneously discursive and material qualities, and its geographies. A recognition of the violences at the core of property seems a necessary part of that project.

## Acknowledgments

Thanks are due Adrienne Burk, Damian Collins, David Delaney, Peter Fitzpatrick, Lorraine Gibson, Aurian Haller, Paddy Hillyard, Steve Hindle, Sarah Jain, Lisa Sanchez, Austin Sarat, and several anonymous reviewers of this article. Versions of this article were presented at the Association of American Geographers Conference, Hawaii (April 1999), the Socio-Legal Studies Conference, Belfast (March 2000), and the Law’s Grounds Conference, Cleveland-Marshall Law School, Cleveland, OH (April 2000).

## Notes

1. As Williams (1983) notes, violence is a slippery term. For the purposes of this article, I define law’s violence as the exercise of unwanted physical force, whether actual or implied (cf. Platt 1992; Keane 1996, 67). My working definition includes a focus on corporeal violence, rather than the symbolic (Litke 1992). While I acknowledge that violence can be psychological—as in the use of racist words—there is a danger of stretching the meaning of violence until it loses all utility (Keane 1996, 66). My definition also includes both actual and implied violences. Most obviously, actual violence can be done to human bodies; the death penalty is perhaps the most obvious example. While some important work has been done on law’s violences at this level (Sarat 1994), we also need to examine violences that are threatened or implied, or that are realized through forms of inaction (as in the case of domestic violence, as noted below). Clearly, in adopting such a broad definition, we risk finding violences of equal political and moral weight everywhere. Being put to death is clearly not the same, physiologically or ethically, as involuntarily obeying a legal command. While acknowledging this, it also seems important to recognize the associations between realized and implied violence (cf. Cover 1986). Violence is also present beyond the extreme, theatrical moments of the law, such as capital cases. Although violence literally means “to carry force toward something,” I also treat violence as a power relation that takes several forms. Violence, like power more generally (Allen 1999), can work in instrumental, legitimate, dispersed, and immanent ways.
2. For example, violence has a relation to nature and landscape (Schama 1995) or place and territory (Watts 1997).
3. Prosaically evidenced, perhaps, in the murder mystery, which reassures us that violence not only lies outside law, but also can be tamed and disciplined through the use of rational deduction.
4. I borrow here from Giddens (1987, 49), who distinguishes the boundaries of the traditional state as a *frontier* (an outer defensive ring, often linked to physical defensibility, that abuts zones of savagery, not other sovereign state territories) from the *border* of the modern state (a conceptual line separating two or more states, entailing precise demarcations of territorial sovereignty).
5. Although, of course, we must be cautious about treating colonial discourses as unitary and uncontested.
6. There are many other examples. Turner’s (1961, 38) frontier also invokes a spatial and propertied divide; “The frontier is the outer edge of the wave—the meeting point between savagery and civilization . . . The most significant thing about the American frontier is, that it lies at the hither edge of free land.” John Stuart Mill also makes a clear divide between the liberal world and “those backward states of society . . . Despotism is a legitimate mode of government in dealing with barbarians, provided the end be their improvement” (Mill [1859] 1975, 15–16).
7. Semple here draws upon understandings of the “improvement” of land, central to Lockean notions of property and entitlement. There are echoes of this notion in Robert Park’s ([1932] 1952) concept of “succession,” which he claims to identify in his analysis of land settlement in South Africa. From this he (226) derives the evolutionary principle that “the land eventually goes to the race or people that can get the most out of it. This, on the other hand, is merely another



- version of the rule of agricultural economics, which declares that the best land eventually goes to the best farmer.”
8. Not only is law founded through violence, but violence is itself constituted by law. For example, legal definitions of the beginnings of biophysical consciousness or the moment of brain death are the basis for determining what acts can be done to the body, such as abortion or organ removal (Skouteris 2001).
  9. Fitzpatrick (1991, 80–81) notes that the violences associated with the establishment of law and order in the colonies were deemed insignificant in comparison with the “violence and disorder of savagery.” The two projects of deterritorialization and reterritorialization, of course, were not unrelated.
  10. Harvey (1993) estimates that only a dozen maps survive from the second half of the fifteenth century. Around two hundred maps remain from the first half of the sixteenth century, compared to eight hundred from the second half.
  11. Although, as Butlin (1979) notes, there were distinct spatial variations in agrarian change.
  12. Along with the husbandry manuals of the day, surveyors treatises increasingly encouraged an individualized and monetarized view of property, although this was frequently mixed with defensive justifications or echoes of premodern sensibilities, reflecting the often hostile reception from some quarters of the surveyor (McRae 1996). See, for example, John Norden’s ([1618] 1979) remarkable “surveyors dialogue.”
  13. The survey also relied upon and advocated for modern survey techniques and standardized mensuration. For discussion of the shifts in spatial metrics and their social implications, see Blomley (1994, 67–105) and Kula (1986).
  14. Tawney (1912, 321) argues that although the early seventeenth century saw the last serious agrarian revolts, the folk memory lingered on, reappearing with the Levellers, who condemned enclosure, and the Diggers, who sought to “convert the waste land at Weybridge into the New Jerusalem.” Struggles over land continue in England, as evidenced in the “The Land is Ours” campaign, which often draws from these early modern precedents (TLIO 2002). Similarly, state violences, often under the sign of property, continue to target property’s outlaws, including gypsies, squatters, New Age Travelers, hunt saboteurs, and environmental protestors (Justice? n.d.).
  15. For example, by deploying women to destroy fences and hedges, given the presumption of their innate lawlessness. Compare with Manning (1988, 1–2).
  16. Wrightson (1982, 157) notes an average of seventy-four death sentences per year between 1598 and 1639 in Devon. London executed 140 a year between 1607 and 1616.
  17. E. P. Thompson (1993, 164–65) notes that the tropes of improvement, progression, and settlement that had been applied within England were also used to justify colonial projects of dispossession.
  18. In making the case for acts of legal violence directed at native peoples, we should not forget the many violences of native life before colonization (Barnett 1955, 267–71). Also, it should be remembered that the descendants of many of the Euro-Canadians who were the beneficiaries of this dispossession were themselves economic refugees from earlier acts of displacement, such as the Clearances of the Scottish Highlands.
  19. Harris’s (1997, 57) argument that such forms of violence “have less to do with law . . . than with power” may be true to the extent that it occurred absent a formal state apparatus. However, the reliance on legal forms (trials, etc.), combined with the theatrical display of state power (cf. Hay 1975), might suggest a closer connection.
  20. I am indebted to David Delaney for his emphasis of this point.
  21. This perhaps explains the fact that some legal officials, such as prison officers, can regard themselves not as instigators of violence, but as its victims (Sim 2001).
  22. The British Conservative Party pledged to “rebalance” the justice system “in favour of those who try to protect their families and homes—by redefining what ‘reasonable force’ can be used” (Craven and Morris 2000, 1).
  23. Although this is not his avowed intent, Elias’s use of the masculine pronoun is instructive, echoing patriarchal associations of “self-constraint” and citizenship with manly comportment.
  24. A related analysis comes from debates concerning governmentality—in particular, the notion of “action at a distance” and, more generally, Latour’s treatment of power as translation (see Latour 1987; Rose and Miller 1992).
  25. In their reading of New York’s Lower East Side, Brigham and Gordon (1996) note the degree to which housing and property relations relating to housing constitute social categories and mark out a terrain of politics. The uses and meanings attached to the spaces of the Lower East Side, moreover, appear central to that process: “The legal distinction between ownership and opportunity for use is constantly at issue on the Lower East Side. Walking (down the sidewalk usually), one is made aware of what is public and what is not. . . . Ownership is presented in material ways (locks, fences, razor wire) and more discursively (in language that says ‘Get out,’ ‘Where is the rent,’ ‘Come in’)” (Brigham and Gordon, 277–78).
  26. Similarly, developers in Vancouver’s Downtown Eastside informed me that they were not causing displacement, as they were simply developing an empty lot (despite the fact that low-income hotels surrounded the lot).
  27. The “broken windows” ideology of policing, espoused by James Wilson and George Kelling (1982), is an interesting case in point. Under its rubric, civic authorities have adopted an array of “environmental crime prevention” programs—such as the regulation of street beggars, open drug-dealing, graffiti, and so on—targeted at public space and its outlaws. Reliant upon spatially reinscribing property claims upon the spaces that appear “untended” (that is, unclaimed), they also seek to limit liberal constraints upon police discretion, even at the risk of making the police into “agents of neighborhood bigotry” (Wilson and Kelling, 35). Stewart (1998, 2251) counters that the historical record of enhanced police discretion is one of “both general violations of civil liberties and the specific oppression of minority communities.”
  28. To reiterate a point made earlier, the politics of the grid must be acknowledged as contingent, informed by specific modalities of vision, conceptions of space, and understandings of property. This becomes obvious when we recognize that the grid has taken on very different meanings in other cultures. The Roman cadastral grid, for example, was based on a cosmology focused on the interplay of stasis and dynamism (Johnson 1976, 28).

29. Some scholars, such as Cover (1986) and Derrida (1990), seem to see violence as an inevitable and metaphysical component of any legal form to the extent that violence is “inflicted wherever legal will is imposed upon the world, wherever a judicial decision or a legislative act cuts, wrenches, or excises life from its social context” (Sarat and Kearns 1991, 210; see also Cheah and Grosz 1996). Fraser (1991, 1328), however, consciously forswears “quasi-transcendental reflection on the ‘violence’ that must inhere in any possible legal institution in favor of analysis and . . . critique of the forms of . . . structural violence that enters into social processes of judging in, for example, *our* legal system.”
30. Keane (1996, 79, 50) draws on the American Revolution to argue that violence can also create bonds of solidarity, and points to the British peace movement as part of a “politics of civility,” seeking to “ensure that nobody ‘owns’ or arbitrarily uses the means of state violence against civil societies at home and/or abroad.” Foote (1997, 334) goes so far as to argue that “[v]iolence should be seen . . . as a regenerative force, one capable of refining and forging a new society..”
31. This seems an important task for other reasons. It hopefully provides a counter to the triumphalism that surrounds property, particularly with the collapse of the Soviet bloc. “As the twentieth century draws to a close,” trumpets one panegyric, “the benefits of private ownership for both liberty and prosperity are acknowledged as they had not been in nearly two hundred years” (Pipes 1999, 63).
32. Staff at my children’s daycare encourages them to “use their words, not their hands” when dealing with conflict (which often centers on ownership!). Language is imagined here as not only better than but distinct from physical violence. The more complicated relation between the two is the subject of this section. My thanks to Susan Coutin (1995, 525) for reminding me of this particular injunction.
33. A partial list would include Thomas Hobbes, Henry George, Pierre-Joseph Proudhon, Karl Marx, Walter Benjamin, Robert Hale, Hannah Arendt, Edward Thompson, and Winona LaDuke.
34. For some, legal meaning and violence are antithetical. Legal anthropology has traditionally held that “violence marked the boundary of the social order in that it demarcated the groupings within which disputes could be settled by language rather than blows” (Coutin 1995, 517).
35. Sarat (1992, 140) cautions that “[A]s violence and pain are put into language, we may be tempted to forget that their metaphorical representation as weapons and words cannot truly capture the meaning of violence and pain themselves.” Also, those forms of violence that leaves no visible scars, such as “the violence of racism, poverty and despair,” will be less easily represented (Sarat 1992, 141).
36. Brady and Garver (1991, 1) argue that force and violence are not empirically distinguishable even when force is legitimate: “It makes sense to argue that the Civil War or the Second World War was justified, but it seems absurd to insist that the allegedly justified destruction was not real violence.”
37. My thanks to Steve Hindle for this reference.
- Agamben, G. 1998. *Homo sacer: Sovereign power and bare life*. Stanford, CA: Stanford University Press.
- Allen, J. 1999. Spatial assemblages of power: From domination to empowerment. In *Human geography today*, ed. D. Massey, J. Allen, and P. Sarre, 194–218. Cambridge, U.K.: Polity Press.
- Arendt, H. 1970. *On violence*. Orlando, FL: Harcourt Brace Jovanovich.
- Azuela, A. 1987. Low-income settlements and the law in Mexico City. *International Journal of Urban and Regional Research* 11 (4): 522–41.
- Barnett, H. G. 1955. *The Coast Salish of British Columbia*. Eugene: University of Oregon Press.
- Benjamin, W. [1921] 1996. *Walter Benjamin: Selected writings, Vol. 1, 1913–1926*, ed. M. Bullock and M. W. Jennings. Cambridge, MA: Belknap Press, Harvard University Press.
- Bentham, J. [1843] 1978. Security and equality of property. In *Property: Mainstream and critical positions*, ed. C. B. MacPherson, 39–58. Toronto: University of Toronto Press.
- Berger, H. 1992. *A long and terrible shadow: White values, native rights in the Americas*. Vancouver: Douglas and McIntyre.
- Blackstone, W. [1765] 1838. *Commentaries on the laws of England*. Vol. 2. New York: W. E. Dean.
- Blair, D. 2000. We fled howling axe mob. *Victoria-Times Colonist* 13, April: A14.
- Blomley, N. 1994. *Law, space and the geographies of power*. New York: Guilford.
- . 1997. Property, pluralism, and the gentrification frontier. *Canadian Journal of Law and Society* 12 (2): 187–218.
- . 1998. Landscapes of property. *Law and Society Review* 32 (3): 567–612.
- . 2000. “Acts,” “deeds,” and the violences of property. *Historical Geography* 28:6–107.
- . 2002. Mud for the land. *Public Culture* 14 (3): 557–82.
- Blomley, N., D. Delaney, and R. T. Ford, eds. 2001. *The legal geographies reader*. Oxford: Blackwell.
- Blomley, N., and G. Pratt. 2001. Canada and the political geographies of rights. *The Canadian Geographer* 45 (1): 151–66.
- Boulding, K. E. 1991. Reflections on property liberty and polity. *Journal of Social Behavior and Personality* 6 (6):1–16.
- Bowles, S., and H. Gintis. 1987. *Democracy and capitalism: Property, community, and the contradictions of modern social thought*. New York: Basic Books.
- Brady, J. B., and N. Garver. 1991. Introduction to the issues. In *Justice, law and violence*, ed. J. B. Brady and N. Garver, 1–12. Philadelphia: Temple University Press.
- Brealey, K. 1998. Travels from Point Ellice: Peter O’Reilly and the Indian reserve system in British Columbia. *BC Studies* 115/116:181–236.
- Brigham, J., and D. R. Gordon. 1996. Law in politics: struggles over property and public space on New York’s Lower East Side. *Law and Social Inquiry* 21 (2): 265–83.
- Brooks, P., and P. Gerwitz, eds. 1996. *Law’s stories: Narrative and rhetoric in the law*. New Haven, CT: Yale University Press.
- Bula, F. 1995. Yuppies in the ‘hood.’ *Vancouver Sun* 24 June: A1, A2.
- Butler, J. 1991. A note on the performative acts of violence. *Cardozo Law Review* 13 (4): 1303–04.
- Butlin, R. A. 1979. The enclosure of open fields and extinction of common rights in England, circa 1600–1750: A review.

## References

Adams, C. F., ed. 1969. *The works of John Adams*. Vol. 9. Freeport, NY: Books for Libraries Press.

- In *Change in the countryside: Essays on rural England, 1500–1900*, ed. H. S. A. Fox and R. A. Butlin, 65–82. Institute of British Geographers Special Publication, No. 10. London: Institute of British Geographers.
- Carter, P. 1988. *The road to Botany Bay: An exploration of landscape and history*. New York: Knopf.
- . 1999. Dark with excess of bright: Mapping the coastlines of knowledge. In *Mappings*, ed. D. Cosgrove, 125–47. London: Reaktion Books.
- Cheah, P., and E. Grosz. 1996. The body of the law: Notes toward a theory of corporeal justice. In *Thinking through the body of law*, ed. P. Cheah, D. Fraser, and J. Grbich, 3–25. New York: New York University Press.
- Clayton, D. 2000. On the colonial genealogy of George Vancouver's chart of the northwest coast of North America. *Ecumene* 7 (4): 371–401.
- Comaroff, J. L. 2001. Colonialism, culture and the law: A foreword. *Law and Social Inquiry* 26 (2): 305–14.
- Cotterrell, R. 1986. The law of property and legal theory. In *Legal theory and common law*, ed. W. Twining, 81–98. Oxford: Basil Blackwell.
- Coutin, S. 1995. Ethnographies of violence: Law, dissidence, and the state. *Law and Society Review* 29 (3): 517–39.
- Cover, R. 1986. Violence and the word. *Yale Law Journal* 95:601–29.
- Craven, N., and S. Morris. 2000. We back those who defend their homes. *Daily Mail* 26 April: 1, 7.
- Cresswell, T. 1996. *In place/out of place: Geography, ideology, and transgression*. Minneapolis: University of Minnesota Press.
- Crush, J. 1996. The culture of failure: Racism, violence, and white farming in colonial Swaziland. *Journal of Historical Geography* 22 (2): 177–97.
- Darian-Smith, E. 1999. *Bridging divides: The Channel Tunnel and English legal identity in the new Europe*. Berkeley: University of California Press.
- Davis, M. 1991. *City of quartz: Excavating the future in Los Angeles*. London: Verso.
- Delaney, D. 1997. *Geographies of judgment: Legal reasoning and the geopolitics of race, 1836–1948*. Austin: University of Texas Press.
- . 2001. Making nature/markings humans: Law as a site of (cultural) production. *Annals of the Association of American Geographers* 91 (3): 487–503.
- Derrida, J. 1990. Force of law: The “mystical foundation of authority.” *Cardozo Law Review* 11:20–1045.
- Dickinson, G. C. 1979. *Maps and air photographs: Images of the Earth*. London: Edward Arnold.
- East, W. G., and J. R. V. Prescott. 1975. *Our fragmented world: An introduction to political geography*. London: Macmillan.
- Edgerton, S. Y. 1975. *The Renaissance rediscovery of linear perspective*. New York: Basic Books.
- Edney, M. G. 1993. The patronage of science and the creation of imperial space, 1799–1843: The British mapping of India, 1799–1843. *Cartographica* 30:61–67.
- . 1994. British military education, mapmaking, and military “map-mindedness” in the later Enlightenment. *The Cartographic Journal* 31 (1): 14–20.
- Elias, N. 1998. *Norbert Elias on civilization, power, and knowledge: Selected writings*, ed. S. Mennell and J. Goudsblom. Chicago: University of Chicago Press.
- Ellis, R. J. 1993. The American frontier and the contemporary real estate advertising magazine. *Journal of Popular Culture* 27 (3): 119–33.
- Ewick, P., and S. Silbey. 1995. Subversive stories and hegemonic tales: Toward a sociology of narrative. *Law and Society Review* 29 (2): 197–226.
- Feldman, A. 1991. *Formations of violence: The narrative of the body and political terror in Northern Ireland*. Chicago: University of Chicago Press.
- Fenton, Z. E. 1999. Mirrored silence: Reflections on judicial complicity in private violence. *Oregon Law Review* 78 (4): 995–1060.
- Fitzpatrick, P. 1992. *The mythology of modern law*. New York: Routledge.
- Foote, K. E. 1997. *Shadowed ground: America's landscapes of violence and tragedy*. Austin: University of Texas Press.
- Fraser, N. 1991. The force of law: metaphysical or political? *Cardozo Law Review* 13 (4): 1325–31.
- Friedenberg, E. Z. 1971. The side effects of the legal process. In *The rule of law*, ed. R. P. Wolff, 37–53. New York: Simon and Schuster.
- Friel, B. 1981. *Translations*. London: Faber and Faber.
- Frohmann, L. 1997. Convictability and discordant locales: Reproducing race, class, and gender ideologies in prosecutorial decision making. *Law and Society Review* 31:531–55.
- Galois, R. M. 1992. The burning of Kitsegulka, 1872. *BC Studies* 94: 59–81.
- Geisler, C. C. 1995. Land and poverty in the United States: Insights and oversights. *Land Economics* 71 (1): 16–34.
- Giddens, A. 1987. *A contemporary critique of historical materialism*, Vol. 2, *The nation-state and violence*. Berkeley: University of California Press.
- Gillan, A. 2000. Farmer guilty of killing burglar. *Guardian Weekly* 27 April–3 May: 9.
- Godlewska, A., and N. Smith, eds. 1994. *Geography and empire*. Oxford: Blackwell.
- Greenhouse, C. J. 1992. Reading violence. In *Law's violence*, ed. A. Sarat and T. R. Kearns. Ann Arbor: University of Michigan Press.
- Gregson, N., and G. Rose. 2000. Taking Butler elsewhere: Performativities, spatialities and subjectivities. *Environment and Planning D Society and Space* 18:433–52.
- Hale, R. 1923. Coercion and distribution in a supposedly non-coercive state. *Political Science Quarterly* 38 (3): 470–94.
- Hallowell, A. I. 1942/1943. The nature and function of property as a social institution. *Journal of Legal and Political Sociology* 1:115–38.
- Harris, C. 1993. The Lower Mainland, 1820–81. In *Vancouver and its region*, ed. G. Wynn and T. Oke, 38–68. Vancouver: University of British Columbia Press.
- . 1997. *The resettlement of British Columbia: Essays on colonialism and geographic change*. Vancouver: University of British Columbia Press.
- Harris, E. 1989. The map-makers: From foot-slogging surveys to satellites and digital bits. *Canadian Geographic* 109 (6): 90–98.
- Harvey, P. D. A. 1993. *Maps in Tudor England*. Chicago: University of Chicago Press.
- Hatty, S. E. 1995. The violence of displacement: The problematics of survival for homeless young women. *Violence against Women* 2 (4):412–29.
- Hay, D. 1975. Property, authority, and the criminal law. In *Albion's fatal tree: Crime and society in eighteenth century England*, ed. D. P. Hay, P. Linebaugh, J. G. Rule, E. P. Thompson, and C. Winslow, 17–65. London: Allen Lane.

- . 1992. Time, inequality, and law's violence. In *Law's violence*, ed. A. Sarat and T. R. Kearns, 141–73. Ann Arbor: University of Michigan Press.
- Hewitt, K. 1983. Place annihilation: Area bombing and the fate of urban places. *Annals of the Association of American Geographers* 73:57–84.
- . 2001. Between Pinochet and Kropotkin: State terror, human rights, and the geographers. *The Canadian Geographer* 45 (3): 338–55.
- Hill, C. 1973. *The world turned upside down: Radical ideas during the English Revolution*. New York: Viking Press.
- Hobbes, T. [1651] 1988. *Leviathan*. London: Penguin.
- Hofstadter, R., and M. Wallace, eds. 1970. *American violence: A documentary history*. New York: Alfred A Knopf.
- Hollowell, P. ed. 1982. *Property and social relations*. London: Heinemann.
- Hubbard, P. 1998. Sexuality, immorality, and the city: Red-light districts and the marginalization of female street prostitutes. *Gender, Place and Culture* 5 (1): 55–72.
- Hyde, A. 1997. *Bodies of law*. Princeton, NJ: Princeton University Press.
- Johnson, H. B. 1976. *Order upon the land: The U.S. rectangular land survey and the upper Mississippi country*. Oxford: Oxford University Press.
- Johnston, R. J. 1990. The territoriality of law: An exploration. *Urban Geography* 11 (6): 548–66.
- Justice? N.d. *SchNews Reader issues 0–50*. Brighton: Justice?
- Kain, R. J. P., and E. Baigent. 1992. *The cadastral map in the service of the state: A history of property mapping*. Chicago: University of Chicago Press.
- Keane, J. 1996. *Reflections on violence*. London: Verso.
- Kula, W. 1986. *Measures and men*, trans. R. Szepter. Princeton, NJ: Princeton University Press.
- Latour, B. 1987. *Science in action*. Milton Keynes: Open University Press.
- Lawson, P. G. 1986. Property crime and hard times in England, 1559–1620. *Law and History Review* 4: 86–127.
- Lefebvre, H. 1991. *The production of space*, trans. D. Nicholson-Smith. Oxford: Blackwell.
- Litke, R. F. 1992. Violence and power. *International Social Science Journal* XLIV (2): 173–83.
- Locke, J. [1690] 1980. *Second treatise of government*. Indianapolis: Hackett Publishing Co. Inc.
- MacPherson, C. B. 1987. *The rise and fall of economic justice and other essays*. Oxford: Oxford University Press.
- Manning, R. B. 1988. *Village revolts: social protest and popular disturbances in England, 1509–1640*. Oxford: Clarendon Press.
- McFarlane, P. 1990. Stolen land. *Canadian Forum*, November: 18–21.
- McKinnon, C. 1993. *Only words*. Cambridge, MA: Harvard University Press.
- McRae, A. 1993. To know one's own: Estate surveying and the representation of the land in early modern England. *The Huntington Library Quarterly* 56 (4): 333–57.
- . 1996. *God speed the plough: The representation of agrarian England, 1500–1660*. Cambridge, U.K.: Cambridge University Press.
- Mill, J. S. [1859] 1975. On liberty. In *Three essays*. Oxford: Oxford University of Press.
- Mitchell, D. 1997. The annihilation of space by law: The roots and implications of anti-homeless laws in the United States. *Antipode* 29:303–35.
- Mitchell, T. 1991. *Colonizing Egypt*. Berkeley: University of California Press.
- Moore, D. S. 1997. Remapping resistance: “Grounds for struggle” and the politics of place. In *Geographies of resistance*, ed. S. Pile and M. Keith, 87–106. New York: Routledge.
- Morgan, V., J. Key, and B. Taylor, eds. 2000. *The papers of Nathaniel Bacon of Stiffkey, Vol. 4, 1596–1602*. Norfolk Record Society, Volume LXIV.
- Muir, R. 1975. *Modern political geography*. Dubuque, IA: W. C. Brown Co.
- Namaste, H. 1996. Genderbashing: Sexuality, gender, and the regulation of public space. *Environment and Planning D: Society and Space* 14: 221–40.
- Narveson, J. 1991. Force, violence, and law. In *Justice, law, and violence*, ed. J. B. Brady and N. Garver, 149–69. Philadelphia: Temple University Press.
- Nedelsky, J. 1990. Law, boundaries, and the bounded self. *Representations* 30:162–89.
- Norden, J. [1618] 1979. *The surveiors dialogue*. Norwood, NJ: Theatrum Orbis Terrarum/Walter J. Johnson.
- Park, R. E. [1932] 1952. *The collected papers of Robert Ezra Park*. Vol. 2, *Human communities: The city and human ecology*. Glencoe, IL: The Free Press.
- Pipes, R. 1999. *Property and freedom*. New York: Vintage.
- Platt, T. 1992. The concept of violence as descriptive and polemic. *International Social Science Journal* XLIV (2): 185–91.
- Pratt, M. L. 1992. *Imperial eyes: Travel writing and transculturation*. New York: Routledge.
- Proudhon, P. J. [1840] 1966. *What is property?* New York: Howard Fertig.
- Radin, M. J. 1993. *Reinterpreting property*. Chicago: University of Chicago Press.
- Razack, S. 2000. Gendered racial violence and spatialized justice: The murder of Pamela George. *Canadian Journal of Law and Society* 15 (2): 91–130.
- Roine, C. 1996. The Squamish aboriginal economy, 1860–1940. M.A. thesis, Department of History, Simon Fraser University.
- Rolnik, R. 2001. Territorial exclusion and violence: The case of the state of São Paulo, Brazil. *Geoforum* 32:471–82.
- Rose, C. M. 1994. *Property as persuasion: Essays, on the history, theory, and rhetoric of ownership*. Boulder, CO: Westview Press.
- Rose, N., and P. Miller. 1992. Political power beyond the state: Problematics of government. *British Journal of Sociology* 43 (2): 173–205.
- Ryan, A. 1984. *Property and political theory*. Oxford: Basil Blackwell.
- Sack, R. D. 1986. *Human territoriality: Its theory and history*. Cambridge, U.K.: Cambridge University Press.
- Said, E. 1979. *Orientalism*. New York: Vintage.
- . 1993. *Culture and imperialism*. New York: Alfred A. Knopf.
- Sanchez, L. 1998. Boundaries of legitimacy: Sex, violence, citizenship, and community in a local sexual economy. *Law and Social Inquiry* 22 (3): 543–80.
- Sanger, C. 1995. Girls and the getaway car: Cars, culture, and the predicament of gendered space. *University of Pennsylvania Law Review* 144:705–56.
- Sarat, A. 1994. Speaking of death: Narratives of violence in capital trials. In *The rhetoric of law*, ed. A. Sarat and T. R. Kearns, 135–83. Ann Arbor: University of Michigan Press.

- , ed. 2001. *Pain, death, and the law*. Ann Arbor: University of Michigan Press.
- Sarat, A., and T. R. Kearns. 1991. A journey through forgetting: Toward a jurisprudence of violence. In *The fate of law*, ed. A. Sarat and T. R. Kearns, 209–73. Ann Arbor: University of Michigan Press.
- Sarat, A., and T. R. Kearns. 1992a. Introduction. In *Law's violence*, ed. A. Sarat and T. R. Kearns, 1–23. Ann Arbor: University of Michigan Press.
- Sarat, A., and T. R. Kearns. 1992b. Making peace with violence: Robert Cover on law and legal theory. In *Law's violence*, ed. A. Sarat and T. R. Kearns, 49–84. Ann Arbor: University of Michigan Press.
- Schama, S. 1995. *Landscape and memory*. Toronto: Random House.
- Seed, P. 1995. *Ceremonies of possession in the New World*. New York: Cambridge University Press.
- Semple, E. C. [1911] 1968. *Influences of geographic environment*. New York: Russell and Russell.
- Sennett, R. 1990. *Conscience of the eye: The design and social life of cities from the Middle Ages to the present*. New York: Knopf.
- Sim, J. 2001. Mystifying social harm: The victimized state and the politics of illness and death. Paper presented at Socio-Legal Studies Association conference, Bristol, 4–6 April.
- Singer, J. W. 1992. Re-reading property. *New England Law Review* 26: 711–29.
- . 2000a. *Entitlement: The paradoxes of property*. New Haven, CT: Yale University Press.
- . 2000b. Property and social relations: From title to entitlement. In *Property and values: alternatives to public and private ownership*, ed. C. Geisler and G. Daneker, 3–20. Washington, DC: Island Press.
- Singer, J. W., and J. M. Beerman. 1993. The social origins of property. *Canadian Journal of Law and Jurisprudence* 6 (2): 217–48.
- Skouteris, V. 2001. Law's sovereignty upon human life. Paper presented at Sociolegal Studies Association conference, Bristol, 4–6 April.
- Smart, C. 1989. *Feminism and the power of law*. New York: Routledge.
- Smith, N. 1996. *The new urban frontier: Gentrification and the revanchist city*. New York: Routledge.
- Stewart, G. 1998. Black codes and broken windows: The legacy of racial hegemony in anti-gang civil injunctions. *The Yale Law Journal* 107 (7): 2249–79.
- Taussig, M. 1984. Culture of terror—space of death: Roger Casement's *Putumayo Report* and the explanation of torture. *Comparative Studies in Society and History* 26 (3): 467–97.
- Tawney, R. H. 1912. *The agrarian problem in the sixteenth century*. New York: Burt Franklin.
- Tennant, P. 1990. *Aboriginal peoples and politics*. Vancouver: University of British Columbia Press.
- This Land Is Ours (TLIO). 2002. Web site. <http://www2.phreak.co.uk/tlio//index.html> (last accessed 26 October 2002).
- Thompson, E. P. 1993. *Customs in common*. New York: The New Press.
- Tigar, M., and M. R. Levy. 1977. *Law and the rise of capitalism*. New York: Monthly Review Press.
- Tilly, C. 1990. *Coercion, capital, and European states AD 990–1990*. Oxford: Basil Blackwell.
- Turner, F. J. 1961. *Frontier and section: Selected essays of Frederick Jackson Turner*. Englewood Cliffs, NJ: Prentice-Hall.
- Valverde, M. 1996. “Despotism” and ethical liberal governance. *Economy and Society* 25 (3): 357–72.
- Vismann, C. 1997. Starting from scratch: Concepts of order in no-man's-land. In *War, violence, and the modern condition*, ed. B. Hüppauf, 46–65. Berlin: Walter de Gruyter.
- Waldenfels, B. 1991. Limits of legitimation and the question of violence. In *Justice, law, and violence*, ed. J. B. Brady and N. Garver, 99–111. Philadelphia: Temple University Press.
- Waldron, J. 1988. *The right to private property*. Oxford: Clarendon Press.
- . 1990. Homelessness and the issue of freedom. *U.C.L.A. Law Review* 39:95–324.
- Walzer, M. 1994. Liberalism and the art of separation. *Political Theory* 12 (3): 315–30.
- Watts, M. 1997. Black gold, white heat: State violence, local resistance, and the national question in Nigeria. In *Geographies of resistance*, ed. S. Pile and M. Keith, 33–67. New York: Routledge.
- Wealt, M. 1996. Fleshing it out. In *Law and the senses: Sensational jurisprudence*, ed. L. Bently and L. Flynn, 160–75. London: Pluto.
- Weisberg, R. 1992. Private violence as moral action: The law as inspiration and example. In *Law's violence*, ed. A. Sarat and T. R. Kearns, 175–210. Ann Arbor: University of Michigan Press.
- White, J. B. 1994. Imagining the law. In *The rhetoric of law*, ed. A. Sarat and T. R. Kearns. Ann Arbor: University of Michigan Press.
- Williams, R. 1983. *Keywords: A vocabulary of culture and society*. Oxford: Oxford University Press.
- Wilson, J. Q., and G. L. Kelling. 1982. Broken windows. *Atlantic Monthly* 249 (3): 29–38.
- Wisner, B. 1986. Geography: War or peace studies? *Antipode* 18 (2): 212–17.
- Wolcher, L. E. 1996. The man in a room: Remarks on Derrida's “Force of Law.” *Law and Critique* 7 (1): 35–64.
- Wolf, E. 1990. *Europe and the people without history*. Berkeley: University of California Press.
- Wolff, R. P., ed. 1971. *The rule of law*. New York: Simon and Schuster.
- Wrightson, K. 1982. *English society 1580–1680*. London: Hutchinson.
- York, G., and L. Pindera. 1991. *People of the pines*. Toronto: Little Brown Canada.