Knowing, Owning, Enclosing

A Global Political Economy of Intellectual Property Rights

Christopher May MA

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ProQuest LLC.
789 East Eisenhower Parkway
P.O. Box 1346
Ann Arbor, MI 48106 – 1346

Abstract

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The thesis is concerned to understand and theorise, what Susan Strange has termed the 'knowledge structure'. However, the author contends that before this perspective can be used, Strange's understanding of knowledge needs to be reworked and a theory of change introduced. Thus, building on and offering an original reformulation of Strange's perspective on structural power in the global political economy, the thesis presents a theoretical apparatus for fully recognising the 'knowledge structure'. This is then used to examine the construction of intellectual property rights (IPRs) as market commodities. The author problematises a fixed notion of knowledge to establish its imprecise and constructed character. Strange posits a major role for what she terms structural power in the global political economy, working through four structures: security, production, finance and knowledge. This perspective is set out and then critiqued. The knowledge structure is reworked extensively and a dual-dialectical theory of change is introduced to provide a framework for the argument of the thesis. The positions which have become prevalent to justify the treatment of aspects of knowledge as property, are then discussed as a site of structural power settlement. This is accomplished through an examination of the political theoretical legitimisation of property, and how these traditions have been used to justify intellectual property. The author argues that the conventionalised construction of intellectual property (rights) is neither self-evident nor un-contested. Given the increasing importance of knowledge (and its commodification) the author suggests that a Global Political Economy of IPRs must first uncover the structural power that has conditioned the way in which these rights have been presented and accorded value. The thesis aims to provide a critical account of IPRs that recognises their importance in the knowledge economy and the problems of an uncritical acceptance of conventional justificatory schema.

Contents

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Copies of:
May,C Writings on the Wall. An Annotated Bibliography of Susan Strange's Writings on International Political Economy 1949-1995 (Nottingham: Nottingham Trent University, 1996)
are obtainable from the author.

Introduction

In the following work I aim to develop an approach to studying the global political economy which accords considerable significance to the role of the 'knowledge structure'. This approach enables me to discuss the role of knowledge in a manner that goes beyond the 'use and abuse of information' arguments which have lain at the heart of much that has been written on the international political economy of information. Indeed I will argue that an analysis of the global political economy needs to include a concept that has been widened from information to 'knowledge'.

In a number of works Susan Strange has laid the foundations for a new International Political Economy (IPE).[1] I will explore the issue of the relation between IPE and a new *Global* Political Economy when I discuss Strange's work in the following chapters. This new GPE does not just concern itself with the material relations within the global political economy (though these still remain important and central to its concerns) but aims to include those aspects of the global political economy termed 'knowledge' in this study. As I will discuss in chapters three and four, Strange introduces the notion of the 'knowledge structure' but not develop it as far as its potential suggests. She recognises that 'knowledge' plays an important and crucial role in the global political economy but allocates it (even then) too narrow a role.

The following study approaches 'knowledge' in the global political economy from three distinct directions: *epistemological*; *ontological*; and *political economic*. The *epistemological* investigation of knowledge aims to show why it is necessary to problematise the notion of a fixed body of knowledge: to this end I discuss the work of some of those who have argued that while there may be truths that are held conventionally, no absolute warrant for truth claims can be established. In chapter four the unfixed character of knowledge leads me to argue that a recognition of the contending and shifting ontologies of intellectual property reveals the working of the knowledge structure.

Therefore the political economic discussion that flows from these arguments is organised around the increasingly important concept of intellectual property rights

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[1] Throughout I use the following typology: International Political Economy (IPE) is the academic study in which theories are developed and research developed. The international political economy is the socio-economic relations that are the *subject* of IPE's studies.

(IPRs). While discussions of IPRs (especially in negotiations over their protection) is often contextualised within a tradition of political discussions of property, I will argue these philosophical discussions are not easily transferable to the realm of knowledge. Intellectual property does not self-evidently fit well with philosophical traditions of property ownership. There is a tendency not to see intellectual property as an issue requiring extensive discussion - while recognised as an issue, it is often left 'for later'. Even a nuanced political thinker like Held is prepared to 'leave aside' any discussion of intellectual property in his discussion of *Democracy and the Global Order*, despite a recognition that property relations *are* crucial to his discussion.[2] It is this absence which my work aims to address.

I will contend that due to the unfixability of 'knowledge', power relations in the global political economy play a major role in deciding what 'knowledge' is and is not and therefore where IPRs can be protected and where they cannot. This then has a major impact on the political economy of intellectual property rights protection, not least as this distinction between IPRs and not-IPRs is unstable and shifting continually. Equally, the impact of intellectual property on power relations and structures needs to be recognised in any discussion of the global political economy's (uneven) development. It is not a subject that can be left to one side as if only of marginal interest.

In the first chapter I discuss 'knowledge' in a philosophical sense to establish for the reader the openness of arguments about the construction of knowledge, its varied epistemological warrants and, centrally for the purposes of this study, the role that power relations may play its recognition. This leads me in the second chapter to examine power, which I recognise as a contested concept, and to situate Strange's work within a body of structuralist approaches. In the third chapter, I then set out Strange's theory of structural power in the international political economy. This leads me to recognise two serious problems in Strange's work - her narrow reading of knowledge and her lack of a theory of causality.

Through engagement with these issues in the fourth chapter I reformulate Strange's work and suggest how her conception of a 'knowledge structure' can be widened and re-theorised to include the necessarily expanded reading of knowledge and a dual-dialectical theory of change. This leads me to establish the links with the subject matter of the first, second and third chapters, and the

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[2] Held,D Democracy and the Global Order. From the Modern State to Cosmopolitan Governance (Cambridge: Polity Press, 1995) p265 *footnote.*

important interaction between power and knowledge. This nexus focuses my concerns on the subject matter of the fifth and sixth chapters: intellectual property.

In these two chapters I first lay out the relation between debates over intellectual property and the debates (which are conventionally considered 'closed') over the political theory of property. This discussion centres, in the first instance, on a consideration of the ontologies of (intellectual) property, which is then developed as a consideration of the division between public and private ownership of knowledge. I illustrate this conceptual work by examining some issues which have arisen in the 'knowledge economy'. Both chapters draw on the approach laid out in the first four chapters to present a first reading of a Global Political Economy of Intellectual Property Rights (a GPE of IPRs).

One issue which needs to be dealt with is: If the structural power of knowledge impacts on the very way the global political economy is conceived, how do critical studies such as presented here emerge, as surely they would be constricted by the incidence of the knowledge structure? Indeed as Cox has noted one of the tasks of a critical theory is to be able to account for its own emergence.[3] I will briefly map the argument regarding the incidence of contradiction which allows (or requires) the emergence of 'critical' theories.

At the centre of the research programme I aim to establish in this study is the recognition that the four structures (security, production, finance and knowledge) are constantly being (re)produced. And through this process of (re)production contradictions are revealed: between structural settlements and material existence, between the shifting relational power distributions and the more glacial shifts in structural power, between change and stasis and within conceptual *and* material relations themselves. While knowledge structural power may be able to deny for some time the recognition of contradictions (for instance, between 'knowledge' and material socio-economic 'reality'), this can never be absolute, not least of all due to the agency of individuals in their interactions with these structures.

Through, these contradictions, contending accounts of 'reality' can be developed and their proponents can challenge the prevailing knowledge settlement through their actions and knowledge. This is not to say such challenges will be successful or will not be co-opted, but a space for the emergence of critical perspectives is

[3] Cox,R.W. 'Social Forces, States & World Orders: Beyond International Relations Theory' *Millennium: Journal of International Studies* Vol.10 No.2 (Summer 1981) p135

posited as a central element to my theoretical construction. Therefore, and crucially, the theoretical work I have embarked upon can be located within its own theory of causality. The theory of structural power can account for its own existence.

Finally, as Sayer notes no theory can proceed without some normative project whether implicit or explicit. For political economy one appropriate method for the explicit recognition of the normative element of any work is through an engagement with political philosophy.[4] I adopt this method through the introduction and exploration of the political theory of the justification of property in chapter four. Within this discussion the question of the balance between the rights of intellectual property owners and their responsibilities to knowledge users is a central normative concern. (This is not to suggest that such a distinction is anything more than an analytical device - all of us are both producers *and* users of knowledge.) In the last analysis I do not propose a final settlement, or a just theory, of intellectual property. Rather, I attempt to problematise the notion of IPRs utilising the theoretical apparatus I have developed in the first four chapters.

This study, then, is meant to reveal the working of the 'knowledge structure' both in an abstract or theoretical sense and in an important field of the 'knowledge economy'. To start to develop a just regime for IPRs and the attendant access to knowledge resources (however conceived) is beyond the scope of this study. However, the ground work laid here is explicitly intended to facilitate such developments in the future.

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[4] Sayer,A Radical Political Economy. A critique (Oxford: Blackwell Publishers, 1995) p238ff

A note on gender

Throughout the text I have endeavoured to remain as gender neutral as is possible. This is to say that I have aimed to be sensitive to the gendered nature of the depictions of the arguments that I present. Where quotations have included a gender specific reference I have not 'corrected' this, but in my own text I have done my best to present an argument that does not privilege the male subject. That said, given the arguments that I make about the location of knowledge claims within the social existence of self, I am unable to get away from the possible underlying 'maleness' of my arguments. The only defence that I can offer on this subject is that I do not present the 'knowledge' of this study as in any sense an 'objective truth', as I argue in the first chapter such an absolute truth cannot exist. And while a feminist perspective might differ from mine, I do not feel intellectually equipped to adopt such a perspective given my own social existence. Having said all this, I draw some sustenance from Grant whose agenda for the introduction of (and sensitivity to) gender in International Relations, including as it does the problematisation of power, security and the role of the state, seems to fit quite well with my own 'critical' concerns.[5] Thus while being sensitive to gender issues I make no claims for this study as a work of feminist scholarship, though I would hope my feminist colleagues will not find too many gender related issues to criticise, though they may find other areas where they disagree with my work.

[5] Grant,R 'The sources of gender bias in International Relations theory' Grant,R & Newland,K (editors) Gender and International Relations (Milton Keynes: Open University Press, 1991) pp8-26

Chapter One - On Knowledge

Introduction

The established academic convention is that studies which are intended to garner the researcher their doctorate should commence with a discussion of epistemological issues. The writer needs to establish their familiarity with the debates around theories of knowledge, the attendant models for truth claims and the history of these debates in the social sciences. Normally such an introduction would present the philosophy of knowledge which underlies the study and would specify the particular methodology mobilised, or developed. This exploration would have something to say about the history of the philosophy of knowledge and might outline a guardedly teleological account of this history, presenting the methodology adopted as a coherent and legitimate one, rooted in an analysis of contending possibilities. At that point the study would commence its real subject matter - the theoretical approach and subject matter with which the main body of research had been concerned.

In this study, however, the epistemological questions that will be addressed are not a precursor to the study that has been undertaken. These questions of knowledge are not merely some preamble to the substantive work, they are embedded within the research project, part of its organising *problematique*. Later I will argue that when dealing with intellectual property, not only is there a need to examine property politics and its attendant debates, but that the problem of what constitutes knowledge needs to be explored alongside these political economic factors. There is a need to engage with *both* terms in the phrase 'intellectual property' if I am successfully to reveal its importance for the global political economy.

In this first chapter then, my aim is to problematise the notion of a fixed truth, which can be examined outside mankind's reflexive existence. But first I need to establish that my claim for the mutability of truth is not some late twentieth century convenience, nor some relativist post-modern plot designed to get me out of a tight methodological corner. My claims regarding truth and knowledge are the entry point for the subject I will be concerned with in later chapters: the debate over the possibility of intellectual property and the power relations that are tied up in the emergence of 'knowledge capitalism' of the 'knowledge economy' (terms I will discuss later). So, though this chapter is required by convention, here it plays

two roles - firstly it establishes a familiarity with the epistemological debates underlying the very idea of research in the social sciences, and more importantly, it is the first move towards a claim that the problem of knowledge is central to Global Political Economy and the field with which it is concerned.

I will start with a discussion of the problems of knowledge in academic endeavour. This will have an implicitly more general application which will be developed as the study progresses. While these debates reverberate through my work, I can make no claim to *comprehensively* explore them in the treatment I offer. Space is limited by the form in which this study is being presented, and thus my exploration of these epistemological issues is in one sense instrumental. There is a wide literature regarding these debates which I draw on, and though I argue strongly for my conclusion, there can be no pretence that I have exhausted the lines of development that such arguments could take. I aim to establish that the problem of knowledge is unsettled and easy distinctions between *knowledge* and *not-knowledge* lack fixed or conclusive warrant. This distinction lies at the heart of the issue of intellectual property and its protection, distribution and recognition. It is often taken to be a settled or a question that can be left to one side. If I am to discuss and explore the contending ontologies of intellectual property, suggesting that they are sites of political economic conflict, then the question 'what is knowledge' must be the first I address.

Knowledge in academic endeavours

Philosophical issues play a major role in the investigation and analysis of social interaction. Without understanding how knowledge is constituted any attempt to be 'critical' will flounder on the dominant 'reading' of the field. Even if criticism is not the driving force of research, failure to understand how the knowledge that structures the field being investigated (to use a military metaphor) may leave one's flank unguarded. When the subject matter itself is knowledge, then these issues move to centre stage. To be 'critical' about intellectual property requires some methodological engagement with the epistemology of research, but will also require an examination of the way these issues find their way into the field - the politics of intellectual property. Firstly then, I will explore the discussion around academic investigation, not least of all as claims to 'knowledge' are most often related to these methodologies.

The question of how we can know what we know, and especially its implications for 'scientific' method, is an often negotiated minefield; there are many diverse paths, criss-crossing each other, sometimes agreeing sometimes not. My particular path will start with a discussion of the 'natural sciences' and their attendant theories of knowledge. I will then proceed to trap so-called 'social science' in a pincer movement, revealing its essential chimerical quality. By following such a trajectory I will argue not only that the notion of 'social scientific knowledge' is contestable, but also that 'knowledge' based on trans-historical and trans-contextual warrant is in the last analysis unavailable. My central claim will be that knowledge, and most importantly its recognition as such, is rooted in the social relations of its 'existence'.

By utilising the work of Feyerabend,[1] and its engagement with Kuhn, Lakatos and Popper I will argue that the natural sciences are not 'scientific' in the hard (or positivistic) sense commonly accepted. My argument is that there is not some single, definite, discoverable scientific 'truth' that is accessible, if only the right intellectual equipment could be found. If Feyerabend is correct and there is no such thing as a single hard science of discovery, it cannot represent a model on which an aspirant social *science* can rest. Therefore, my first move is a denial of the possibility of the conventional view of hard science.

Noting, and adopting Wittgenstein's argument concerning the impossibility of both private *and* meta languages, my second move is to discuss a more pragmatic inquiry into the social. I will suggest that there is no *hard* knowledge that can be discovered, inasmuch as all knowledge is mediated through one subjectivity or another. Rather than drawing a parallel with 'science', a better conception of study into the social might be the characteristic methods of history. However, the characterisation of the social scientist, historian or other academic as an *autonomous subjective* investigator is also flawed as will be noted in the discussions of knowledge and power which concludes this chapter.

[1] Feyerabend,P Against Method (London: NLB, 1975) I have retained the references to this edition, despite the more recent appearance of a third edition. While this third edition has been quite extensively revised textually in places, the main thrust of Feyerabend's argument remains unchanged. Page references therefore remain to first edition from which I have worked for some time.

Feyerabend and the natural sciences

If, as Feyerabend contends, science is nearer to myth than is commonly accepted,[2] then many of the methodological arguments concerning the nature of what we can know in the social (and political) 'sciences' which foreground an appeal to the natural sciences may be appealing to a mistaken model. If there are only contending suppositions then different approaches, rather than being mutually exclusive methods for looking at social relations, may be merely different lenses, each giving a partial view of some possible totality.[3] Indeed, what this may suggest is that there is no way of ever establishing a view of this totality - there can only ever be different partial views of a posited 'real world' and in that sense there is no final 'truth'. What I am suggesting is *not* that there is no 'real world', only that knowledge of it is always mediated in some way. Arguably then it is possible to draw from a number of perspectives, to understand and/or explain (recognising that there is an argument that these two projects *may* be distinctive[4]) aspects of this 'real world' that can never be fully settled analytically. However before such an argument can be asserted, I need to consider Feyerabend's position, its possible justification and how this differs from the more accepted view of the scientific project .

Feyerabend has argued that theories of logical empiricism and critical rationalism "give an inadequate account of science because science is much more 'sloppy' and 'irrational' than its methodological image".[5] The adoption of methodologies built exclusively on the notions of falsification, the avoidance of *ad hoc* hypotheses or ideas, and the need for 'measurable' phenomena, would constrict scientific advance if strictly adhered to. Science has always advanced through a process of error and deviation with no regard for such limitations. This fundamentally differs

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[2] Ibid p295

[3] This metaphor is borrowed from Buzan,B, Jones,C & Little,R The Logic of Anarchy: Neorealism to Structural Realism (New York: Columbia University Press, 1993) p230/231 where they suggest that International Relations as a discipline would benefit from this approach. However this is a position that has a strong resonance for the whole of social science, and thus I make no apologies for reading the 'social' into this characterisation. See also Wight,C 'Incommensurability and Cross-Paradigm Communication in International Relations Theory: What's the Frequency Kenneth?' *Millennium. Journal of International Studies* Volume 25, No.2 (Summer 1996) pp219-319, which argues that the incommensurability debate has been essentially a blind alley for the study of International Relations (and thus by implication International Political Economy).

[4] Hollis,M & Smith,S Explaining and Understanding International Relations (Oxford: Clarendon Press, 1991) for a useful and extensive discussion of this distinction.

[5] Feyerabend op.cit p179

from a Popperian methodology of trial and error [6]: rather than a *new* theory being produced through further induction, through a new interrogation of the facts, the failing theory can be modified on an *ad hoc* basis without a return to the facts as revealed through the process of further investigation. Essentially Feyerabend is suggesting a more pragmatic process of adaptation than the draconian disposal of failing theories that Popper prefers.

Additionally, Feyerabend suggests, ideas that currently hold sway, were in the past deemed irrational or mistaken by the then dominant modes of thought. On first reflection this may seem close to the Kuhnian idea of *scientific paradigms*. However where Kuhn sees long periods of 'normal science' when profitable work is carried out within the dominant paradigm of scientific method (or understanding),[7] Feyerabend argues that science is *constantly* open to, and being effected by, new ideas from numerous sources. He argues that theory (and through it, the body of science) develop by comparing current ideas with others, not by just comparing current theory with 'experience', or evidence that has been collected 'outside' the construction of theories. Normal science in the Kuhnian sense never exists because the dominant paradigm is constantly being sniped at and questioned.

But if as was suggested by Kuhn, theories may be incommensurable, how can ideas from outside the dominant paradigm have any effect on those within. The shift of 'world view' between the competing theories (Kuhn's 'gestalt-shift'), must in fact be part of a competitive process.[8] While they cannot be directly compared, a choice is made, based on which 'world-view' sits better with the individual's own (private?) perceptions. But as no theory can be consistent with *all* the facts within its domain, Feyerabend argues that to discard ideas which do not fit the 'facts' is pointless. Rather, those ideas that fail in the competition with others (that do not convince sufficient numbers, enabling them to make the shift in 'world view' required by the new theory) are improved on until it is they that win. Then the improvement process can move to the new loser.[9] It is this proliferation

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[6] For Popper on trial and error see Popper,K.R. Conjectures and Refutations: The Growth of Scientific Knowledge (Fourth Edition - Revised) (London: Routledge & Kegan Paul, 1972) p36 - 39

[7] Kuhn,T.S. The Structure of Scientific Revolutions: Second Edition, Enlarged (Chicago: University of Chicago Press 1970) p60ff and p82ff

[8] ibid. p122

[9] Feyerabend op.cit. p29 - 31. Perovich has suggested that Feyerabend has three views on incommensurability: grammatic; theoretic; and ontological. If this is the case, then what I am concerned with here is the third, the ontological, that constitutes shifts in the 'world-view'.

of theories that impels science forward, while uniformity (Kuhn's 'normal science') impairs any scientific discipline's critical power to develop further.[10] Currently discredited theories wait in the wings (their adherents' tenacity keeping them from being totally forgotten), ready to re-emerge at any time.[11]

'Evidence' that can be recognised (or discovered) and *can* be used to falsify one theory, may only be available through the application of another. Feyerabend thus reverses the process that Kuhn describes: it is not the emergence of anomalies (evidence that does not fit the current theory) that bring forward new theories, but new ideas which bring forward new 'evidence'.[12] This includes the availability of new evidence through technological advance, but crucially even when 'revealed' the previous investigatory stance may misread the importance of this new evidence or even deride it as mistaken. An ontological shift in what is *recognised* is crucial for the change from theory to theory, from world-view to world-view. A new theory may suggest a *different* investigatory stance, suggest new 'facts' that need to be established, and reinterpret previously marginalised evidence. The need for these new facts is posited before they have been discovered (or before previously discarded 'facts' have been rehabilitated). The facts can only be discovered (rehabilitated) when they have found their way into the ontology of the theory at hand.

For Kuhn anomaly only appears against the backdrop of dominant theories, and only when there are too many anomalies to sustain a body of theories will new ones emerge.[13] Kuhn's seems to be a linear process - a teleological process that presumes that successive paradigms are improvements that bring the body of theory closer to some 'truth', towards a 'real world'. Feyerabend, on the other hand, sees a constant mediation between 'facts' and theory, where the key question is "whether the *existing* discrepancies between theory and fact should be

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Perovich,A.N. 'Incommensurability, Its Varieties and Its Ontological Consequences' Munévar,G (editor) Beyond Reason. Essays on the Philosophy of Paul Feyerabend (Dordrecht: Kluwer Academic Publishers, 1991) pp313 - 328

[10] Feyerabend op.cit. p35 and Feyerabend,P 'Consolations for the Specialist' Problems of Empiricism. Philosophical Papers. Volume II (Cambridge, Cambridge University Press, 1981) p 142/3

[11] See for instance: the case of Michael Polanyi's theory of absorption and its long wait to be rehabilitated after initial rejection. This story is related (with a certain pathos) in Polanyi,M 'The Potential Theory of Adsorption' Knowing and Being: Essays (Edited by M.Grene) (London: Routledge & Kegan Paul, 1969) p91ff; and a number of examples in Feyerabend, Against Method op.cit.

[12] ibid. p29

[13] Kuhn op.cit. p65ff. Kuhn discusses 'paradigms' where Feyerabend discusses 'theories' *and* sometimes 'paradigms'. I have taken it that they are discussing the same analytical level.

increased, or diminished, or [*indeed*] what else should be done with them".[14] The ontological issue, what is identified as being the subject matter, or field of possible facts, of a theory is as crucial as its epistemological warrant.

Feyerabend argues that the dynamic that drives theory-development in the sciences is the interplay between 'proliferation' and 'tenacity'. Proliferation ensures that no idea needs to be suppressed: "*Everyone may follow his inclinations* and science conceived as a critical enterprise, will profit from such activity."[15] The input of new approaches and/or perspectives is *not* constricted by theoretical or paradigmic closure. Tenacity ensures that these initial new ideas are raised, with the help of criticism (a comparison with extant alternatives) to "a higher level of articulation *and thereby [are able] to raise their defence to a higher level of consciousness*".[16] Feyerabend explicitly likens this to a Darwinian 'survival-of-the-fittest' - a competition that continually strengthens theoretical composition, and rewards mutation where it offers advantages. But no theory is finally discarded either, the emergence of new circumstances where its particular mutation might give it some advantage will engender its return. Thus as the history of 'facts' continues apace, theories that had little relevance at one time may find that 'their facts' cause the theory to be re-investigated at a later point.

This is not to say that these 'mutant' theories can or should totally eschew any notion of *rationality*. A theory should give a coherent account of *its* world - "of the totality of facts *as constituted by its own basic concepts*", but on the other hand, that is all that *can* be demanded.[17] This means that a theory should establish its own internal 'rules' (if it is unable, or unwilling to accede to more widely accepted 'rules') and work within them. As Rorty points out when the Feyerabendian position is accepted there still remains the task of explaining what principles are involved in the particular epistemological warrant that is being claimed, especially if these at first sight do not seem to match those that are current.[18] Equally, theories need to show the possibility, and in the end the availability of evidence for their conclusions. That is to say, even if such

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[14] Feyerabend, Against Method op.cit. p31 For an interesting discussion of Kuhn's 'loss of nerve' and Feyerabend's work in relation to Kuhn see Deloria,V 'Perceptions and Maturity: Reflections on Feyerabend's Point of View' Munévar, op.cit. pp389 - 401

[15] Feyerabend, Consolations for the Specialist, op.cit. p143/4

[16] ibid p144. It should be noted that Feyerabend's 'tenacity' is not the more wide ranging mode of assertion that is attributed to Charles Peirce by Wells. See Wells,H.K. Pragmatism: Philosophy of Imperialism (New York: International Publishers, 1954) p28/29

[17] Feyerabend, Against Method op.cit. p284 - 285

[18] Rorty,R Philosophy and the Mirror of Nature (Oxford: Basil Blackwell, 1980) p270/271

'evidence' is *self-constituted* it must be available for examination at some point.[19] Thus while specific theories can be refuted, there can be no justification for competing 'world-views' (or paradigms) to criticise how others have constituted *their* 'facts' only on the basis of the former's own 'rules'. Indeed (following Susan Strange) I suggest this has led to a 'dialogue of the deaf' in International Relations and International Political Economy where competing theoreticians 'talk past each other'.

Most importantly if we accept the argument that the 'thing' and 'the idea of the thing' cannot be fully separated, then there can be no 'objective *existing* thing', as even its recognition involves mobilising one theory or another.[20] That is to say, while reality in some (classically) objective sense *may* exist, it is beyond human conception - we can only ever conceive, observe and conceptualise *our* 'reality'.[21] The ontological choice that needs to be made in the bid to operationalise a particular world-view disables any claim to final objectivity. And indeed, claims for objectivity need to be examined carefully to reveal the ontological choices that lie beneath them. While at one level this may merely be an elaboration of the argument for examining a theory's assumptions, it is no less apposite for that, given the power of such assumptions over subsequent theoretical constructions.

As Feyerabend suggests "every methodological rule is associated with cosmological assumptions, so that using the rule we take it for granted that the assumptions are correct".[22] Like a naive falsificationist I might take for granted that the laws of nature are manifest, or with the empiricists take for granted that sense experience is a better indicator of 'facts' than pure thought. I might even take for granted that reason will produce better results than the emotions. These assumptions may be plausible or even fully defensible (they are by no means completely arbitrary), but this is no reason to uncritically accept them *all* the time. None of them can claim a privileged *a priori* position in the discussion of 'knowledge'. No epistemology or ontology is final.

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[19] Feyerabend,P 'On the Interpretation of Scientific Theories: Reply to Criticism. Comments on Smart, Sellars and Putnam' Realism, Rationalism and Scientific Method. Philosophical Papers, Volume I (Cambridge: Cambridge University Press, 1981) p109

[20] Feyerabend, Against Method op.cit. p26

[21] I take this to be Feyerabend's central position, as does Perovich op.cit. ; Polanyi refers to this inability as part of 'tacit knowing' in that *knowing* consists first of judging which context is relevant (subsidiary) and then how the particular fits in (focal), see Polanyi,M 'Tacit Knowing: Its Bearing on Some Problems of Philosophy' Knowing & Being op.cit. pp160 - 179

[22] Feyerabend, Against Method op.cit. p295

Any of the above methodologies are only inherently superior after one has adopted a certain ontology through an ideological choice, and this may have been done without having examined its limits, as well as its advantages. The acceptance or rejection of an ideology and/or ontology is a matter for the individual, bearing in mind its limitations and what needs to be done.[23] Feyerabend argues that as all "methodologies have their limitations...the only 'rule' that survives is 'anything goes' ".[24] There is always a theory that can analyse an issue another theory seems unable to recognise. A different 'ideological choice' can be made. It is this notion that 'anything goes' which has become the conventional characterisation of Feyerabend's position: any theory is in the last analysis as good as any other. This is the supreme relativist position, from which many social scientists shy away, while at the same time it is embraced by iconoclasts. My concern here is whether this is what Feyerabend is actually arguing for.

Anything goes?

While Popper "excludes from science a very great deal of what is usually thought to be characteristically scientific",[25] Feyerabend seems to consider any internally consistent methodology, 'science'. This raises the problem of defining what 'consistency' might be, if it is not to fall back on the universal 'rationality' that Feyerabend argues is, at the very least, problematic. But perhaps an idea of consistency also cannot be external to the methodology itself. In much the same way as it constitutes its own facts, might not a theory constitute its own consistency? In a similar way that an ideological choice is possible about the world view I wish to adopt, all that may be required is that within this world view some rules for the construction of evidence should be laid out. The rules of evidence and truth that are adopted should be explicit.

However, if there is no acceptable external criteria for validity then not only 'anything goes', but 'everything stays'. Arguably this leaves the control of methodological dominance to those with the most resources at their disposal - knowledge is power's knowledge. With no 'objective' standard, against which to

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[23] There is a certain similarity here to Weber's discussion of the Syndicalist and the limits of scientific criticism of his views, see Weber,M 'Value-judgements in Social Science' Weber,M Selections in translation (edited, with introductions by Runciman,W.G.) (Cambridge: Cambridge University Press, 1978) pp69 - 98

[24] Feyerabend, Against Method op.cit. p296

[25] Harré,R The Philosophies of Science: An Introductory Survey (London: Oxford University Press, 1972) p48

judge methodologies, those favoured by a well resourced ideological elite could dominate and obscure uncomfortable 'facts'.[26] This introduces the nexus of truth/knowledge and power that has been explored by Foucault.[27] It is this nexus that I will suggest in the later chapters has a major impact on the political economy of intellectual property. However, my current concern is to note that Feyerabend pulls back from an *absolutely* relativist position, as indeed would I.

Feyerabend suggests that there is both the possibility and the need for external standards of criticism: theories cannot remain only *self*-validating; theories cannot only be coherent within themselves.[28] However he does not accept that this external criticism needs to be based on how a theory relates to a set of supposed objective 'facts', separated from (or at least coexistent with) the 'facts' the theory has constituted for *itself*. Essentially, he seeks not to replace one set of rules with another but to point out that the appeal to any set of rules as a justification may not be sufficient to establish that one theory is necessarily more 'scientific' than another. The choice of rules that are privileged, and on which judgements are predicated is, in Feyerabend's terms, an ideological choice. It is the *clash* between 'facts' and theory that constitutes progress in science.[29] Not every 'irrational' theory holds the promise of new approaches, but it is only by trying different methods and theories that science can develop.

In a sense Feyerabend's position is compromised by this issue. On one side he wishes to remove the validation principle inasmuch as it is rooted in some notion of objectively existing reality. On the other hand he wants to propose some method of comparing theoretical positions that is based on something more than taste and aesthetics (which theory looks most elegant). There is an appeal to the notion of poetic attraction that underlies much of Feyerabend's writing. In the light of his failure to establish for himself a more 'scientific' criteria (and his disavowal of such criteria), he could be said to be arguing for an intuitive method of theory construction - a poetics of epistemology(?). Alternatively, and I think plausibly, Feyerabend may be arguing for a 'professionalism', an openness of

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[26] This is the thrust of Wells op.cit. which argues from a Marxist perspective that the power of the American capitalist class enabled pragmatism to dominate immediate-post-war American sociology. However Wells' position which is essentially pre-Kuhnian does not allow for the process of paradigmic replacement.

[27] see for instance Foucault,M The History of Sexuality. An Introduction (London: Penguin Books, 1990) pp62ff, 84ff, 92ff and *passim*. I will return to Foucault, knowledge and power at the end of the chapter.

[28] Feyerabend, Against Method op.cit. p32 and p284 - 285

[29] ibid p55

method, in the sense that nothing should be smuggled past the reader and all elements of the work should be clearly signalled as to their grounds. But for my purposes it is the destruction of the inviolability of objectivity in regard to the construction of knowledge that I wish to emphasise for two reasons.

The thrust of Feyerabend's argument is that the conception of the natural sciences as 'hard' (in that there can be an objective appeal to some empirical evidence to decide matters of dispute over truth) is flawed and does not describe science's workings. If this is acceptable then the model of such a science can no longer be appealed to for a methodology of social scientific investigation. While this helps clarify what social (or political) science or the study of the socio-political is not, it brings me no nearer assessing what it *can* be. I shall return to this question in the next section.

As importantly for this particular study, Feyerabend's argument suggests that the wide-spread 'common sense' associations of science and truth are not as fixed as they are often presented. When I discuss intellectual property this question of the definition of knowledge will play a central role in the development of my argument. The appeal to any validatory system needs to be treated with caution, and subject to an analysis that seeks to reveal the underlying power relations of such a claim. By suggesting that appeals to externalised sets of rules need to be treated with extreme caution, Feyerabend keeps open the issue of 'truth claims' to philosophical engagement. Thus, as will be discussed in chapter four, the introduction of justifactory schema for intellectual property (knowledge) from material based property theories needs to be carefully examined. The claim that is it possible (and useful) to treat knowledge as property is a Feyerabendian 'ideological choice', not an establishable truth.

Towards an epistemological continuum

Returning to the thrust of my argument, Bhaskar, for one, sees Feyerabend's rejection of any universal theory of scientific endeavour as leading to the impossibility of a theory of knowledge, and hence any "criteria of rationality for its production".[30] Bhaskar rejects Feyerabend's conclusions arguing that "to say

[30] Bhaskar,R Reclaiming Reality: A Critical Introduction to Contemporary Philosophy (London: Verso,1989) p39. While space precludes (yet) another diversion, it should be noted that Churchland, approaching Feyerabend from the direction of neurological science (and his studies of the brain and nervous system) offers some interesting 'scientific' support for this idea of ideational proliferation, and other elements of Feyerabend's position. Churchland.P.M. 'A Deeper

that two theories conflict, clash or are in competition presupposes that there is something - a domain of real objects or relations existing and acting independently of their descriptions - *over* which they clash".[31] This is to argue that, if theories disagree about something, that something must be said to 'exist' outside both theories recognition of it, otherwise how would they disagree *over* it. However, in the social sciences Bhaskar allows that theories are necessarily internal to their field of enquiry in a way theories of natural science are not. Thus "the criteria for the rational confirmation and rejection of theories in social science *cannot be predictive*, and so must be *exclusively explanatory*".[32] These theories can only look back *not forward.* Social theories can only be judged on how they explain the past, as in the act of predicting the future, they can alter it (both ontologically, in the choice of 'evidence' collected, and practically, if such analysis leads to forms of social action). Even if Bhaskar's position is acceptable, the model of a universal 'hard' science for social scientific theories is still not applicable, as he argues there is an epistemological difference between the social and the natural sciences.

There seems to be two directions that the argument can now take. Firstly continuing with the Feyerabendian position: a universal theory of discovery is impossible, and thus there can only be a universal acceptance that 'anything goes' (with the proviso of some sort of 'professionalism'). There can be no science in the sense of a body of objectively verifiable knowledge, whether this be about natural or social phenomena. Or secondly, the Bhaskarian criticism of this position: there are two kinds of discovery - the 'natural scientific' and the 'social scientific'. For now I will accept that there are two distinct and incommensurate epistemologies, and follow the direction that this position indicates. This immediately suggests that the next move would be to follow Winch and identify *two* levels of understanding - the reflective and the unreflective, where the unreflective is that of the natural sciences.[33]

Winch argues that in the social sciences, the criteria by which one can judge that on two occasions, the same thing has happened, or the same action has been

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Unity: Some Feyerabendian Themes in Neurocomputational Form' Munévar,G (editor) Beyond Reason. Essays on the Philosophy of Paul Feyerabend (Dordrecht: Kluwer Academic Publishers, 1991) pp1 - 23

[31] Bhaskar op.cit. p33

[32] ibid p83 - 84

[33] Winch,P The Idea of a Social Science and its Relation to Philosophy (London: Routledge & Kegan Paul, 1958) p89

performed, "must be understood *in relation to the rules governing sociological investigation*".[34] While in the natural sciences investigators only need to know one set of rules, namely those governing the scientist's investigation itself, in the social sciences "*what the sociologist is studying*, as well as his study of it, is a human activity and is therefore carried on according to rules".[35] This is what Winch calls reflective understanding (and what is sometime referred to as the 'double hermeneutic') - there are rules on both sides of the endeavour that need to be investigated, interpreted and understood. The recognition of similarity or relevance can only take place within these social rules, and the 'facts' do not exist outside them. Winch implicitly accepts that a 'hard' theory of knowledge in the natural sciences is possible, but this should be set to one side, away from the 'reflective' understanding of social investigation.

Sellars, however, conceives the two types of knowledge Winch deems possible differently.[36] He suggests that these two 'images' of knowledge might be usefully termed the 'manifest' and the 'scientific', and that theories of knowledge cluster around one or other of these poles.[37] For Sellars, the 'scientific image' of knowledge is built up of a mosaic of methodologies: "For each scientific theory is, from the standpoint of methodology, a structure which is built at a different 'place' and by different procedures within the inter-subjectively accessible world of perceptible things." And each of these structures "is *supported by* the manifest world".[38] Although it is essentially dependent on the 'manifest image', the world as revealed to man, the 'scientific image' of knowledge sets itself up as a rival, a more reliable claim to truth, but is crucially still related through man's interaction with the 'natural' subject.

Thus as Sellars notes "the scientific image cannot replace the manifest without rejecting its own foundation", as it is in the last analysis "*methodologically* dependent on the world of sophisticated common sense" or the manifest world.[39] Though the 'scientific image' wishes to set itself off from the 'manifest image', as Winch seems to accept that it can, for Sellars it cannot, as it is not clear what

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[34] ibid p86
[35] ibid building on his interpretation of Wittgenstein's later philosophy (which I discuss below).
[36] Sellars,W.F. 'Philosophy and the Scientific Image of Man' Science, Perception and Reality (London: Routledge & Kegan Paul, 1963) pp1 - 40
[37] ibid p5 - 8
[38] ibid p20
[39] ibid p20 - p21. This is a position that also fits well with Mannheim's arguments concerning the nature of epistemological claims, Mannheim,K Ideology and Utopia. An Introduction to the Sociology of Knowledge (London: Routledge & Kegan Paul, 1936 [reprinted 1976]) p262ff

science can be dealing with if it is not the stuff of the manifest world. There cannot be two different 'images' of knowledge, there can only be one of which the 'scientific' is but a part. To be absolutely clear here, while Sellars is stressing that there may be only one 'image' of knowledge, this is explicitly not to accept that this 'image' *is* the world, as realism suggests - even manifest knowledge is mediated!

In a parallel argument to Kuhn[40], though not explicitly referenced to him, Sellars argues that it is the community to which the individual belongs that shapes the 'manifest image' of *that* individual's world - "the fundamental principles of community, which define what is 'correct' or 'incorrect', 'right' or 'wrong', 'done' or 'not done' are the most general common *intentions* of that community with respect to the behaviour of members of the group".[41] The community's intentions (its implicit idea of the future) are an important part of the way knowledge is constituted, but as Bhaskar noted, this means that such knowledge cannot be predictive, as the analysis is part of the intentions it would be expected to predict. This conceptual framework, which the community's very existence relies on, is the framework which provides "the ambience of principles and standards (above all, those which make meaningful discourse and rationality itself possible) within which we live our own individual lives".[42] This might be expressed as the community's collective ontology, how it describes to itself its own social relations.

This conceptual framework does not need to be *reconciled* with the 'scientific image', but for Sellars should be *joined* to it; enriching it *not* with additional ways of saying what is the case, but by *directly* relating the world of the 'scientific image' to the community's purposes, and making it *their* world. Sellars stresses that, while difficult to accomplish, this would be "to transcend the dualism of the manifest and scientific images of man-in-the-world".[43] Implicitly this seems to argue for a view of investigation (scientific or otherwise) that must include the normative element of social intent. Thus all knowledge becomes part of the truths which are recognised by a community - an holistic knowledge. While Kuhn's 'community' was essentially one of practising scientists (delineated by the area of their professional concern), Sellars' community is a *social* group, encompassing

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[40] see Kuhn op.cit. where it is famously argued that within a scientific paradigm it is the community of scientists who arbitrate a conventional truth.
[41] Sellars op.cit. p39
[42] ibid p40
[43] ibid

the scientists, their audience and the inter-personal group(s) in which they are embedded. Here the influence of Wittgenstein is clearly evident.[44]

Firstly though, this denial of the distinction between some sort of 'objective' possible knowledge and the socially constructed 'subjective' knowledge (the interpenetration of the two fields proposed by Bhaskar and Winch), leads me to Mannheim's warning that a privileging of the subjective is "a one-sided and narrow orientation to the problem of knowledge".[45] However, this should not be taken to indicate that Mannheim is arguing for an available 'objective' knowledge in itself. Rather, he stresses, it is the *interaction* between the socially mediated aspects of knowledge and the perceived 'reality' against which such knowledge acts that should be the realm of investigation.[46] In the fourth chapter I will establish this investigatory location as the 'dual-dialectic'. For now it is sufficient to note that Mannheim argues that, if the social-historical issues that affect the recognition of a particular characterisation of knowledge are not included in the analysis,

> instead of obtaining a genuine basic ontology, we would become the victims of an arbitrary accidental ontology which the historical process happens to make available to us.[47]

This leads to the adoption of the position (to paraphrase Marx) that whilst we construct our own knowledge, we do so within a social history of knowledge not of our making.[48] Further, this entails that a trans-historical 'basic ontology' would be chimerical as it could never be divided off from its social-historical grounding.

But, with the possibility of different individual (or group) circumstances interacting with the overall social-historical movement, it is likely that contradictory or different knowledges will emerge from different experiences. These will "come into conflict and, in criticising one another, render one another transparent and establish perspectives with reference to each other".[49] Differing perspectives can establish their relationship to one another, but can never propose an unmediated (this it to say a trans-historical) knowledge of the social-historical 'reality' about which they are concerned.

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[44] see for instance ibid p15ff where Sellars specifically credits Wittgenstein with developing a coherent account of the 'manifest image'.
[45] Mannheim, Ideology and Utopia op.cit. p166
[46] ibid. *passim* though especially p239-255
[47] ibid. p250
[48] ibid. p238ff. Though I am not sure whether Mannheim would have paraphrased Marx in this manner, he argues Marx is himself one of the key founders of a sociology of knowledge, see ibid. p278ff.
[49] Mannheim, Ideology and Utopia op.cit. p253

Here there is a parallel with some of Bourdieu's concerns regarding the 'knowing subject'. In *Outline of a Theory of Practice*, he suggests three levels of knowledge which form social understanding and represent "moments in a dialectical advance towards adequate knowledge".[50] First there is knowledge of primary experience (through investigation, or participation), such that can be related as description which Bourdieu refers to as "familiarity". 'Objectivist' knowledge divides itself off from mere 'familiarity' by seeking to establish patterns and structures through a "detached account" of the knowledge related at the first level.[51] However, only by then making a second dialectical move to examine the reflexive (knowing) observer, can the limits of perception which constrict the second level be revealed and a theory which includes such limits as a reflexive part of its construction be established - this is theory which includes its own interaction with the field.[52]

The key point about this second "epistemological break" is that it makes the question of how knowledge is possible, *part* of the theory which is concerned with any practice. By this move, Bourdieu is making a particular claim about the status of the knowing individual, the investigator. And like Winch, what Bourdieu is concerned to relate is the issue of recognising social rules. Indeed in a notably similar manner Bourdieu identifies the importance of Wittgenstein's later work, which "effortlessly brings together all the questions evaded by structural anthropology and no doubt more generally by all intellectualism". Bourdieu recognises in Wittgenstein's mediation on rules a way of combating the "slip from the model of reality to the reality of the model".[53] This is to say, the second step is needed to forestall theory relating a partial (and subjective) perception as one that transcends the investigatory function (an 'objectivity' which, for Bourdieu, is not possible). Thus, this third level of knowledge, the reflexive, brings into the endeavour not only the experiences of the investigated, but the investigator as well. It is this interaction between the investigator (the personal) and that which is investigated (the social-historical 'reality') that Wittgenstein's later work serves to illuminate for Winch, Sellars and Bourdieu.

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[50] Bourdieu,P Outline of a Theory of Practice (Translated by Richard Nice) (Cambridge: Cambridge University Press, 1977) p3
[51] Robbins,D The Work of Pierre Bourdieu (Buckingham: Open University, 1991) p83
[52] For an excellent résumé of these ideas see ibid. especially chapters five and seven.
[53] Bourdieu, op.cit. p 29

The social as a 'form of life'

Wittgenstein's position laid out in the *Philosophical Investigations* is that there can be no meta-language, no universal way of describing (and thus understanding) the world.[54] Understanding here is the way that our *own* sensations of pain are understood.[55] This follows from his conception of language as deriving from the primary experiences (such as pain) and the resultant 'form-of-life' of the individual.[56] Initially this might lead us to presume that therefore there can only be individualised *private* languages. My perception of the world around me is the sum of my life-experiences of this world, and the sensations which I have experienced, which I describe through language can ultimately only be fully known to me.[57] My perception of the colour 'red' (with all its resonance), for instance, will be mine alone, constructed from my previous sensations of 'red' in particular contexts.[58] However, if this was the case there could be no social communication as another person having had different experiences, a different 'form-of-life', would have no common experience on which to base an understanding of my *particular* perception.

But Wittgenstein is not arguing that there can be *no* communication between individuals. Rather he suggests that when individuals use language, they do so following certain rules, that enable them to approach an understanding between different individualised 'forms of life'.[59] Famously these rules are likened to use of the word 'games'. While everyone may 'know' what games are, there are no commonalties between *all* those activities which are recognised as games.[60] Alternatively, he suggests that rules are like a woven rope. No fibre stretches along the whole length, but when these separate fibres (and fibres here represent different 'forms of life') are woven into a single rope (the community) they are much stronger than individually.[61] The strength of language-use as communication is based around the *weaving together* of different 'forms of life'. While there is no meta-language, neither is there a totally private language. Rather

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[54] Wittgenstein,L Philosophical Investigation (trans. Anscombe,G.E.M.) (Third Edition) (Oxford: Blackwell Publishers, 1968). The following interpretation of this difficult work was greatly aided by Chris Farrands seminars on Wittgenstein at Nottingham Trent University. However, any shortcomings of this interpretation are my own.
[55] ibid p101 (proposition 302.)
[56] ibid p19 (proposition 18.); p230 (section IIx)
[57] ibid p88 (proposition 243.); p89 (proposition 246.)
[58] ibid p95 (proposition 272.); p117 (propositions 377, 378, 381 & 382); p216 (section IIx)
[59] ibid p31 (proposition 65.)
[60] ibid p32 (proposition 66.)
[61] ibid p32 (proposition 67.); p92 (proposition 257.)

there is the ability for conventional communication based round understandings that while not fixed are based on shared elements from the group's 'forms of life', on similar sets of experiences. And within these similarities mediated truth and knowledge can emerge.

The shared rules of conventional discourse enables one individual to appreciate another's sensations, even though they cannot *know* them as they *know* their own.[62] Communication is possible within communities based on a common understanding of language and is due to the closeness of experiences that make up individual 'forms of life'.[63] Here it is evident why for Sellars it is the community that provides those rules that allow a conventional truth to be established. Though the experiences cannot be the same, the broad meaning socially attributed to such experiences can be and is the basis of communication. The question is whether this community is therefore in itself some sort of collective 'form of life',[64] and if it is, does this not imply that at some point a globalised community of humans could produce a 'universal' truth?

On this point a strict interpretation of Wittgenstein's position might deny any meaning to these sorts of issues or questions, on the basis of the individual being unable to step outside their 'form of life' to even consider questions of shared communal experiences. However, on Sellar's interpretation of Wittgenstein (which is a particular 'reading' of these considerations), though the experiences that go to build the individual's 'form of life' are exceedingly complex some sort of community may still be possible due to the closeness of life-experiences. But even if they bear some similarity to those who are both geographically and culturally near, as the inclusive parameter of 'community' was widened, prospective commonalties of personal history would so reduce that communication would (and does) become increasingly difficult. Broadly shared knowledge decreases and the rules for understanding language/communication within the community would not be able to encompass all that the enlarged group had experienced. The enlarged prospective 'form of life' would then collapse back into a plurality of more localised forms.

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[62] ibid p113 (proposition 355.)
[63] ibid p88 (proposition 242.); p225 (section IIx)
[64] as is suggested in Bauman,Z Hermeneutics and Social Science: Approaches to Understanding (London: Hutchinson & Co, 1978) p217ff

In light of this characterisation, I follow Hacking in formulating these community rules of language and knowledge as 'styles of reasoning'. Being true- or false-reasoning can only be judged within the style itself.[65] Perhaps most importantly;

> We cannot reason as to whether alternative systems of reasoning are better or worse than ours, because the propositions to which we reason get their sense only from the method of reasoning employed. The propositions have no existence independent of the reasoning towards them.[66]

Each style of reasoning must be coherent for itself, and will develop 'conventional' justifications for its recognition of 'facts'. There is a clear link here back to the notion that Feyerabend discussed regarding the internal nature of the justification for truth claims. And given Sellars argument that the community's intentions are what serve to delimit conceptions of 'right' and 'wrong', these conventional justifications will be built on their usefulness in fulfilling the community's intentions. Thus a conception of truth based on its utility, an instrumental construction of truth that could be termed 'pragmatic', seems one way forward; truth relative to interest and community intent.

Truth as pragmatic

In the arguments over a post-positivistic view of knowledge that have beset the political and social sciences in the last few years (the post-modern turn, as it is often referred to), Richard Rorty has found a ready audience for his (neo-) pragmatist position. For Rorty, saying that truth and knowledge can only be judged by the standards of the inquirer's community is "not to say that human knowledge is less noble or important, or more 'cut off from the world', than we had thought", merely that truth can only be justified by reference to what the community already accepts - "there is no way to get outside our beliefs and our language so as to find some test other than coherence".[67] For the pragmatist there is only one field of human inquiry divided among social institutions (including sciences), where problem solving is already taking place, and a 'scientific' justification for knowledge is obstructive to recognising this to be the case.[68]

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[65] Hacking,I 'Language, Truth and Reason' Hollis,M & Lukes,S (editors) Rationality and Relativism (Oxford: Blackwell Publishers, 1982) p64 -65

[66] ibid p65

[67] Rorty, Philosophy and the Mirror of Nature op.cit. p178. Rorty develops his position in the context of the history of philosophy better than I could do justice to in the space available here, and thus the readers interested in this argument are directed to this book.

[68] Rorty, R 'Pragmatism without method' Objectivity, relativism and truth. Philosophical papers. Volume I (Cambridge: Cambridge University Press, 1991) p76

Rorty does not attempt to replace one account of knowledge with another, but rather wants to get away from a single 'account of human knowledge' altogether. Rorty does not see himself offering an 'account' to be tested for 'adequacy' but to be arguing for the futility of *offering* an 'account' at all, the futility of the epistemological project itself.[69] In one way this can be seen as taking the step that Feyerabend would not allow himself. The question posed to 'realism' and the 'scientific image' (to use Sellars' term) by Rorty is: 'What would we lose if we had no ahistorical theory-independent notion of truth?'[70] If there is no way of finding a truth over and above that revealed by theoretically-informed inquiry, this does not mean the world will fall about our ears. Indeed it may make little difference to life-as-it-is-lived! Even the appearance of approaching 'truth' through a 'progression' of theories is, for Rorty, merely the "inevitable artefact of historiography", it is always the 'winning' theory that writes the history of its development.[71] Thus Rorty sees 'knowing' as a right, by current standards, to believe something to be true (to be the case).

While in the discussion so far I have been concerned with the truth claims that can be made by individuals (in the first instance, to themselves, but also in their relations with others), there is a related issue I have not touched on. This is the question of *belief*, in the sense of faith. I need to separate what might be termed religious belief, from the belief that certain knowledge is true. This presents a problem; religious belief is in one sense a belief about what might be *true*, and this makes the line I wish to draw less than distinct. Indeed, an implicit part of the argument of this chapter is that knowledge is in itself (in a manner of speaking) an act of faith. Each of us makes certain choices about the epistemological warrant that we accept, but there is in the last analysis *no final arbiter* who can establish one particular set of justifications as 'objectively true'.

The distinction that I am going to make here is related to the beliefs that an individual may hold concerning a deity of some description. I want to divide this off from the notion of belief in a truth, and term it 'faith'. While such faith may subsequently be part of the way individuals are organised into social activities and communities, for my purposes I will contend that this is different from the beliefs about both social and material existence (and the perceived truths of such

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[69] Rorty,R Philosophy and the Mirror of Nature op.cit. p180 & p318. A similar position is taken in Davidson,D 'On the Very Idea of a Conceptual Scheme' Inquiries into Truth and Interpretation (Oxford: Oxford University Press, 1984)

[70] Rorty,R Philosophy and the Mirror of Knowledge op.cit. p281

[71] ibid p282ff

existence), which I will term 'knowledge'. Where religious beliefs impact on socio-economic relations, for the purposes of this study, I suggest that these beliefs have become for practical purpose 'knowledge' and are not concerned with the existence or otherwise of God(s), but enter the analysis as motivations for social action.

Taking belief into my analysis in this way, there may also be an argument that ideologies (such as communism, Liberalism, nationalism) function in a similar manner. However, the aspect of knowledge construction that I am seeking to capture is the social nature of the mediation between the self and knowledge (of both the self and the not-self). This makes necessary a distinction between some sort of transcendental belief in God and knowledge about the world which we perceive around us. I am aware that this is not a distinction that Feyerabend would necessarily have been happy with.[72] On the other hand I am making clear the definition of knowledge that I am interested in. I am essentially regarding claims concerning the existence or otherwise of God(s) as outside the remit of this study (even though the study of knowledge is historically tied up with such claims and counter claims).[73]

My interest lies in the social relations and circumstances that contribute to the standards against which claims about knowledge are compared at any particular historical juncture. So to return to my argument, if this position is acceptable, then "we are well on the way to seeing *conversation* as the ultimate context within which knowledge is to be understood". The focus shifts away from the relation between individuals and objects, to the "relation between alternative standards of justification, and from there to the actual changes in those standards which make up intellectual history".[74] And it is this intellectual history - the history of these conversations - that should be part of the subject matter of any investigation into the social. The history of knowledge is a history of ideas about knowledge and the accounts of this knowledge that have been propounded. And for each investigator (and here investigator is not so much the professional, as any interested, enquiring individual), the history is a personal history, one which reflects their interests and uses, one that reflects their needs. It does not represent a teleological approach to a

[72] see Against Method op.cit. *passim*.
[73] That this distinction is not historically fixed is perhaps best presented in Tawney,R.H. Religion and the Rise of Capitalism (London: Penguin, 1938 [reprinted 1961])
[74] Rorty,R Philosophy and the Mirror of Knowledge op.cit. p389/90

truth, but rather an expanding catalogue of truths that can be adopted, rejected or modified.

The expansion to this 'catalogue of truths' is not through the dispersal of *information*. Indeed, as will become apparent later, I want to draw some distinctions (though not a hermetically sealed division) between 'knowledge' and 'information'. Information is only recognised and given weight through the application of knowledge. As Lasch has suggested (drawing from a line of development which stems from the American Pragmatists, though with a different emphasis to that of Rorty), argument is the genesis of knowledge. Only by trying contending positions and seeking the information required for their substantiation can information be accessed or even developed, which is to express in non-scientific terms the argument that Feyerabend makes. Thus the conversation (as it were) between knowledge and information is one that is both continuous and vital. Where only one side of this relation is present, be it knowledge or information then the development of both and the overall field of knowledge will be curtailed and halted for the individual.[75]

That the conversation, the constant contact between self and other, is the site of knowledge construction, can be understood as a continual process of testing and probing of the apparently real. Shotter suggests this is like the relationship between carver, chisel and wood. The wood is shaped by the carver, the chisel *does* the work of shaping, but also, as importantly feeds back to the carver information such as resistance/density of wood which then modifies the carver's chiselling.[76] This prosthesis (as Shotter terms the connection between the individual and 'out there', the way of perceiving the world) faces both ways, out towards 'reality' and inwards towards the self. To understand knowledge claims the tool must be understood as well as the practice of its use. Inasmuch as each person has their own prosthesis and their own practice, knowledge must be personal, but equally as it also faces out, there must be some connection with what the community 'knows' to be 'true'. The field of ideas, the social reality is available to us in its mediated form through these conversations, or social relations. What is deemed adequately warranted as knowledge will depend on the individual's practice in these conversations and not some outside benchmark. But

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[75] Lasch,C The Revolt of the Elites and the Betrayal of Democracy (New York: W.W.Norton & Co., 1995), chapter nine 'The Lost Art of Argument' pp161-175.
[76] Shotter,J Cultural Politics of Everyday Life. Social Construction. Rhetoric and Knowing of the Third Kind (Buckingham: Open University Press, 1993) p22ff

also it will depend on the structure of the 'prosthesis', its assumptions and their origins.

The pragmatist inquirer seeks as much "inter-subjective agreement as possible" through these conversations, but accepts that the distinction between knowledge and opinion can only be "the distinction between topics on which such agreement is relatively easy to get and topics on which agreement is relatively hard to get".[77] Thus what is opinion at one juncture may become knowledge at another - a transformation to which I will return in the discussion of intellectual property. Rorty argues that the inquirer can never intellectually leave their community, and will carry the inter-subjectivities of that community with them. Essentially there can be no escape from the inquirer's own perspective, and this should be acknowledged rather than denied.[78] Thus the weight of convention may lay heavy on the investigator, but at the same time the appeal to an individual history may open up new 'truths' and 'facts' to the investigator. The ability of individual narratives (and trajectories) to reveal interesting and useful knowledge should not be in any way underestimated.

Social inquiry as history

Following the discussion which I have outlined above I now wish to propose that any theory is open to approaches and 'facts' that might be initially dismissed by methodological conservatism. And if this *is* the case then Buzan, Jones and Little's suggestion that different theories are merely different lenses, each giving a partial view of a totality, is a useful depiction of the way theories may interlock and be connected.[79] Arguments that try to *replace* one theoretical construct with another are less than helpful when there is no need to seek absolute theoretical domination for any one particular position. While there may *be* a 'reality', there are many different (and competing) ways of understanding it, none of which can finally established as 'correct'. There can be *no* final theory! This account of inquiry seems to have little in common with a conception of a positivistic social science, but it does have a good deal in common with one account of the 'discipline' of history.[80]

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[77] Rorty,R 'Solidarity or objectivity?' Objectivity, relativism and truth op.cit. p23
[78] ibid p29ff
[79] Buzan, Jones & Little op.cit. p230/231
[80] The following discussion though developed prior to my reading of Gaddis,J.L. 'History, Science and the Study of International Relations' Woods,N (editor) Explaining International

Collingwood has argued that "All history is the history of thought" based on the recognition that history is formed by human action (even if this is reaction to some natural phenomena), which is itself driven by thought. The only way we can investigate, then, is by thinking this history for ourselves. Thus, "all history, is the re-enactment of past thought in the historian's own mind".[81] The historian does not just re-enact past thought however, it is re-enacted in the context of research and knowledge, within a context which has been constructed by the historian. By doing so he criticises it, judges its value and contextualises it. This is the indispensable criteria of historical knowledge and as, for Collingwood, all "thinking is critical thinking; the thought which re-enacts past thoughts, therefore criticises them in re-enacting them".[82] Thus history is a mental engagement with all available evidence (however constituted) of what has gone before, and in itself represents a continuation of that history (as history of thought). Not least of all, this is the background to the common-place that each era rewrites history in its own reflection.

Perhaps the most powerful argument for the study of the social to be similar to history, is the supposed 'autonomy' of the historian. If as I have argued above, it is the 'form of life' that conditions understanding, then I have proposed a discipline predicated on the investigator's autonomy (where the individual's autonomy has some relation to their rootedness in a community). Collingwood stresses the historian is 'autonomous' in the selection of what evidence to consider and what to ignore, based on whatever internal criteria they wish to adopt, be it an accepted methodology or their own. An investigator's ontological choices are theirs alone and while may be informed by all sorts of outside considerations, essentially the warrant for such choices remains with the investigator. Autonomy is even more apparent in historical construction. "In this part of the work he is never depending on his authorities in the sense of repeating what they tell him; he is relying on his own powers and constituting himself his own authority; while his so-called authorities are now not authorities at all but only evidence".[83] Thus, the historical imagination constructs a picture (a sort of proto-account) against which evidence is then judged and evaluated.

Relations Since 1945 (Oxford: Oxford University Press, 1996) bears some resemblance to the position outlined there.

[81] Collingwood,R.G. The Idea of History (Oxford: Clarendon Press, 1946) p215

[82] ibid p216

[83] ibid p237. Though Collingwood uses the masculine pronoun, the argument is not gender specific.

In the historically critical mode autonomy is most important - "in virtue of his activity as an historian, he has it in his power to reject something explicitly told him by his authorities and to substitute something else".[84] Through selection, assembling a story for which authoritative evidence is available (under the terms that have been decided upon), and finally through the criticism of that evidence that does not fit this construction, a view of the social or the historical is assembled. By presenting evidence, ideas are opened up to further criticism, and different interpretations of the evidence that has been 'found'. The picture of the social is the individual's, but this is not to say that every picture is as powerful.

The investigator's picture has to justify the sources used in its construction. The critical individual has to discover and select evidence by considering whether the picture to which the evidence leads is a coherent and continuous picture, one which makes sense, and what changes might be required. The *a priori* imagination of pictorial construction supplies the means of criticism as well. This picture is thus "in every detail an imaginary picture, and its necessity is at every point the necessity of the *a priori* imagination".[85] Without this prior conception of what the investigator wants to discover, how could they proceed - without theory how would they recognise 'facts'. Without knowing where they are coming from and want to go how can they discover where they are - a study needs both co-ordinates. But these co-ordinates are inside the theoretical construction and in the last analysis it is the audience (the community) who decide whether these co-ordinates are sufficiently well argued to legitimate a theory.

Only by sharing in the 'imagined' future of the community, in which the investigation is situated, can the investigator understand both the social relations of that community, and their construction of knowledge concerning those relations. Investigations can only exist in the temporality of the community, as there is no where else *for* them to exist. If knowledge is the result of a two way 'conversation' then time is central to this relationship. While time is often acknowledged in the direction of the past, the importance of 'intentions' (for the future) must also be recognised, for the construction of knowledge.[86] This is to say, while not *dependent* on my intentions (what I want to find) the recognition of facts is greatly influenced by these intentions - those 'facts' that do not fit the intended field of knowledge claims may be downgraded or even 'not seen'. But,

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[84] ibid
[85] ibid p245
[86] Shotter op.cit. p26

these intentions may not be reflexively adopted, they may stem from particular settlements within the community regarding the possibility of knowledge. Thus, the investigator's 'autonomy' may not be all that it seems.

'Knowledge' and power

The perspective on knowledge which I have explored above does not just apply to the 'investigator' as social professional. The problems I have identified with knowledge, its recognition and warrant, are socially prevalent. If, as I have argued, it is not possible to establish an objective truth, contrasted with something often detrimentally referred to as 'opinion', then the line between what is and what is not 'knowledge' must be subject to power relations. Those who have the requisite power to establish (or maintain) their particular subjective 'knowledge' as that which is conventionally accepted as true or legitimate will condition the construction of 'knowledge'. There is no final outside, no objective yardstick against which such claims can be unproblematically measured. This was the criticism Bhaskar levelled at Feyerabend's notion of the difficulty of establishing a 'set of rules' for investigations. But if this position is embraced, rather than dismissed, then it enables the recognition of the danger that conventional truth will be the truth of power. Here the work of Michael Foucault and Jürgen Habermas with their different concerns, is of some relevance.[87]

As Lukes has noted in discussing Habermas, "any serious social analysis... must address the question: are social norms which claim legitimacy genuinely accepted by those who follow or internalise them, or do they merely stabilise relations of power?".[88] This whole study revolves around this question as it impacts on intellectual property in the international political economy. More generally though, Habermas suggests a counterfactual thought experiment to reveal whether power (and interest) impact on knowledge.

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[87] The 'debate' (though they never met) between Foucault and Habermas is laid out extensively in Kelly,M (edited by) Critique and Power. Recasting the Foucault/Habermas Debate (Cambridge,Mass.: The MIT Press, 1994). Also, as Kelly notes in his introduction: "One of the general difficulties of the Foucault/Habermas debate is that philosophers cannot agree on what Foucault was up to...", Kelly,M Introduction ibid. p8. I therefore should note that I am not suggesting that Foucault had a static position on these issues throughout his writings, but by discussing some of the ideas from his later work I am establishing the currency of the issues I have developed elsewhere in this study.

[88] Lukes, S 'Of Gods and Demons: Habermas and Practical Reason' Thompson,J.B. & Held,D (editors) Habermas. Critical Debates (London: Macmillan Press, 1982) p137

This thought experiment is the 'ideal speech situation', where a framework may be constructed for the discovery of truth through this discourse, and current truth claims can be compared with the truth as revealed through discourse. This framework is dependent on the self-reflection of the participants, and is possible "only in an emancipated society, whose members' autonomy and responsibility had been realised".[89] This emancipated society cannot be established through an expansion of instrumental knowledge, or material 'progress': the "redeeming power of reflection cannot be supplanted by the extension of technically exploitable knowledge".[90] Thus, at one and the same time an emancipatory approach needs to reveal the shortcomings of instrumental (or technical) knowledge in respect of the need for self-reflection, but will also provide a rational account against which such instrumental knowledge can be compared.

The illusion of "objectivism is eliminated not through the power of renewed *theoria* but through demonstrating what it conceals: the connection of knowledge and interest".[91] But once this illusion has been shattered, the grounds for a rational knowledge (which does not need to hide behind some claim for 'objectivity') are made possible, and indeed desirable. By following this course, instrumental rationality is revealed as serving certain social interests, and is thus problematised. But in its place can be erected a new (or in a sense, previously hidden) rationality revealed through the adoption of emancipatory practices.

However this involves the supposition that a universal rationality is possible (if as yet not achieved in a meaningful sense). And "to anyone familiar with the 'rationality debates' that have accompanied the development of cultural anthropology from the start, and more particularly with the neo-Wittgensteinian turn they have taken in recent years, it will be clear that the burden of this proof is considerable".[92] The notion of a discoverable universal rationality has receded as more 'forms-of-life' have become comprehended. As I have discussed above, there is not a proof of universal rationality that I would consider achievable, and if Bhaskar's criticism of Feyerabend is embraced as a positive element of my perspective, then the key issue which Habermas raises is the critique of the role of power in the construction of knowledge.

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[89] Habermas,J Knowledge and Human Interests (London: Heinemann, 1972) p314
[90] Habermas,J Towards a Rational Society (London: Heinemann, 1971) p61
[91] Habermas, Knowledge and Human Interests, op.cit. p316/7
[92] McCarthy,T 'Rationality and Relativism: Habermas' 'overcoming' of hermeneutics' Thompson & Held op.cit. p66. For an overview of the rationality debates see Hollis & Lukes op.cit.

Habermas attempts to move beyond this issue by suggesting that an achievable rationality is the spur for discursive interaction, and that the development of communicative competence involves the recognition of rationality of argumentative dialectics, the recognition that decisions can be made in such speech situations. Thus "the settlement of truth and rightness claims through argumentative reasoning (subject to the conditions [Habermas] describes) represents the realisation and competition of competencies that are universal to mankind".[93] But while Habermas believes this to be the case, he is not able to make explicit the conditions required for the emancipatory society needed to establish the universal form of communication.[94]

This leaves the structures within which speech situations take place needing to be set in some manner, and while Habermas may believe it could be possible to construct such parameters in a way that would be conducive to the emergence of truth, his critics are less than sure. As Connolly points out, what "presents itself as an ideal speech situation from one vantage point (say Marxian theory) may appear as a subtly distorted discourse from another (say Freudian theory)".[95] I will suggest later that such distortions are produced by the operation of structural power over the agenda of knowledge formation.

While Habermas might be considered to be optimistic on the possibilities of escaping from the sphere of power over knowledge (even if this has as yet not been achieved), Michael Foucault is resigned to the impossibility of final escape:

> There is no escaping the impression that Foucault, far from providing a new stimulus to demands for liberation, limits himself to describing a mechanism of pure imprisonment: a 'mapping' of power... [though] Foucault identifies the task and the meaning of a possible intellectual 'commitment' that opposes every possible role of 'mediation' in the consensus.[96]

Pessimistic about the possibility for changing the role of power through revolutionary critique Foucault says "I absolutely will not play the part of one who prescribes solutions" - a sort of refusal of politics.[97] Though it does seem possible that the revelation of such power structures might impact on social

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[93] McCarthy,T The Critical Theory of Jürgen Habermas (Cambridge: Polity Press 1984) p322
[94] ibid. p323-325. Indeed as Outhwaite points out Habermas now sees these discussions of the epistemology *and* social theory in a single idiom as a detour and has moved to different concerns. Outhwaite,W (editor) The Habermas Reader (Cambridge: Polity Press, 1996) p69/70
[95] Connolly,W.E. Politics and Ambiguity (Madison: University of Wisconsin Press, 1987) p65
[96] From Trombadori's introduction Foucault,M Remarks on Marx. Conversations with Duccio Trombadori (New York: Semiotext(e), 1991) p20/21
[97] ibid. p22, the Foucault quote is in the section on 'The Discourse of Power' ibid. p157

relations, this is not explicitly Foucault's intent. Unlike Habermas who sees the role of power in knowledge as expressed through interests (and thus changeable through political and social action), for Foucault power resides in the discourses in which knowledge appears (and therefore represent a more diffused site for pressure to change).

Foucault has expressed his key concern as being the question: "what type of power is susceptible of producing discourses of truth that in a society such as ours are endowed with such potent effects?".[98] The production of knowledge cannot be disassociated from power, indeed the complex relations between the two are the site of analysis.[99] In reversing Hobbes concern with *The Leviathan*, Foucault seeks to "study the myriad of bodies which are constituted as peripheral *subjects* as a result of the effects of power".[100] Power is not so much what enables the centralisation of authority, but is the mechanism by which alternatives to its rule are obscured among the relatively power*less* (which is to say, the establishment of 'governability'). It is the lack of coercion needed to establish certain social behaviour which is of interest not the final sovereign power of the state to force individuals into certain actions.

What concerns Foucault are the 'techniques and tactics of domination', of which surveillance is the key, and the way that these methods produce a "*society of normalisation*".[101] But the discourses of power that normalise (that limit the possibility of what is normal) are not merely to be seen as the product of law and the judiciary (acting for the state); they are much more widely embedded in the discourses within which social relations (and crucially the knowledge of those relations) are produced.[102] Thus, using the language I will deploy in the rest of this study, power resides in the agendas that set the realm of the possible off from the realm of the *im*possible - the normal from the *ab*normal. This bifurcation is emblematic of modernity, and for Foucault the site of disciplinary social control through the ability (power) to establish what is normal and conversely what will be disciplined. This is to say that while my position in this study is in many way parallel to Foucault's I have come to it in a different manner, and have explicitly

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[98] Foucault,M 'Two Lectures' Power/Knowledge. Selected Interviews and Other Writings 1972-1977 (edited by Colin Gordon) (Hemel Hempstead: Harvester Wheatsheaf, 1980) p93 ['Two Lectures' is also reprinted in Kelly op.cit.]
[99] Foucault, Remarks on Marx op.cit. p165
[100] Foucault, Power/Knowledge op.cit. p98
[101] ibid. p107
[102] ibid. p159-161 and *passim*; Foucault,M The History of Sexuality. An Introduction (London: Penguin Books, 1990) p82ff

sought to elaborate such an approach through a political economic analysis of the problems which surround intellectual property.

For an International Political Economist, this debate reveals the incidence of power relations throughout the domain of 'knowledge' production, recognition and reproduction. If these arguments are persuasive then the foundations on which the very notion of intellectual property, as market commodity, are built are revealed as being less than stable, and subject to the structural power that I will investigate in subsequent chapters. If it is the mobilisation of resources (and therefore of power) that structures and legitimates claims to knowledge, then a field in which knowledge is treated as property takes on an altogether different appearance. The debate widens from one that is concerned only with how knowledge might be owned, to one that also needs to consider how knowledge is both created and recognised (both historically and philosophically) as knowledge, before it is constructed as property.

Without the division between objective truth and subjective opinion to fall back on, the idea of intellectual property becomes less able to offer a final distinction between what can be owned and what cannot. I will return to explore the role of power in the construction of ontologies of intellectual property in later chapters. First, having brought the notion of power into the discussion it is crucial that I establish both what is meant in this regard by 'power' and also what its role might be within the international political economy. So, having established that the definition of knowledge is subject to considerations of context and the possible mobilisation of power and resources, I wish to now move to the other side of this assertion and discuss the question of power itself.

Chapter Two - On Power

Introduction

In the previous chapter I examined 'knowledge' and suggested that the supposed distinction between subjective opinion and objective knowledge is not as clear nor as fixed as is often presented. Having argued that mainstream accounts of knowledge, on an assumption of achievable objectivity do not reveal the shifting confines of 'knowledge' and 'not-knowledge', I now move on to examine the contested conception of 'power'. In this chapter I will discuss how the concept of power can be expanded to include aspects which more traditional conceptions leave to one side. After briefly exploring power's contested nature I will trace some developments of power as a concept. Then by utilising Lukes' useful tripartite construction I shall suggest a difference between conceptions of *relational* and *structural* power. This acts as a precursor to my treatment of the use of the concept in International Political Economy (IPE) through a discussion of the work of Susan Strange in the next chapter.

The concept of 'power' is problematic in two ways; in an instrumental sense (what does it do?) and in a motivational sense (how does it do it?). Developing a conception of power is important in a study of the international political economy, because if I am to assign (multi- and/or uni-) causality I need to be able to analyse it on a deeper level than merely suggesting 'things happen'. Conventionally such an argument would be understood as identifying the role of 'power' as a catalyst - without power there would only be inertia. And while social inertia can overcome power in some cases (and indeed, may be reinforced by power), this cannot always be the case or there would be no way to explain causality however manifested. As an understanding of 'power' is not just central to IPE but is arguably "the fundamental concept in social sciences",[1] I shall begin by examining 'power' as it has been discussed within the social sciences, before returning to examine how the concept can be mobilised in IPE.

Antecedents to Strange's work - Developing an understanding of power

There are many ways of presenting the development of competing notions and theoretical constructions of power. Any story of power will be partial, not least of

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[1] Russell,B Power. A New Social Analysis (London: George Allen & Unwin, 1938) p10

all as power is itself an 'essentially contested concept'.[2] The concept of 'power' would seem easily to conform to four of Gallie's five conditions: it is *appraisive* in that it signifies something that is valued as an attribute; *complex* in that it defies a singular definition of its constitution; *ambiguous* in that a number of competing theoretical constructions seem plausible (within the social sciences and more specifically within IR/IPE); and *persistently vague* in that circumstances can cause us to amend our conceptual construction (which is what I am essentially doing here). Whether there is an *openness to different interpretations* is more questionable, as it is certainly not always the case that those holding differing conceptions of power are ready to admit that a competing notion has some conceptual validity. However, as there are a number of different positions which may be adopted (even if each is presented as *the* position) it seems plausible here to stress that the concept of 'power' is an 'essentially contested' one. This also leads me to note that not only can there be no one account of the development of power as a concept, but also no account can escape some sort of teleological construction. While the account I offer below is in no sense definitive, it captures issues that I deem to be central to a definition that I find persuasive.

Russell is the point of departure for my deliberations. Looking at power throughout societal relations he produced a concise, parsimonious and attractive definition - "Power may be defined as the production of intended effects".[3] That is, power is able to bring forth its holders' requirements in the material world. Russell also expected that where "no social institution...exists to limit the number of [those] to whom power is possible, those who most desire power are, broadly speaking, those most likely to acquire it".[4] Power here is an attribute, a resource which exists for the taking, but is also tied up with the *will* to power, the intent to mobilise resources to gain ends. This highlights its proactive nature, it needs to be operationalised - in a sense power needs to be both held *and* used to be analytically recognised. In such a conception, to hold 'power' but for this to have no effect on the material reality that surrounds its holder, would question the notion of power being used to identify its location.

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[2] Gallie,W.B. 'Essentially Contested Concepts' Proceedings of the Aristotelian Society New Series - Volume 56 (London: Harrison & Sons Ltd, 1956) [*reprinted in* Philosophy and the Historical Understanding (London: Chatto & Windus, 1964) pp157-191], for an extended discussion of the five conditions.
[3] Russell op.cit. p35
[4] ibid. p12

Russell embeds his discussion of power and its attributes within social relations and stresses that power can only be understood within their history. He emphasises the relational quality of 'power', that it should be understood as a product of relations *between* actors. Russell is interested in identifying the contours of power relationships, who has and is likely to hold power over others and the challenges such power might engender. However, other writers have been concerned with characterising the *power relationship* in more abstract terms: how power might bring about outcomes; how, for want of a better term, it works.

Blau, for instance, tacitly accepting Russell's definition of power, expands the concept along behavioural lines. He agrees with Russell that power "is the ability of persons or groups to impose their will on others",[5] where their 'will' is the 'desire for an intended effect'. This underlines the importance of recognising the interest (and intent) of the actor to whom the status of power holder is being attributed. Blau then identifies three more elements to his understanding of 'power'. Firstly, he proposes that power is a continuing factor. The single incidence of influencing a decision outside an enduring relationship is seen as definitionally separate.[6] This immediately draws some distinction between 'power' and 'force'. Thus secondly, to distinguish 'power' from 'force' it is essential to recognise that there is "an element of volunteerism in power - the punishment could be chosen in preference to compliance, and it sometimes is - which distinguishes the limiting case from coercion" or force.[7] For instance, the *sanction* might be chosen if the perceived cost of compliance was too high, and this sort of cost-benefit analysis is essential to Blau's account. Finally power is a product of asymmetrical relations. Where each party has *equal* influence over the other, power does not play a major role in decision making.

Rooting his analysis in an economic model of the market, Blau argues that power within a relationship can be defined by four basic alternatives to its operation.[8] Where one party's will is imposed there may be a possibility of exacting a cost, making the relationship one of exchange rather than imposition. This suggests that inertia (and resistance) play a role in power relations between actors. Secondly,

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[5] Blau,P.M. Exchange and Power in Social Life (New York: John Wiley & Sons Inc, 1964) p117, where he draws extensively on Talcott Parsons.
[6] This other definition, power outside an ongoing relationship, is not explored by Blau.
[7] Blau ibid p117
[8] Blau ibid p140

benefits[9] may be obtained from elsewhere. If power is seen as having a voluntary element, this necessitates some notion of reward for acquiescence. This reward may be able to be obtained from another party and thus an alternative relationship may be developed. Thirdly, force may be used to obtain the required benefits or resist their removal. The party subject in the first instance to the power holder, may in response reveal previously unarticulated or unrealised power resources that change the relationship and enable a resistance to be mounted. Finally, the relational benefits may be renounced, sidelining the power relation in that particular sector. The bargain between costs and benefits may not be structured how the assumed power holder thinks it is, and thus the subject may be able to renounce the relationship altogether.

In Blau's account, if an actor has insufficient resources, or no satisfactory alternative strategies, if they are unable to utilise force or if their needs are pressing, those able to supply the relevant benefits will attain power over them. Though in an abstract sense power relations are voluntary, in the real world of social relations the alternatives may not be available for particular historical reasons, not least of all due to the unequal distribution of resources. "Under these conditions, [the subject's] subordination to his power is inescapable, since [the power holder] can make the fulfilment of essential needs contingent on their compliance....[thus] Differentiation of power arises in the course of competition for scarce goods."[10] For Blau, 'power' and 'force' are separate (though part of the same continuum), and 'power' is an exchange relationship which if needs be can be resisted or challenged. The field in which these relations are established is the need for the scarce resources that power is able to command.

While this analysis is useful inasmuch as it locates the operation of power as being within relations between actors - power cannot exist in a vacuum - it takes the relative positions within the relations to be unproblematic. Blau is not interested in the origin of the unequal distribution of resources that enables power relations to thrive.[11] This is not to say that Blau is unaware or does not accord the distribution

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[9] For Blau 'benefits' are what the lesser actor needs from the dominant actor who is exercising power. For instance, B may do A's bidding because if B does, A will continue to protect B from the influence of C. The benefit enjoyed is that of protection. In this sense Blau is presenting a model of power relations whose foundations are explicitly within economic models of cost-benefit analysis.

[10] Blau ibid p140

[11] Birnbaum,P 'Power Divorced from its Sources: a Critique of the Exchange Theory of Power' Barry,B (editor) Power and Political Theory. Some European Perspectives (London: John Wiley,1976) p29ff

of these resources no place in his analysis, for indeed it rests upon the recognition of such differences, but the origins of such differences are taken as given and prior to analytical interest. Thus the structure within which relations are taking place is left to one side of the analysis. One way of retrieving this structural context is to recognise that power relations do not take place outside of their social context. By placing power relations within an historically embedded social milieu the ability to affect outcomes becomes less immediately dependent on explicit force or control of resources and more open to an identification of social authority, legitimacy and knowledge.

Authority, legitimisation and knowledge

Within a complex of relations between various actors, the ability to affect outcomes while not engendering extensive resistance is not just the result of power, but involves a legitimated authority.[12] Though power over outcomes may be based on the mobilisation (or implicitly threatened mobilisation) of force, it does not always *need* to be. Thus, within such social relations that are the site of power's utilisation, the holder of power does not always need to reveal the strength of their position, due to the associated history of the particular social relation. This position brings with it, (or at least *can* bring with it for periods of time) some acceptance of the authority of the power holder as legitimate and thus allowed to determine outcomes without any explicit show of force. The underlying distribution of the capacity for force may well be hidden beneath the acceptance of a legitimate authority, and the implicit nature of possible force utilisation may not be recognised socially. As Wrong points out, "norms that constitute a legitimate authority relation are not shared exclusively by the two parties to the relation. They are shared within a larger group or community to which both belong".[13] The social distribution of power is recognised by third parties not subject to that particular power relationship. This opens out the understanding of power, from one that is based on the interaction of two parties (aside from any social location) to one that includes the context in which such relations are played out.

Within this social context one issue of substantial importance is what Wrong terms 'competent authority'. Such a legitimated authority is not so much based on the preponderance (explicit or implicit) of the resources that are central to Blau's

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[12] Wrong,D.H. Power, Its Forms, Bases and Uses (Oxford: Basil Blackwell, 1979) p49
[13] ibid p50

power relationships of exchange, rather it is based on the control of knowledge (or expertise). This 'authority' (in the sense of authority as privileged knowledge) commands legitimacy on the basis of societal beliefs regarding its salience or applicability.[14] Indeed, Strange (as will be discussed below) sees this issue as one of the key reasons for introducing 'knowledge' into her theorisation of structural power in the international political economy. Authority as a concept is far from monolithic and thus there is at least a need to distinguish between 'competent authority' and 'legitimate authority'. Competence, even if generally recognised, may not bring in its wake general authority - authority may be context specific, delimited by convention or law. Indeed, agents (or organisations) enjoying competent authority may actually do so on the basis of the legitimate social authority of their position. Authority may be due to the overall standing of the agent (a government agency, for instance) rather than the specific knowledge that is attributed to them. On the other hand, competence may be generally recognised with no recognition of legitimacy in social power relations - political pressure groups, for instance. The two aspects of authority-power while being coterminous in many cases need to be disaggregated for analysis.

This leads to two distinct sources of social power which can mask underlying force relations: knowledge based authority and role based authority.[15] In both cases the power over outcomes stems from the recognition of authority, the recognition that the actor (or organisation) has the *authority* to affect an outcome. However the sources of this authority in each case are different, though they may both be present in one extant authority. The authority that is based on the control or privileged access to knowledge reflects a recognition of expertise. 'Competent authority' is a recognition that the means (the intellectual tools) to make decisions in the area where such authority is recognised are not perceived as widely distributed or available. The perception of specialised knowledge (or competence) will allow deference to the knowledge holder, their power will appear legitimate, and authorise their decisions.

However, as I discussed in the first chapter, knowledge itself is not as easy to fix in place as such an analysis might require. Therefore while it may be acceptable that authority can be derived from knowledge, as a starting place for analytical investigation, any work that does not examine how some 'knowledge' has become privileged over other 'knowledge(s)' is in essence ceding the field of analysis to

[14] ibid p52-64
[15] ibid.

another factor. This other factor, to which I will return below, is the ability to set the agenda within which certain outcomes gain the warrant they need to be considered 'realistic' or legitimate. But before this issue is explored I want to first discuss what contributes to the legitimisation of role based authority, as this will suggest an entry point into the debates over who or what decides the question of identifying 'legitimate' knowledge.

The concept of legitimacy has provoked much work in the social sciences. There has been a considerable debate around the question of the legitimisation of the state (and its ability to decide social outcomes, or in other words, its power).[16] If in the "perfectly legitimate order, the imperative becomes the indicative: the 'you must' assumes the form of 'we will'," [17] then legitimacy is at its most basic a voluntary tribute to the decision-maker. The conferring of legitimacy is concerned with the acceptance of belonging to a certain group, and the acceptance of its world-view where the decision-maker is the repository of the group's power (and intentions) over outcomes. However, such acceptance cannot be total (even where there is some notion of a formalised 'social contract'), as to suggest that it was would deny an individual's potential for self determination. When it *is* conferred on those who have specialised knowledge, legitimacy must be based, as I have hinted, on the acceptance of certain norms for the construction of knowledge. Those conferring legitimacy accept the decision-makers' (or power-holders') ability to produce 'correct' knowledge regarding the field in which decisions need to be made. Thus, as noted above, legitimated power over outcomes is based on some notion of competence. But this is not just a technical competence, it is the intellectual competence of knowledge production, it is the power to establish the 'correct' and 'incorrect' modes of thought, of argument and of evidence for believing.

On the other hand, when legitimacy is grounded in the role occupied, then the analysis of power is firmly placed in the history of politics. From theories concerned with a notional 'social contract' to ideas of representative democracy and the transfer of power to the state from the citizen, power has been seen as partly depending, not so much on who you are, but where you sit.[18] The question

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[16] A brief outline of the development of such debates is offered in the editor's introduction to Connolly,W (editor) Legitimacy and the State (Oxford: Basil Blackwell, 1984) pp1-19. This volume also collects together a number of central sources for these debates.
[17] Connolly,W 'The Dilemma of Legitimacy' Connolly, Legitimacy ibid p239
[18] See Lukes' useful if brief introduction to the subject in Lukes,S (editor) Power (Oxford: Basil Blackwell, 1986) pp1-18

of how much power the state (or power-holder) can be said to legitimately enjoy - that can be legitimately claimed as transferred from the individual - is what Connolly refers to as the "dilemma of legitimacy".[19] When legitimacy is conferred on the state (and thus its agents) it is an undifferentiated legitimacy - the state is empowered to take what actions it deems are needed.

The dilemma the debate over legitimacy revolves around is where and when the state can deliver the required results, and when and where it cannot (and what those 'required results' might actually be). For Connolly, if liberalism is the dominant political ideology, there will always be disagreements and political debate (or even struggle) over what is best left to the individual to secure for him or herself and what is best provided by the state. Indeed, in what Habermas terms the 'crisis of legitimisation',[20] the failure of the state to provide required goods or benefits to its citizens erodes the authority that it claims to legitimately exercise over them. But given the problem of even recognising in complex social relations what *is* and what *is not* being provided and by whom, it seems to me that the key issue collapses back into the recognition, construction and acceptance of knowledge among groups of individuals.

This leads me to a position similar to Barnes, who suggests that:

> the distribution of knowledge over these individuals is what constitutes them as a society. But that distribution of knowledge specifies the capacity for action available in the society, its competencies and capabilities. To specify what members know is to specify what powers their society embodies, and who among them has discretion in their use.[21]

Barnes argues that knowledge *is* power, and power *is* knowledge but that this is not always readily recognised. The reason that such identity is not always apparent is that power and knowledge in their totalised sense (that is, the realms of power and knowledge) are seldom if ever analysed in their entirety. Analysis, rather, is generally concerned with "bits of power and bits of knowledge". Barnes goes as far as to claim that "Knowledge and power are the *same things* under

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[19] Connolly, Dilemma op.cit. *passim*

[20] see for instance Habermas,J 'What does a Legitimation crisis mean today? Legitimation Problems in late Capitalism' Connolly, Legitimacy ibid pp134 -155 and a number of the other contributors who take up this term. Three more illustrative examples of Habermas' work on this subject can be found in the section 'Evolution and Legitimisation' Outhwaite,W (editor) The Habermas Reader (Cambridge: Polity Press, 1996). Also see the work of Claus Offe, most accessibly discussed in Jessop,B The Capitalist State. Marxist Theories and Methods (Oxford: Martin Robertson, 1982) p106ff

[21] Barnes,B The Nature of Power (Cambridge: Polity Press, 1988) p169

different forms of awareness" and that "knowledge and society are inseparable".[22] Thus, in a similar way that I argued in the first chapter there can be no unmediated knowledge, Barnes suggests there can be no unmediated society, its power structures are encompassed by the reflexive knowledge that society has of itself. Social power relations are embedded within the construction of society as a *known* thing (echoing Feyerabend's argument that the 'thing' and the 'idea of the thing' cannot be separated).

If this is so, then what can be said about the nature of power and legitimacy? In dealing with the underlying force that enables a social regime to maintain power, Barnes contends that only the knowledge of such force resources enable their utilisation as *power*.[23] In the last analysis it is only important that such knowledge is believed/accepted as true: provided I believe that you *do* have a large club behind the door, then it really is unimportant for the power relationship between us whether, in fact, you do. However, by no means all legitimacy is based on the knowledge (or presumption) of immediate sanction of transgressions. In response to the distribution of power, individuals respond not so much through resistance (except in particular circumstances) but through accommodation and acceptance. Indeed, for Barnes legitimisation is little more than the recognition that much social interaction takes place within routines, which even though they stem from the power distribution, may on a day to day basis reflect the reflexive knowledge of social norms and mores. And this body of knowledge is constantly revalidated through its use in everyday circumstance.[24]

In parallel to Foucault, Barnes sees power as embedded within social relations and discourses.[25] However, the ability to mobilise this power, what Barnes calls 'discretion in its use' may be distributed unevenly, on the basis of the knowledge that social groups have constructed about themselves. In this way Barnes distinguishes himself from Foucault - allowing that certain agents can mobilise a discretion over power (through knowledge) that while not being power itself, is often analysed as such, leading to the non-recognition of the coterminous identity of knowledge *and* power. How such discretion is distributed is part and parcel of the distribution of knowledge. In much the same way that I will argue for an

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[22] ibid p170 emphasis added
[23] ibid p123
[24] ibid p56
[25] see Foucault,M The History of Sexuality. An Introduction (London: Penguin Books, 1990) p91ff especially where Foucault dismisses a number of resource based notions of power and argues against particular points of power holding.

expanded view of knowledge, Barnes includes under such a rubric not only understandings but a number of other intellectual (or mental) relationships such as those of trust and authorisation as well as empowerment and delegation. Thus, those who have at their discretion the operations of power, may through the operation of knowledge relations be able to allow a limited (by time or scope) use of their discretion by other social actors. And their ability to establish a legitimate acquiescence to specific transfers underlines their final discretion over power outcomes.[26]

Thus Barnes claims that power "is predominantly, if not totally, embedded in or based on routines and organised actions. But it is discretion in using the routines and the organisation that is involved in *possessing* power".[27] Power, is no longer linked to the product of the relations between two actors, the powerful and the dominated. Rather it should be seen to be embedded within the complex of social relations that make up the milieu of social existence. If this is the case how can we identify where power (or for Barnes, more correctly, the discretion over power) lies? At this point it is necessary to consolidate the moves that I have been making away from a description of power that is based purely on an analysis of particular social relations. Utilising Barnes' insights regarding knowledge I want to erect a different, though connected analytical framework.

Beyond Relational Power

The foregoing discussion has aimed to expand the notion of power beyond the exchange based relational construction. If knowledge as a basis of some sort of 'competent authority' is to play a role in the analysis of power, then there is a need to explore how power is implicated in the recognition (and acceptance) of knowledge and why such knowledge might impact on power relations. In this regard I have already expanded the discussion to include legitimacy and its roots in social relations. While there may be a temptation to foreclose on further expansion, enabling analysis to concentrate on particular intended and easily identified instances of the operation of power (using a closely delimited conception of power), such an analysis would be woefully incomplete.[28] This

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[26] Barnes op.cit. pp67-94 The expansion of the concept of 'knowledge' is dealt with at length in the fourth chapter, building on the foundations that I laid in the first.
[27] ibid. p64
[28] Here I am taking a position directly counter to Wrong's concluding remarks, see Wrong op.cit pp248-257 where he argues that an expansion of the analysis I have already outlined would lead to power being merely another word for aggregation of *all* social interactions. A central part of the

leads me to consider one of the most influential critical reassessments of power in the social sciences, that which has been offered by Stephen Lukes.[29]

To rectify the shortcoming in analyses that stems from conceiving of power in exchange or relational terms only, Lukes starts by identifying *three* analyses of power, each more powerful than the previous. First, there is a one-dimensional view of power which focuses on behaviour when decisions are made on issues over which there is some conflict of interest. Power is the element that reveals why one party's interests take precedence over the other's and thus enables an analysis of power-holding (or power distribution).[30] Lukes notes that this 'pluralist' conception of power is often drawn from a reading of Robert Dahl's work on government in the United States. This first dimensional view, while focusing on obvious and explicit conflict, sometimes throws up evidence of less explicit power relations that the analyst may typify as 'influence'. However, in general it is only the settlement of explicit and identifiable conflicts that mark the utilisation (and thus recognition) of power, and its pattern of distribution.[31] Thus while able to recognise a number of different resources that may be utilised by power, this one dimensional approach retains a narrow focus as to when such resources may be mobilised (there must be a *positive behaviour* of power-holders) in the field of social relations.

Lukes then goes on to elaborate a two-dimensional view which represents a "qualified critique" of the limited focus on certain types of (positive) behaviour in the first view. This second dimension in addition considers ways in which "decisions are prevented from being taken on potential issues over which there is an observable conflict".[32] The actor(s) enjoying power within a relationship may delay decisions (almost indefinitely) or obstruct the decision making process for a particular issue altogether. This might be regarded as the power to ignore the agitation of those who are opposed to the outcomes preferred (or settled) by the power-holder. In so much as this involves the ability to do nothing this second-dimension might be termed *anti-behavioural*.[33] However, this analysis still revolves around the recognition of some observable conflict and the argument

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argument I am developing is that indeed power *is* implicit in *all* social interactions, in one way or another.

[29] Lukes,S Power: A Radical View (Basingstoke: Macmillan Education Ltd, 1974)
[30] ibid. p15
[31] ibid p14
[32] ibid p20
[33] ibid p18

around decisions over outcomes, and therefore still remains limited in its scope to recognise fully the distribution of power. In both these analyses (the one- and the two-dimensional), power is by its nature a resource that can be utilised, or mobilised, only within a particular relationship between actors. And when it is *not* being utilised, or deployed to affect outcomes it is no longer analytically significant.

This leads Lukes to suggest that a three-dimensional view of power is needed in addition to the first two views. This third dimension, would consider how *potential* issues are kept out of politics altogether. 'Power' in this view controls the agenda to obscure and hide conflict, *though potential conflicts will still exist.*

> This potential, however, may never be actualised. What one may have here is a *latent* conflict, which consists of a contradiction between the interests of those exercising power and the *real* interests of those they exclude.[34]

The prevailing actor will use their power through the operation of social forces and institutional practices to define problems, and thus the mandated choices of possible solution. While retaining the central contention of the first two views that power is only revealed when there is some sort of conflict, in the third dimensional view, the absence of explicit conflict at a particular juncture, does not preclude an analysis which seeks to identify the role of power over such social settlements and outcomes that are being examined. In the third dimension it is the control over the knowledge of the possibility (or actuality) of conflict that becomes an additional and important site of power mobilisation.

By controlling the agenda of possible outcomes to be considered, the decision making process may be presented as fair and equitable because unpalatable or unacceptable solutions for the dominant actor, never reach the agenda for consideration by others. Even where power is not absolute, an agenda may be subject to modification by the more powerful actor(s) in a relationship. However, this conception of power involves an openness to some sort of 'counterfactual' analysis, as what is to be explained and analysed is an absence, something (a conflict) that is not explicit in the social relations being investigated. While it is important to recognise the ongoing distributions of power which do not merely arise when conflicts explicitly appear in social relations, it requires a much wider understanding of power to suggest an analysis that includes this third dimensional conception.

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[34] ibid p24

Lukes identifies two problems that an analysis which presents a third dimensional view needs to overcome. Firstly, which counterfactual should be identified as analytically contingent on the existence of power. What is it that power is hiding, or preventing from being recognised fully? And secondly, there is the need to identify the processes or mechanisms by which the exercise of power can obscure conflicts. How does it do this?[35]

An overall social analysis may propose conflicts that are not immediately apparent in the field of social relations under investigation. This will lead to the nomination of counterfactuals that are to be investigated. Lukes points to Marxist derived analyses as one way to understand the implicit social conflicts that power is able to obscure.[36] By supposing (or identifying) a social structure where interests are aligned according to various factors, certain conflicts would be expected. If these conflicts fail to materialise then there is a need within the argument to propose what is causing this absence. For Lukes this will be power's third dimension - the power to structure social relations in a certain way. As Lukes admits such evidence can never be conclusive, not least of all as there will always be other counterfactuals that other theoretical standpoints proposing other social structures might posit. However, in as much as the discussion of the first chapter suggested that no world-view can claim an objective reality as its own, I will accept that such a positing of counterfactuals needs to remain an ideological issue that while being open to debate and argument is not amenable to absolute proof (or disproof).[37]

Identifying the power processes and mechanisms in the third dimension is also a difficult issue. Lukes divides this problems into three interlinked questions that need to be addressed by power analyses: inaction; unconsciousness; and collective attribution.[38] Inasmuch as the notion of counterfactuals is concerned with inaction there may be a problem with identifying its incidence. However, with an account of where there *should* be conflicts (given the investigator's analysis of interests),

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[35] ibid. p46ff. How well Lukes deals with these problems is the subject of the debate between Bradshaw and Lukes, see Bradshaw,A 'A critique of Steven Lukes' Power: A Radical View' and Lukes,S 'Reply to Bradshaw' *Sociology* Volume 10, No.1 (January 1976), and Lukes' discussion of Habermas' call for counter-factual work in Lukes, S 'Of Gods and Demons: Habermas and Practical Reason' Thompson,J.B. & Held,D (editors) Habermas. Critical Debates (London: Macmillan Press, 1982)

[36] Lukes, Power, A Radical View op.cit. p47/48

[37] Here I echo Lukes' suggestion ibid p50. And see my argument in the first chapter. Bradshaw in his critique is not prepared to accept this and suggests it makes Lukes' conception of power 'unoperational', a position which is at odds with my own sympathy with Lukes'.

[38] ibid. p50-56

if actors who might have acted in the face of some social fact do not, then the incidence of inaction can be recognised (or at least proposed). Additionally the unconsciousness of the power that is being wielded is not fatal to the argument. The inability to recognise the effects of an actor(s)' power (on their own behalf) is hardly conclusive as a dismissal of such effects. While the behavioural analysis of power is based on the notion of intent, power over outcomes (even if it *appears* unintended) is no less real to the subject of such power.[39]

Indeed as Guzzini notes, this leads to perhaps the greatest problem for the discussion of power in the social sciences.[40] If, as I have laid out above, there is a need to expand the notion of power beyond the relational and adopt Lukes' third view of power as a complement to the first two, then the question of power as intentional actions comes to the fore. Guzzini fears that if the unintentional outcomes of social relations and actions are included under the rubric of power, then the use of the concept of power becomes not an explanation of outcomes but rather the substitute for a meaningful explanation.[41] Undoubtedly, there is a danger that if power is such an all-encompassing factor of causality then it becomes a crutch for arguments that are either unable (or unwilling) to produce a detailed analysis of causes of outcomes. That said, the multi-faceted concept of power that Strange develops (relational *and* structural) avoids this trap by recognising the different sorts of power that may be causal in any particular instance. While intent is certainly important, so is manifestation or effect. Neither on its own can offer a satisfactory account of the operation of power in social relations, and while Guzzini's criticisms of the power debates in IR and IPE are a useful corrective, his appeal for a parsimonious theory of power, seems to me to be exactly the position that Strange has argued against in her discussions of the discipline, which I discuss below.

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[39] Again Bradshaw is unwilling to accept such a position, arguing that power without intent is not a useful concept. However, as Lukes stresses in his response to Bradshaw,

> I do not see why the exercise of power need involve such awareness. Nor need it (to use Bradshaw's helpful phrase) involve awareness of the 'cause, reception or result' of one's actions... I do not see that any of these failures of awareness necessarily absolves agents from responsibility, whether their actions are negative or positive - though to establish that it does so will involve complex and *contestable* judgements about what the agents could have known, but did not. (emphasis added)

Lukes, Reply to Bradshaw op.cit. In the discussion of the widened knowledge structure in chapter four one of the elements of the expansion is the perception of effects *contra* intent as valid knowledge.

[40] Guzzini,S 'Structural power: the limits of neo-realist power analysis' *International Organisation* Volume 47 No.3 (Summer 1993) p443 - 478

[41] ibid. p478 As noted, this is also essentially Wrong's position, Wrong op.cit.

Returning to Lukes, the third difficulty he notes is with the attribution of the exercise of power to social groups. As he points out in his discussion of the debate between Althusser and Poulantzas, their difference "turns on a crucially important conceptual distinction", between power as exercised by actors (or groups of actors) and that which limits their actions by embedding them within structural determinants.[42] If social groups provide the structure through their control of the 'knowledge' of conflict then (to put it in its familiar characterisation) what balance can be drawn in an analysis between structure and agency. While there is a need to recognise the structures within which power relations operate, equally, if structures were fully deterministic then there would be no basis for recognising power in an analytical sense, as the structures would bring about all effects/outcomes. This crucial problem, quite how much freedom of action do actors have within the structures in which they find themselves is the root of the questions with which this study is concerned. One of the key elements within the analysis of the third dimension of power must be the operation (or otherwise) of *socialisation* in particular social relations.[43]

So while a conception of 'power' is important for any social study that looks at relations within social groups or arenas, however constructed, there is no settled view of how such a conception should be constructed. If 'power' not only settles outcomes within relationships but can, in effect, define those relationships through control of (or at least influence over) the relational agenda, it is as Russell asserted, the fundamental concept in social science. And without understanding 'power' we cannot understand how relational conflicts are resolved and how the actors' agendas are set, or changed. But this is not to claim that an analysis of (what I shall term in this study) *structural* power should preclude or replace conceptions of *relational* power. While I would certainly argue that the lack of theoretical and analytical recognition of structural power is a major problem for IPE, this is not to assume that a structural analysis on its own would be any more useful than a relational analysis that failed to include structural elements in its argument.

These arguments about power could be cast as a debate between International Political Economists and International Relations scholars. And certainly, it is not

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[42] Lukes, Power. A Radical View op.cit. p54. Inasmuch as these debates were concerned with the ability to 'recognise' and act upon social structures they followed on from the translation of Antonio Gramsci's work in English.

[43] As Bradshaw op.cit. correctly notes, while this seems clear, 'socialisation' is a word that is conspicuous by its absence from Lukes characterisation of this third dimension.

infrequent that discussions of power do seem rather partisan, arguing from the points of view of different perceptions of what might be the discipline best able to deal with the relations between social actors at the level of the global system.[44]

Susan Strange, Structure and Structural Power

Since I am locating this study in the disciplinary approach which is conventionally described and theorised under the rubric of International Political Economy, the introduction of the issue of structural power leads me to one of the key aspects of this study, the work of Susan Strange. Discussion of structural power in IPE, while certainly predating Strange (not least among Marxist theories of Imperialism), has often centred on Strange's contribution to the debate, her seminal text *States and Markets*.[45] Below I will suggest that Strange's theoretical model of four structures while being an excellent foundation, needs further development if it is to fulfil its potential to become the basis for the IPE that I wish to construct. Firstly though, it is important to establish what Strange's position is, as much can be carried forward into the reformulated perspective without extensive reworking. And by exploring her perspective the areas which *do* require reworking will become apparent.

Strange has argued that structural power within the international political economy has four analytical identifiable elements acting on each other; security, production, finance, and knowledge. But before exploring what these structures involve, it is necessary to establish the links between Strange's conception of structural power and 'structuralism'. Her work seeks to address the need she perceives for a *structural* approach to power to complement analyses of relational power and will be elaborated in relation to IPE in the next chapter. Here I will explore the links between Strange's structuralism and the wider debates over structuralist approaches to the field of social, political and economic relations. I

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[44] The various contributions to Stoll,R.J. and Ward,M.D. (editors) Power in World Politics (Boulder: Lynne Rienner Publishers, 1989) make up a useful cross-section of such debates. See also O'Brien,R. 'International political economy and International Relations: apprentice or teacher?' MacMillan,J. & Linklater,A. (editors) Boundaries In Question. New Directions in International Relations (London: Pinter Publishers, 1995) which discusses the need to develop an inclusive IPE which would *include* IR.

[45] Strange,S States and Markets. An Introduction to International Political Economy (London: Pinter Publishers, 1988). The word 'introduction' in the title has misled some (who shall remain anonymous, but whom have at various times made their opinions known to me) to misrecognise the ground breaking contribution of this text. However, more thoughtful theorists in IPE recognise the work as a key text and its extensive citation (at least in European IPE) underlines the ironic claim that the subtitle meant to capture!

centrality of a general analysis of structural power. It is crucial to understand that for Strange, there can be no fixed ordering of the four structures of power that she proposes, none is always more important than the others. While for instance she may draw on Marxist analysis of the production structure, she is not prepared to accord it a prior determining role.[48] In a sense there is only one articulated structure, of which these four structures are elements, at any one time balanced differently but all evident all the time whatever their particular weighting.

If we follow Williams and distinguish within any account of a generalised structure, two understandings - the process of construction and the thing constructed - then Strange's concern while bridging the two is more concerned with the way the structures come into being (or to be more accurately the way they change, as she reads her four structures back into pre-history).[49] When Strange is concerned with structural power she is concerned not just with the structures within which such power operates but also how power can reproduce and reconstruct these structures. This (re)construction takes place out of sight, or as Strange puts it, the possessor of structural power "is able to change the range of choices open to others, without *apparently* putting pressure directly on them to take one decision or to make one choice rather than others".[50] Thus at its most basic structural power is able to affect outcomes not through coercion, but by presenting some 'choices' confronting actors as 'real' while hiding (or denying the plausibility) of others. (Strange, in a footnote to her discussion of power suggests that 'the literature of power theory is much more developed than would appear from looking at international economics or international politics" and cites Nagel as a source without giving any further indication of influences on her structural thinking.[51])

Strange and other structuralists

As will be discussed in the section on epistemological issues, Strange tends to rely on her 'common sense' when making arguments and this leaves her influences

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[48] Strange, States and Markets, op.cit. p.26.

[49] see Williams,R Keywords. A Vocabulary of Culture and Society (London: Oxford University Press, 1976) p253ff and Strange op.cit. p1-6 & p26/27 for Strange's discussion of why her proposed structures are pre-historical (though not pre-social!)

[50] ibid. p31 (emphasis added).

[51] see ibid. footnote 2, chapter 2 p241 where she cites Nagel,J.H. The Descriptive Analysis of Power (New Haven: Yale University Press, 1975). However, the content of this book is essentially concerned with relational power and gives little clue to the genesis of Strange's structural thoughts.

will lay out Strange's understanding of structure and then I shall compare this with other approaches. This will locate Strange as working within a broad body of theoretical development, establish where she differs from other structuralists and suggest that Strange is a *non*-Marxist structuralist (with the proviso that such a term, while having heuristic worth, should not be taken as indicating fully the content of any perspective).

Strange sets structural power off from relational power, and argues that there are two aspects that make up structural power in itself. The first, which she allows has been explored in the international regimes literature, is the power of certain actors to set the agenda of debates, or the norms, mores and customs adopted by the other actors in any particular political economic 'issue area'. However, for Strange the second aspect of structural power is much more wide-ranging and in a sense encompasses the first:

> Structural power, in short, confers the power to decide how things shall be done, the power to shape frameworks within which states relate to each other, relate to people, or relate to corporate enterprises. The relative power of each party in a relationship is more, or less, if one party is also determining the surrounding structure of the relationship.[46]

While structural power has a role allocated to it in regimes, it has a similar role across the whole of the international political economy. I will leave aside Strange's privileging of the state as I believe this to be essentially an argumentative gambit on her part, and can be dispensed with quite easily as the next chapter will show. I also draw support for this move from Strange herself who has made a similar explicit shift in her more recent work.[47]

Strange proposes that the distinction between relational power and structural power should replace the problematic distinction between economic and political power. By moving a step back into the causes of outcomes, behind the materially based distinction between politics and economics (which, based as it is on conventions of disciplinary and philosophical division must be contested, especially in any study of *political economy*), Strange seeks to establish the

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[46] ibid. p24/25. A similar role for structure is developed in Cerny,P.G. The Changing Architecture of Politics (London: Sage Publications, 1990) p57 and *passim.* For Cerny structures are the limitations on agency, but crucially (and parallel to Strange) these limitations may be perceived or assumed (which is to say ideational), in addition to materialised limitations on action.

[47] See for instance her most recent book Strange,S The Retreat of the State: The Diffusion of Power in the World Economy (Cambridge: Cambridge University Press, 1996). The arguments in this work underline the non-state perspective that Strange has on 'authority' in the international political economy.

difficult to assess, or even establish. Thus when seeking to locate her place in the 'pantheon of structuralists', I am unable to rely on an explicit trail of references to reveal what she has developed from whom. However, given the clear description of what she herself understands by structure (and the importance of 'knowledge' in its reproduction) the parallels with Gramsci would seem a good place to start. Indeed, Strange's theoretical development on this issue can be dated from the mid-1970s which coincides with the widespread interest in Gramsci's work engendered by the translation and publication in English of the *Prison Notebooks*.[52] This is in no way to claim that Strange is a 'neo-Gramscian', but there are certain aspects of Gramsci's work that would seem to have an echo in Strange's.

In so much as Strange sees the overall importance of structure as affecting the world-view in which social relations are conceived (as I will discuss below) then there is a similarity to Gramsci's position regarding the hegemony of the ruling class. Both argue that structural power is the power to reproduce an 'organising principle' that reflects particular (class) interests.[53] As Strange would do later, Gramsci recognised that the power to reproduce such an 'organising principle' would not be a static conception; it would involve both its acceptance by those subject to hegemonic domination, *and* the work of intellectuals to repair and maintain this 'organising principle'. Additionally, changes in material relations would feed into the constant process of (re)construction. If "Gramsci's concept of hegemony introduces fundamentally new insights into the issue of political domination within the Marxist tradition",[54] then Strange's notion of the 'knowledge structure' does much the same for IPE. Both are concerned with revealing the power of (and that accrues to) those that can construct the dominant notion of 'common-sense'.

In their work both Gramsci and Strange recognise not just the importance of the relations in which power is manifest, but the way those relations are perceived (and reproduced) by those within them. However, Gramsci, in the last analysis accords the structure of production a singular and primary role in relation to the superstructure, a role which Strange is unprepared to accept. For Strange, structure and super-structure are not vertically aligned but arranged at the same analytical

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[52] Gramsci,A Selections from the Prison Notebooks (edited and translated by Quintin Hoare and Geoffrey Nowell Smith) (London: Lawrence & Wishart, 1971)
[53] Boggs,C Gramsci's Marxism (London: Pluto Press, 1976) p38/39
[54] ibid. p42

level. Indeed her position on these structures is closer to Althusser's rereading of Gramcsi's ideological basis of hegemony, where all structures are seen as operating at the same level.[55] The idea of knowledge as a form of 'production' that can be analysed in parallel to other forms of production is similar to Althusser's concept of the 'ideological state apparatus'. Knowledge production is a process of reproduction and dialectic critique, but not one that is either subordinated to or prior to the development of (material) production. For Althusser, both mental and material production are part of the same structurally determined reality of capitalism.[56] It seems unlikely that Strange was not aware of this work when developing her own standpoint on this issue.

In the final analysis, for Althusser these structural interactions take place at the level of the state itself. But despite Strange's apparent privileging of the state, as noted above is not a *necessary* element of *her* argument. Strange remains nearer to Gramsci in identifying a major role for the individual in the 'knowledge structure' (in that it is amendable by the action of individual agents), while closer to Althusser in the way structures might interact. She rejects the functionalist gloss that Althusser puts on 'ideological state apparatuses', retaining a position of horizontally arranged structures, nearer the position that Althusser subjected to self-criticism.[57] By retaining and developing a role for agency and knowledge developments in her perspective (and by doing so also avoiding some of the criticisms of determinism levelled at structural theories), it is likely that Strange was working with a knowledge of E.P.Thompson's famous critique of Althusser.[58] Strange retains the position (argued for by Thompson, following Marx), that while individuals are made by their history, they also *make* this history themselves.

In Althusser's earlier position the "unity of the social *totality* can only be grasped at any one moment by understanding it as a unity of necessarily related, necessarily uneven instances [of structural determination]".[59] Here there is a

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[55] Althusser,L Lenin and Philosophy and other essays (London: New Left Books, 1971), specifically 'Ideology and Ideological State Apparatuses' pp121-173, and see Anderson,P 'The Antinomies of Antonio Gramsci' *New Left Review* No.100 (November-January 1976/1977) p34ff

[56] See also the section on 'The Processes of Theoretical Practice' in Althusser,L For Marx (London: Allen Lane, 1969) pp82ff for the linked argument regarding Marx's own theoretical development, and the useful overview of Althusser's position on these matters in Benton,T The Rise and Fall of Structural Marxism. Althusser and his influence (Basingstoke: Macmillan, 1984) p36ff

[57] see Althusser, Ideology and Ideological State Apparatuses, Lenin & Philosophy op.cit. and Benton op.cit. p103ff

[58] see Thompson,E.P. The Poverty of Theory (London: Merlin Press, 1978) pp193-398

[59] Callinicos,A Althusser's Marxism (London: Pluto Press, 1976) p47 (emphasis added).

similarity to the Strangian totality broken into various structures (though not necessarily the *same* structures) none of which can (or indeed should) be separated finally off from the others. In Williams' terms Strange is concerned with the construction and reproduction of these structures, while Althusser is more concerned with the overall structure itself. Formally he argues that all theories go through a phase that can be termed 'descriptive theory' before reaching the stage of a more dynamic (and change sensitive) mature 'theory', but given the essentially static nature of Althusser's structures it is less than clear how the process of reproduction can be said to introduce changes into the structures (if indeed Althusser would allow that it could). Despite his protestations to the contrary, Althusser "paid little or no attention to historical changes".[60] This leads me to suggest that though Strange's structuralism is far from Althusser's, there is a trace of what might be termed an 'Althusserian moment' in her work.

While Strange seems to have drawn sustenance from the debates that surrounded Althusser and his critics, there are some striking parallels with other structuralist writers which need to be briefly explored. In Strange's argument that the structures she posits function at a number of different levels (from small social group to global political economy) there is a similarity to Lévi-Strauss' position. Lévi-Strauss stresses in his essay 'Social Structure' that he is using the model of structures to investigate phenomena at a number of social levels and is not positing a specific structural level as such. One of the strengths for Lévi-Strauss of this analytical basis is that by concentrating on the structures at whichever level is of interest to the investigator can "override traditional boundaries between different disciplines and... promote a true interdisciplinary approach".[61] Indeed, Lévi-Strauss argues (in response to his critics) that:

> a concrete society can never be reduced to its structure, or, rather, structures (since there are so many of them, located at different levels, and these various structures are themselves, at least partially, integrated into a structure).[62]

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[60] Bottomore,T 'Structuralism' Bottomore,T (editor) A Dictionary of Marxist Thought (Second Edition) (Oxford: Blackwell, 1991). On descriptive theory see Althusser, Lenin and Philosophy op.cit. p132ff and for the most famous and extensive critique of the lack of dynamic within Althusser see Thompson, Poverty of Theory op.cit.

[61] 'Social Structure', Lévi-Strauss,C Structural Anthropology (New York: Basic Books, 1963) p284/5. Though I should note that some have seen this essay as 'misleading' as regards Lévi-Strauss' own work, see for instance Glucksmann,M Structuralist analysis in contemporary social thought (London: Routledge & Kegan Paul, 1974) p33

[62] 'Postscript to Chapter XV ['Social Structure']' Lévi-Strauss, Structural Anthropology op.cit. p327

As I will discuss below, the breaching of disciplinary boundaries has been a central driving force behind Strange's work for many years. And in an echo of Lévi-Strauss' claim for his structuralism, her theory of structural power is a theory she suggests that can be utilised at a number of levels of analyses. So in both there is a concept of structure that does not argue for a particular structural level, but rather that social relations have structures and thus have at different levels of analysis, different (though analytically similar) structural characteristics.

If Lévi-Strauss acts as a precursor to explicit modes of Strangian analysis, it is also instructive to note that he stresses one aspect of structural analysis, that though implicit in Strange's work, will be made concrete by my reworkings in chapter four. Rossi points out that at the centre of Lévi-Strauss' work "there is no priority of either reality (social relations, activity, mode of production) or mind (conceptual scheme or aggregate structures) but a dialectic interaction between the two".[63] When I reformulate Strange's perspective, the notion of the 'dual dialectic' which I develop from Strange's work may be an echo of her reading of Lévi-Strauss. Again, though difficult to establish a direct link, due to Strange's lack of explicit referencing, the parallels with Lévi-Strauss are interesting and help situate Strange's overall project within the corpus of structuralist writing.

Strange's work also seems unlikely to have been unaffected by the work of Michel Foucault. Indeed, as I have noted at the end of the previous chapter, some of Foucault's concerns clearly parallel Strange's. Here I will limit the observations I make to Foucault's concern with structure, elaborated in *The Order of Things*.[64] Though, of course, it is difficult to disaggregate elements of Foucault's thought, some influence on Strange can be detected. In the first chapter I discussed Kuhn's notion of the paradigm, and there is some parallel with Foucault's *episteme*.[65] I will develop Strange's work on knowledge in chapter four, but here it is useful to note the proposed structural qualities of Foucault's *episteme*.

While structure describes the arrangements of components that make up the whole, it "also makes possible the description of what one sees", and by "limiting and filtering the visible, structure enables it to be transcribed into language".[66]

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[63] Rossi,I 'Structuralism as Scientific Method' Rossi,I (editor) The Unconscious in Culture. The Structuralism of Claude Lévi-Strauss in Perspective (New York: E.P.Dutton, 1974) p98/99
[64] Foucault,M The Order of Things. An Archaeology of the Human Sciences (London: Tavistock Publications, 1974)
[65] Piaget,J Structuralism (London: Routledge and Kegan Paul, 1971) p131-133
[66] Foucault, Order of Things op.cit. p135

Though Foucault's work is nuanced and detailed, the central issue which seems to have found its way (though not necessarily directly) into Strange's notion of structure is the *episteme*'s ability to set the agenda of recognition and discovery. In the internalisation of *rules* and *norms* of epistemological warrant, Foucault suggests that only certain 'finitudes' (the final subject of investigations) can be represented to the investigator. The *episteme* is a mediating (and unavoidable) factor in the individual's understanding of that which is outside the self.[67] Foucault is centrally interested in the discourse of knowledge(s) and accords it a primary structuring role. Here again Strange demurs from a particular structuralist's position, in that, as I have already noted, she is unprepared to privilege any particular structure in this way.

Strange and Piaget

Having briefly surveyed the manner in which Strange's work has certain parallels with other structuralist writers, it may be plausible to suggest that Strange's is a non-Marxist structuralism. But it might be better to describe such a position (in a formal sense) as a 'synthetic structuralism' which attempts to avoid structuralist determinism. In formulating it in this manner, I want to make explicit the (eclectic) method of theory building Strange has utilised to develop her own structuralist perspective. In his concise and useful survey of structuralism, which is an argument *for* structuralism, Jean Piaget produces a characterisation of structuralism that presents the internal structure of the synthetic structuralism that Strange has arrived at (though whether this is independently, or after a reading of Piaget, is, as might be expected, difficult to establish). Thus, I will briefly outline Piaget's argument and note the parallels with Strange's work.[68]

Firstly Piaget defines structures as having three necessary characteristics. A structure is necessarily a 'wholeness', which is to say that it is more than an aggregation of particular phenomena.[69] Structures must also be 'transformations', which is to say that they are not natural but *constructed* through some social process. And though the structures can be identified as separate from their constitutive processes, the key issue is that they have an origin, they are a transformation, the result of social activity.[70] Finally structures are self-regulating.

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[67] ibid. *passim* but especially the concluding chapter on 'The Human Sciences' p344-387
[68] Piaget, Structuralism op.cit.
[69] ibid. p6/7
[70] ibid. p10-13

Thus they react and shift in response to social actions, but by their effect on those social actions are able to resist (though not inevitably) large scale shifts in their (re)constructions.[71] Strange's structures fit these characterisations remarkably well. Her structures (at whatever level of analysis) aim to encompass the whole system of social relations. Strange stresses the historical construction of the structures through the interaction of successive actors' 'bargains' over outcomes and the structures in which such bargains are being played out. She always argues that the structures are the explicit result of social actions, at the level of social group or nascent global political economy. Lastly, the self-regulation of structures (their ability to delimit behaviour to ensure their survival) is one of her key interests and one that is linked firmly with her development of the 'knowledge structure'.

Turning to Piaget's characterisation of a structuralist theory, again there are parallels with Strange's work. Piaget argues that structural investigations cannot be exclusive, there is a need to investigate the sub-structural components of the social relations of which structures are the system level manifestation.[72] Strange avowedly builds on non-structural studies when she discusses the operations of the structures that she is proposing. This also counts for her own work on transnational companies, sectoral political economy and the workings of the international financial markets. In all these areas Strange has considered not only the structural aspects of social relationships but also the distribution of relational aspects of power. Central to her argument has been the *addition* of a structural perspective *to* the relational, not its replacement! Piaget secondly notes that structural analyses need to be inter-disciplinary,[73] an issue that as I noted above in relation to Lévis-Strauss, has been central to Strange's work.

Piaget also argues that there is no necessary sublimation of the subject in a structural analysis. Though there is an ever present danger of denial of subjectivity, once the realm of knowledge is recognised as a central constituent of structural (re)construction, then by its very nature the subject must also be central as otherwise how can knowledge be formed, reformed and developed. To labour a point already made, Strange's introduction of the knowledge structure into her analysis, is what establishes her structuralism's particular dynamic, and its parallel development to Piaget's. Finally, Piaget argues that if there is to be an analysis of

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[71] ibid. p13-16
[72] ibid. p137-142
[73] ibid. p140

structures then some place needs to be found for a functionalist analysis.[74] In Piaget's assertion that there is work do be done to discover what purpose is fulfilled by the structures in the form into which they have been (re)constructed, Strange's repeated question 'cui bono?' finds its counterpart. Piaget notes that structuralism is a method not a doctrine, and in the tendency for Strange to present her work as a research programme rather than a finished theory, again the connection with Piaget seems quite plausible.

Having laid out the links between Strange's work on structural power and the literatures that inform each term (structure and power), I will move to contextualise her work on structural power within the overall body of her writings. In claiming that Strange is a 'synthetic structuralist' working with a Piaget-like structuralism, it is important to situate this strand of her thought in its immediate surroundings so as to underline some of the assertions I have made above regarding her openness to non-structural issues and the inter-disciplinary nature of her enquiries.

[74] ibid. p141/2

Chapter three - Strange's work

Introduction - Contextualising Strange's Work

Having explored how Strange's notion of structural power has a number of antecedents, and before discussing her perspective in detail, I will briefly contextualise the theoretical aspect of her work within the overall body of her writings.[1] Strange's interests developed over a number of years, from her work for Chatham House on British financial policy's international dimension, to a more focused concern with questions of economic power and how such power structured international monetary relations. As these relations became more disturbed during the late 1960s and early 1970s, she focused increasingly on the international political economic dimension of such issues, and started to question how power was being conceptualised in explanations of these international financial disruptions.[2]

Robert Cox has suggested that "Theory is always *for* someone and *for* some purpose. All theories have a perspective".[3] In Strange's case, her theory of structural power has indeed served a purpose in relation to her other work. Her theory of power was formulated to offer support for the argument that the United States need not fail to lead, but could choose to exercise its economic power not only for its own interests, but for those of the international system as a whole. This is to say, American politicians lacked the *will* to lead not the means. This argument was formulated as a direct and explicit response to the 'declinist school' in International Political Economy. These theorists argue(d) that American hegemony is in decline: America's inability to affect outcomes in the global system is due to the (relative) decline of its share of the resources that engender power over others.[4] For her counter-argument to be plausible Strange needed a

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[1] For a full annotated bibliography of Strange's writings on IPE see May,C Writings on the Wall. An Annotated Bibliography of Susan Strange's Writings on International Political Economy 1949-1995 (Nottingham: Nottingham Trent University, 1996)

[2] For a more detailed auto-biographical treatment see Strange,S 'I Never Meant to Be An Academic' in Kruzel,J and Rosenau, J.N. (eds.) Journeys Through World Politics: Autobiographical Reflections of Thirty-four Academic Travellers (Lexington: Lexington Books, 1989).

[3] Cox,R.W. 'Social Forces, States & World Orders: Beyond International Relations Theory' *Millennium: Journal of International Studies* Vol.10 No.2 (Summer 1981) p128

[4] For instance see Kennedy,P The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000 (London: Unwin Hyman, 1988) and Keohane,R After Hegemony: Co-operation and Discord in the World Political Economy (Princeton: Princeton University Press, 1984).

theory that explained how power could be exercised without overt coercion and why, despite the widely held perception of the erosion of material capabilities in some areas, it was possible that the United States was still the predominant actor in the international political economy. What emerged from this contention was a general theory of structural power, which has a much wider salience.

There are three main strands to Susan Strange's work: the (re)analysis of power in the international political economy as central to inter-national political economic relations; the examination and criticism of the direction that the discipline of International Relations (and more importantly International Political Economy) has taken; and an account of the politics of the 'finance structure', international financial economics and its political relations. The second two strands underlie and inform the first. And though this typology is more for convenience than a fixed division in her work, there is little difficulty recognising in her writings these three areas of interest. As all the strands act on each other it is worth briefly noting Strange's other concerns before concentrating on her perspective on structural power.

Strange has made a number of criticisms of both the preoccupations and the methodology of IR, and by extension IPE. She has argued that much theoretical work is not really theory at all if theory should offer explanation based on 'principles independent of the phenomena to be explained'.[5] She argues that merely putting one event after another in a descriptive manner, without explicitly linking them causally, cannot count as explanation. Neither can the formulation of a new international taxonomy be characterised as theoretical development - naming and sorting does not explain.[6] While Strange implicitly accepts Bhaskar's position that theories in the social sciences "*cannot be predictive*, and so must be *exclusively explanatory*", and that therefore social science theories can only look back *not forward*,[7] this does not imply she accepts only some sort of descriptive historicism as a social scientific model. Strange still requires theory to be able to develop conceptual constructions that have some sort of transhistorical significance.

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[5] Strange,S 'Towards a Theory of Transnational Empire' Czempiel, E.O. and Rosenau,J.N. (eds.) Global Changes and Theoretical Challenges: Approaches to World Politics for the 1990s (Lexington: Lexington Books, 1989) p.161. The definition of theory Strange uses here and elsewhere is one drawn from the Oxford English Dictionary.

[6] Strange,S States and Markets (London: Pinter Publishers 1988), p.10 and Strange, Towards a Theory of Transnational Empire, op.cit., p162.

[7] see the discussion of Bhaskar's position in the first chapter.

Perhaps more outspokenly, Strange maintains that merely importing models and theories (with adaptations) from other social sciences (game theory or systems theory, for example) does not produce explanatory theories either. A theory of IR or IPE should be based on the study of its field, not of supposedly parallel phenomena. Crucially for Strange, theory "must seek to explain some aspect of the international system that is not easily explained by common-sense".[8] Paradoxically, in part Strange's depiction of structural power is built on what she herself calls "no more than a statement of common sense".[9] However if a distinction between assumptions that are common-sense and explanations that are common-sense is made, it is possible to overcome this apparent contradiction. As Sellars notes it is difficult to imagine any theory that does not have its roots in the manifest world, however remote those roots may be in the final theory. Strange has offered her assumptions based on common-sense as a first entry point into a more complex structural theory, rather than as a theory in themselves.[10] Indeed, in some cases Strange's claims for the 'common-sense' nature of her assumptions, are a mask for an implicitly 'inclusive' ontology. I will return to the implications of such an ontology when I reread the knowledge structure in the next chapter.

Strange also argues that the greatest misperception gripping mainstream IR/IPE is that the international system has not substantially changed. Many of the failings of mainstream theory stem from attempts to make theoretical statements that are insufficiently sensitive to historical developments.[11] She argues that social scientists need to be much more cautious in the claimed scope of their theoretical statements, and to be aware of the limits and dangers of stretching abstract theories too far. If history and institutions (and *their* history) matter, then ahistorical generalisations are revealed to be extensions of historically specific cases to the level of law. For Strange this is a fundamentally illegitimate step and one that she resists. There is a need however, to which Strange responds, to develop theoretical statements which incorporate historical time not just in their originating statements, but in their substantive content as well.

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[8] Strange, States and Markets, op.cit., p.11 and similarly Strange, Towards a Theory of Transnational Empire, op.cit., p.163.
[9] Strange, States and Markets, op.cit., p.29.
[10] This point is usefully elaborated in Richards,J.L. 'States and Markets' *(Book Review) The Economic Record* Vol.65, No.191, p.403.
[11] Strange,S and Tooze,R (eds.), The Politics of International Surplus Capacity (London: Allen and Unwin, 1981) p.17. And more recently Strange,S 'Wake up, Krasner! The world has changed' *Review of International Political Economy* (Summer 1994) pp209-219 *passim* and Strange,S The Retreat of the State: The Diffusion of Power in the World Economy (Cambridge: Cambridge University Press, 1996) part 1 *passim*

Strange's seminal article 'Cave! Hic Dragones',[12] which for many years was perhaps her best known (and extensively cited) piece of work, turns her critical gaze on one particular theoretical perspective in IPE, which at the time of writing (1982) seemed particularly problematic. Strange argued that the 'regime analysis' of Stephen Krasner and others, by concentrating on inter-governmental organisations, had too easily taken on the agenda of particular powerful states in the international system. By focusing on areas of international agreement, this analysis left aside vast areas of the international political economy which were not on the agenda of the major state actors, and which, to these actors were thus of no importance.[13] Despite the protestations of their authors, these studies of interdependence mediated through regimes were, she suggested most often concerned with intergovernmental bodies and ignored other transnational actors of equal importance.[14]

Strange also noted that regime theory as a perspective in general did not require the scholar to ask whose power (in Krasner's formulation[15]) a regime's 'principles, norms, rules and decision-making processes' most reflected. Nor did it question the sources of power within the regimes studied. Strange strongly argued that by "not requiring these basic structural questions about power to be addressed, and by failing to insist that the values given predominant emphasis in any international 'regime' should always be explicitly identified" the perspective undermined any claim it might make to being able to critically engage with its subject matter. Analyses all too often took for granted that the values of the powerful states were the values of the whole system.[16]

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[12] Strange,S 'Cave! Hic Dragones: A Critique of Regime Analysis', *International Organisation* Vol.36, No.2, Spring 1982 (and reprinted in various anthologies).

[13] Strange, Cave! Hic Dragones, op.cit., pp.492-3. and Strange,S Casino Capitalism (Oxford: Blackwell Publishers, 1986) pp.170-1

[14] For instance see Cooper,R.N. The Economics of Interdependence: Economic Policy in the Atlantic Community (New York: McGraw Hill Co., 1968 [reprinted 1980]); Keohane,J.N. and Nye,J.S. Power and Interdependence (Second Edition) (No place of publication [New York]: Harper Collins Publishers, 1989); or Scott,A.M. The Dynamics of Interdependence (Chapel Hill: University of North Carolina Press, 1982) all of which concentrate on intergovernmental organisations.

[15] Krasner,S 'Structural causes and regime consequences: regimes as intervening variables' Krasner,S (editor) International Regimes (Ithaca: Cornell University Press, 1983 [reprinted 1995]) p2

[16] Strange, States and Markets, op.cit., pp.21-2 and more recently on the disciplines of IR and IPE see Strange,S 'Theoretical Underpinnings: Conflicts Between International Relations and International Political Economy' (Paper presented at BISA, Southampton, 1995)

Thus, in one sense Strange's work has been a response to these criticisms of IR and IPE. But if it has been an attempt to safeguard a new IPE from these shortcomings, she has also sought to fill a particular lacuna in the analysis of the international political economy. Building on her early work and research which was concerned with the history and politics of the international monetary system, Strange has been concerned to explain the history and power relations of the financial structure. This strand has seen Strange publish a number of full-scale works and articles on the international politics of money and credit, which have informed her analysis of the international political economy in general.[17] While this work has fed into the theory of structural power - finance is one of the four structures - it represents a substantial element of her work in itself.

The two key issues which are central to Strange's work in this strand of her work are the centrality of credit creation to international financial relations, and the roots of the continuing (though variable) volatility of the international financial sector. Strange suggests that in the financial sector the key locus of power (and this is 'power' as she understands it) is the ability to legitimately control the creation of credit. This 'authority' may lie with state actors, but this is not necessarily the case. Indeed part of 'retreat of the state' has been the transfer of such powers to non-state actors.[18] Secondly, this transfer of power is neither 'natural' nor unavoidable, it has been the result of a series of decisions and non-decisions by states. Strange locates the declining ability of states to 'control' international financial relations in their own behaviour and policies, not in the 'logic of globalisation' or any other historical process outside states' purview. It is also crucial to note that by moving from this sectoral specialisation to a more overarching concern with structural power and transnational relations, Strange provided a model for the research methodology she believes studies in IPE should follow.

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[17] Books: Strange,S The Sterling Problem and the Six (London: Chatham House/PEP, 1967); Sterling and British Policy (London: Oxford University Press, 1971); International Monetary Relations [(Volume 2 of Shonfield,A (ed.), International Economic Relations in the Western World 1959 - 71 (London: Oxford University Press, 1976); Casino Capitalism, op.cit. Articles include: 'IMF: Monetary Managers' Cox,R.W., Jacobson,H.K. *et al.* The Anatomy of Influence: Decision Making in International Organisation (New Haven: Yale University Press, 1974); 'Still an Extraordinary Power: America's Role in the Global Monetary System' Lomra,R & Witte,L (eds.), The Political Economy of International and Domestic Monetary Relations (Ames: Iowa State University Press, 1982); and 'Europe and the United States: The Transatlantic Aspects of Inflation' Medley,R (ed.), The Politics of Inflation: A Comparative Analysis (New York: Pergamon Press, 1982) and see May, Writings on the Wall op.cit. for further sources.

[18] Most recently explored in Strange, Retreat of the State op.cit. but also see Strange, Casino Capitalism op.cit. for her seminal sectoral overview.

Epistemological Issues

For Strange, analysis of international political economy should always be rooted in sectoral level knowledge and research. This should then inform the more general analysis.[19] However, rather than merely suggesting the rather common-place need to move from the specific to the general, Strange's position on theory building is essentially Janus-like. She looks askance at theories that have too little link with the field they purport to be concerned with. Unhappy with over-abstraction, she sees the need for such theories to (re)ground themselves in a substantive history. This requires some sort of prior sectoral/historical element on which further elaborations of theory can be founded. Only knowledge and analysis of specifics will lead to more general and important insights.

However, on the other hand, Strange is equally unhappy with theories that read up from particular histories to generalised accounts of the international political economy. These accounts may too easily adopt a particular implicit agenda or may mistake the particular for the typical. These two misgivings seem paradoxical, but what this suggests for a 'Strangian' approach is that building theory is not easy nor amenable to fixed rules. In my discussion of a dual-dialectical theory of change I will return to this point, but here I will note that the key issue, it seems to me, is the balance between material and ideational aspects of social relations. While sectoral or material histories must inform analysis, so must the ideas about such histories that are entertained by actors within the international political economy. Any International Political Economic theory must 'recognise' both the material factors on the ground and the more abstract (and agenda setting) structures that inform sectoral decision making.

This balance between ideational and material aspects is linked to the over-abstraction and over-particularism relationship by a question of scale. Where the *long dureé* is concerned (to use Braudel's term) some sort of explicitly *apriori* ideological construction (a world-view) is required to organise the mass of evidence that might be mobilised. In shorter term/sectoral studies this theorising may be initially hidden within the appearance of an inductive, 'facts' first methodology. In the first case this can lead to an over-abstraction, while in the

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[19] Strange,S 'International Political Economy: The story so far and the way ahead' Ladd Hollist,W & LaMond Tullis,F (eds.), An International Political Economy (International Political Economy Yearbook No.1) (Boulder: Westview Press, 1985) p24.

second to the problem of over-particularism. Strange wants to privilege neither while including both: this is her strength *and* her Achilles heel. It is her strength as it enables her to adopt a reflexive and pragmatic approach to new evidence, insights or ideas. It is her Achilles heel for those theorists who favour formalised and rigorous epistemological warrant for their findings. Strange's approach seems to be chaotic to these theorists inasmuch as she want to take account of aspects of the international political economy that seldom seem to reveal themselves to formal causal models.

Strange has made a number of statements regarding her own theory-building practice, noting that the starting point for her eclectic approach to IPE was to be "open to the concerns and insights of a variety of disciplines and professions" rather than falling into the continuing "dialogue of the deaf between International Relations' three paradigms".[20] Indeed, she is prepared to argue that there is "no inherent incompatibility between a Realist approach to international issues and the structural method of analysis developed mainly by Marxists and dependency theorists".[21] This sort of approach has much in common with a Piaget-like structuralism and parallels the work of Lévi-Strauss, as I discussed in the last chapter. Here I will briefly suggest how Strange's methodology might be defended from criticisms that propose either a 'lack of rigour' or a 'failure of warrant for conclusions'. However it is necessary to note that in advancing epistemological grounds for this approach (based on my work in the first chapter) I am moving away from Strange's concerns, and towards my own.

Although Strange is explicitly concerned with producing an explanatory theory, she remains sceptical of the possibility of an *all*-embracing, *all*-explaining theory of IPE. She argues it is not possible to know enough about the significant variables or the links between them to offer *definitive* explanations. Indeed it may be that there can be no satisfactory meta-theoretical analysis of the international political economy. Thus analytical disaggregation, built on sectoral studies is required before theoretical statements with a wider salience can even be attempted. As I discussed in the first chapter, there is always a need to accept that analysis is rooted in a specific social perspective, which owes its shape to the investigator's particular history. A meta-theory that seeks to explain international

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[20] Strange,S 'An Eclectic Approach' Murphy,C.N. & Tooze,R (eds.), The New International Political Economy (International Political Economy Yearbook No.6) (Boulder: Lynne Rienner Publishers, 1991) pp.33-4.

[21] Strange and Tooze, Politics of International Surplus Capacity, op.cit., p.216.

political economic relations in all their complexity (and which somehow stands outside these relations) is a chimerical notion that not only is impossible to achieve but may be a detraction from the more detailed work that is required to offer (even partial) explanations.

Strange has also argued that social science cannot confidently predict, as the irrational forces it deals with in human relations are too numerous (and their permutations probably countless) to allow laws to be formulated.[22] Strange has often noted that the one social science that *has* aspired to predict is economics. But in light of its "abysmal" success rate, she argues economics offers little in the way of a positive example to other social scientists. For Strange, many of the difficulties regarding theory and the social sciences stem ultimately from social scientists' inferiority complex and, specifically, the inferiority complex of political economists towards the apparent rigour of economic science.[23] If the arguments that I presented in the first chapter are acceptable, if it is agreed that the problem of knowledge construction is the impossibility of finally establishing a 'scientific' and/or 'objective' truth, then despite its patina of scientific objectivity, economics is only one theory among many. There is therefore little compelling need for a theory of IPE to model itself on economics, or economic theories. And though Strange seldom discusses these matters explicitly, within her work there is a potential theoretical openness akin to that which I developed in the first chapter's discussion of the problem of ontological and epistemological closure, and which is adopted by Piaget for his perspective on the structural method.

Theories, for Strange, should be scientific *only* in the sense that they respect scientific virtues of clarity and impartiality, and at least aspire to be systematic in explanatory propositions. Her position is therefore similar to Feyerabend's: she is essentially arguing for a 'professionalism' in both analysis and presentation rather than a specific methodology of discovery. Though she recognises the problems for the social scientist in gathering evidence, like Feyerabend she stresses that a professional (and honest) 'scientific' *attitude* should be preserved towards the field which is being investigated.[24] Rather than a theoretical parsimony (an over rated quality for Strange), theories should seek to capture the complexity of the social relations they are concerned with. Strange's 'eclectic' approach can be

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[22] Strange, Towards a Theory of Transnational Empire, op.cit., p.163, as noted above this squares with Bhaskar's position, see chapter one

[23] Strange, IPE: The story so far, op.cit., p.23.

[24] Strange,S 'The Study of Transnational Relations', *International Affairs*, Vol.52 (1976) p.339 and Strange, States and Markets, op.cit., p.13-4.

defended against methodological critique by utilising Feyerabend's arguments 'against method' as laid out in the first chapter.[25] This leads me to suggest that a Strangian 'world-view' needs to be judged on the basis of some form of pragmatism. What does her theoretical standpoint *do*?

While Strange herself would not necessarily defend her work in such a manner, it is useful to locate her methodology within the epistemological context I have discussed above, not least because it reveals summary dismissal of her ideas on methodological grounds as ideologically motivated. If Feyerabend is correct to suggest that theory choice is essentially ideological choice, then criticisms that are superficially concerned with epistemological questions have deeper roots. The methodological ruminations that have informed IR theory have led to another theoretical distinction which is interesting in the light of Strange's 'eclectic' method; the distinction between 'explaining' and 'understanding' that Hollis and Smith have proposed.[26]

In *Explaining and Understanding International Relations* the authors finally agreed to differ on the possibility of whether social theories should seek (or were even able) to primarily 'explain' or 'understand'. For Strange (as for Hollis and Smith) there is a need to do both, but whereas Hollis and Smith see these projects as finally epistemologically distinct Strange sees both as interpenetrated and inseparable ways of proceeding. Strange is interested in *understanding* the international political economy and the way its social relations shift. But, she is also concerned to *explain* how such changes come to pass within the same analysis. And in much the same way she refuses to finally privilege any one structure, she does not privilege either of these two methodological paths. Strange sees explaining and understanding as two parts of the same endeavour. The notion that theories can only 'do' one or the other at any one time is alien to a 'Strangian world view'.

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[25] That this connection between Feyerabend and Strange is not a contrivance I offer the following from Strange,S 'A Reply to C.May' *Global Society* Volume 10, No.3 (Autumn 1996) p305:

> [Christopher May's work] made me read Feyerabend's *Against Method*, an experience I found both heartening and constructive. That seminal book offers philosophical ammunition against the fundamental assumptions of rational choice, and exposes the fallacy of conventional American research methods in social science.

Though Strange may not have read Feyerabend until relatively recently, there can be little doubt of her immediate recognition of the resonance between her work and his!

[26] Hollis,M & Smith,S Explaining and Understanding International Relations (Oxford: Clarendon Press, 1988)

In locating Strange's thoughts (and implicit position) on theory within the discussion of knowledge that I have outlined above, I am suggesting that a 'Strangian world-view' is one that recognises the difficulty of explanation and its inherent problems. Equally, and importantly it does not despair of understanding the international political economy in all its diverse and contradictory moments. But Strange herself often masks her openness to a wide range of differently warranted evidence on the grounds that it is only 'common sense' that these things are the case. Thus, while a Strangian derived analysis does not dispense with ideas (and 'facts') merely because they are located within a different system of epistemological warrant, the justifications for accepting such 'evidence' is implicit rather than explicitly laid out. For Strange, it is a simple matter to acknowledge that the international political economy is too complex to rely on one theory and to approach a fuller understanding a number of different theoretical perspectives need to be mobilised. Thus, I should note that these epistemological arguments are mine, and not necessarily hers.

As Feyerabend stresses, it is not particular methods that are problematic, it is the adoption of one to the exclusion of others that can lead to an analytical myopia that is less than helpful.[27] Differing perspectives, with their attendant insights (or 'facts'), can be brought together in a Strangian theory of structural power, and Strange's own practice is an implicit defence for adopting such a position. As Murphy and Tooze point out Strange's

> aim is not the development of one, unitary, all encompassing theory of [I]nternational [P]olitical [E]conomy. Rather, [her] aim is to support multiple points of synthesis among different perspectives.[28]

But given that this is a contentious if important project, there is a need to ground its epistemological warrant better than Strange has presumed necessary. I have attempted to do this in the first chapter and above. I would again stress that by its very nature such an approach does not claim to be the only possible approach (or even necessarily Strange's, though it is clearly related). Rather, it is a plausible construction given my concerns and interests (which others may share).

Having located Strange's 'eclecticism', it is also necessary to mention that such eclecticism is not equally evident across her writings. Indeed some of her work,

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[27] see the discussion of Feyerabend in the first chapter.

[28] Murphy,C.N. & Tooze,R 'Getting Beyond the "Common Sense" of the IPE Orthodoxy' Murphy,C.N. & Tooze,R The New International Political Economy (International Political Economy Yearbook, Volume 6) (Basingstoke: Macmillan Education, 1991) p29

especially that intended for a general ('business school') audience has tended to adopt a less implicitly complex position than that which this study is adopting as its foundation. Though I draw from the majority of her works to elaborate her perspective on the international political economy, it is as well to note for instance that the theoretically intricate *States and Markets* is quite some way from the more straightforward (and collaborative) *Rival States, Rival Firms*. The very fact that Strange is prepared to adopt differing modes of theory construction is linked to the theoretical position she adopts in the more complex works: that a number of perspectives are useful and should be adopted where they seem appropriate. Thus where a more simplified epistemological warrant seems required 'to get the message across', this presents little problem for the ever pragmatic Strange.

Authority, Markets, Values and Risk

For Strange, the central question for IPE is Who benefits? (or as she phrases it 'Cui bono?'). Where power lies, and how its influences outcomes, are the central elements to any explanation which seeks to answer this question. Strange has argued that:

> it is impossible to arrive at the end result, the ultimate goal of study and analysis of the international political economy without giving explicit or implicit answers to these fundamental questions about how power has been used to shape the political economy and the way in which it distributes costs and benefits, risks and opportunities to social groups, enterprises and organisations within the system.[29]

Broadly, there are three interconnected aspects of the international political economy that Strange sees being conditioned by structural power - the continual bargains being struck between authority and market; the ordering (or prioritising) of values in any outcome; and the allocation of risk (which for Strange is the obverse of the allocation of benefit). For these important outcomes to be explained, an analysis and account of structural power is required in addition to the more usual concentration on relational power. Before I begin to discuss Strange's conception of structural power, I need to establish why these particular bargains and outcomes are important for a Strangian analysis.

Authority/market bargains

Strange argues that politics and economics can be brought together by a structural analysis of the effect of political authority on markets and conversely, of markets

[29] Strange, States and Markets, op.cit., p22

on those authorities. Firstly, it is important to note the care with which Strange suggests her interest is 'authorities' as this immediately signals her attitude to the state. This is not to deny a place for the state in her work, or her theoretical deliberations, but it is to argue that in such an approach there can be no *apriori* place for the state. While important as an actor the state is not *necessarily* more important than other actors, though in particular circumstances it may be. The state needs to be argued into place in any theoretical construct, rather than its inclusion taken for granted.[30]

If economics concerns the allocation of scarce resources, and politics broadly concerns providing public order and/or public goods, then any theory bringing them together must take these different foci into account. However, often analysis of one side of this pair takes the other's interest as given: studies of international economic relations assume political order and vice versa.[31] A Strange derived approach concentrates on how "the authority-market and the market-authority nexus" has become settled (or is open to change), to ensure that the effects of structural power over the agenda of such debates are recognised, as well as the more commonplace issues regarding relational power.[32]

Structural power establishes the relationship, or bargain, between authority and market. Market solutions cannot play a major role in the way in which a political economy functions unless they are allowed to do so by the actor that wields economic power and possesses authority. Strange argues that it is not only the direct power of authority over markets that matters, but also the less immediately obvious effect of authority on the (legal, social, ideological) context or surrounding conditions within which the market functions - the structures of power. It is therefore important to note the history of particular authority-market bargains: a central requirement for any theory of the international political economy is to discover when and why key decisions were taken as well as who took them. While these decisions may have become facts, in the past they were (and implicitly still are) subject to structural power.[33] The current international

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[30] ibid. p48 and more recently Strange,S 'The Defective State' *Daedelus* Volume 24, Part 2 (Spring 1995) p57, p61, 67ff and Strange, Retreat of the State op.cit. *passim.*

[31] Strange, The Study of Transnational Relations, op.cit., p.344-5 and Strange, States and Markets, op.cit., p.23.

[32] Strange,S 'What is Economic Power, and Who has it?', *International Journal,* Vol.30, No.2 (Spring 1975), pp.217-21 and Strange, Casino Capitalism, op.cit., pp.29-30.

[33] Strange and Tooze, Politics of International Surplus Capacity, op.cit., p.220.

political economy is a product of its history, not some accidental array of relations.

There is also a central requirement to identify when decisions *have not been taken*, the incidence of non-decisions. As I noted in the previous chapter the ability to put off a decision (possibly indefinitely) is a major aspect of power. In structural terms this can be located in the ability to restrict, halt or avoid reconstructions of the field in which power relations are taking place. This is intimately tied to the ability to structure the agenda under which decisions over possible outcomes are taken. When bargains are being negotiated (either openly or tacitly) structural power, by ruling out certain solutions from the field of choice, is able to restrict possible decisions and produce certain non-decisions. Certain bargains will be ruled out by structural power's ability to establish (and maintain) this relational field. Thus if an outcome outside this field is requested, desired or argued for by one of the actors, without a structural reorientation (or structural inclusion of this particular bargain) its acceptance will be delayed indefinitely. Only a shift in structural power may enable this particular outcome to gain a position within the field, establishing it as a possible choice.

These bargaining processes not only involve states, but sub-national, national, international and transnational actors as well. Bargains may be between non-state actors themselves or between these actors and states. Authority over a particular relationship where a bargain is struck is not dependent on an actor being a state. The outcome of the bargain will, however, reflect where structural power lies. Analysis needs to start with effective *authority* and then explore its role and beneficiaries, rather than postulating certain actors as powerful and then trying to assess how their power/authority might be identified. Strange has termed this the 'new diplomacy', reflecting the power of non-state actors to set, or influence the structures and processes within the international political economy.[34]

Ordering values

When an analysis of bargains between authority and market, and the influence of power on these bargains is being explored there is also a need to consider which values are being prioritised within these bargains. When Strange discusses values she is concerned with the "basic values which human beings seek to provide

[34] For state-state/state-firm/firm-firm triangular bargaining diplomacy, see Strange,S., Stopford.J.M. & Henley,J. Rival States, Rival Firms: Competition for World Market Shares (Cambridge: Cambridge University Press, 1991).

through social organisation, i.e. wealth, security, freedom and justice". The simple but important argument here is that different societies differ in the proportions in which they combine these basic values.[35] And by ordering values differently, societies (or social groups) make ideological and political choices about how the bargains between authority and market will be settled in their social specificity. These arrangements or combinations are not divinely ordained, necessarily settled or the outcome of chance or fortune. They are the end result of decisions taken in the context of man-made institutions and self-set rules and customs - they are historically conditioned, the result of decisions and non-decisions.[36] These societies are both products of their material history, and their ideational history, a point to which I will return in the next chapter.

Strange's explicit aim is to make IPE value-sensitive, recognising where values are being ordered and traded off, and establishing the history of such decisions and bargains. In addition it is necessary to understand how and when ordering of values informs analyses, not least of all through ontological closure.[37] If power is defined primarily in terms of the ability to create or disrupt order in the international system, as it is in Political Realism, then security is promoted above the other four values. And since international order is often, though not always, disrupted by states, it is unsurprising that within IR, Political Realism's prime concern has been the relations between states. As I noted in the discussion of analyses power, the focus on behaviour in this manner limits the recognition of power to a narrow group of phenomena - where certain resources are being utilised to bring about certain relational outcomes.

For Strange, if power is defined in terms of the ability to create or destroy wealth rather than order, or to disrupt accepted settlements within the realms of justice and freedom, then analysis may well need to take into account, or even prioritise, other actors and relationships, than those conventionally identified in IR.[38] Equally, such a concern will also widen the focus of a power analysis into

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[35] Strange,S 'Protectionism and World Politics', *International Organisation*, Vol.39, No.2 (Spring 1985) p.237; Strange,S States and Markets, op.cit., p.17. The first chapter of *States and Markets* is taken up with an extended desert island 'story' which establishes her position on the ideological importance of differing orderings of values.

[36] ibid., p.18

[37] Strange,S 'Structures, Values and Risk in the Study of the International Political Economy', Jones.R.B.J. (ed.), Perspectives on Political Economy (London: Francis Pinter Publishers, 1983) pp.210-1 and *passim*.

[38] Strange,S 'Big Business and the State', *Millennium: Journal of International Studies* Vol.20, No.2 (Summer 1991) p.245.

counterfactuals such as the absence of particular outcomes (the consigning of conflicts to the margins of political importance) or in the manifestation of favourable outcomes for some actors without the explicit (or even covert) utilisation of relational power resources they may enjoy. As I have argued, the introduction of counterfactual arguments reflects an analyst's perspective as the identification of expected (but not manifest) conflicts and outcomes is the result of the mobilisation of certain values regarding the balance of 'legitimate' interests expressed in social reality. Strange requires the recognition that values are brought into the analysis on the side of the investigator even where this is formally denied, which is to say values always drive analysis. This may be through the identification of the hierarchy of issues to be investigated, of the responses that are deemed acceptable. As I argued in the first chapter, such a recognition of the investigator's subjectivity is central to knowledge claims and specifically denies the pretence of value-free 'objectivity'.

Thus Strange argues there is a need in IPE for a greater openness about values. At present, "economics tacitly prefers efficiency and international relations tacitly prefers peace" making it difficult to discuss what other values are sacrificed for the sake of efficiency or peace, and what other changes are obstructed.[39] Where power is used to promote a particular outcome over another, values themselves are being ordered. However, such a utilisation of power if part of the structural dimension may not be recognised in analysis which privileges relational conceptions of power (or excludes structural power completely). There can be no *neutral* cost-benefit trade-off, the ordering of values plays an integral part in such decisions, but this is often implicit (or part of a knowledge structural set of accepted orderings).[40]

This (re)introduction of values into IPE is not the same (though it is in a sense parallel to) the 'normative turn' in International Relations Theory.[41] For Strange, theory and analysis are used to establish the role of values in the existing international political economy. This is not to preclude a suggestion of how things could be different, indeed things may *need* to be different, but it is not to primarily

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[39] Strange, IPE: The story so far, op.cit., p.24.
[40] Strange, Paths to International Political Economy, op.cit., p.x.
[41] For the debate around a normative theory in International Relations see the excellent, Nardin,T & Mapel,D.R. (editors) Traditions of International Ethics (Cambridge: Cambridge University Press, 1992), Brown,C International Relations Theory. New Normative Approaches (Hemel Hempstead: Harvester Wheatsheaf, 1992) and Hoffman,M 'Normative international theory: approaches and issues' Groom,A.J.R. & Light,M (editors) Contemporary International Relations: A Guide to Theory (London: Pinter Publishers, 1994)

be concerned with suggesting how the international system *ought* to be ordered. For Strange theory can only plausibly look back and not forward into the future. Though such analysis may be behind calls for change, the role of *prescription* is not part of a Strangian analysis. This is not to say that Strange is uninterested in prescription, as I noted above her theoretical development has been the result of a prescriptive argument - that America *can* lead if the will is there - rather it is to draw a distinction between the results of analysis and the policies to be *drawn* from those results.

Allocation of Risk

Strange's explicit discussion of the allocation of risk has been limited to one published article, though it is an issue that is implicit throughout her writings. She has always been concerned how the risk of upheaval stemming from certain 'bargains' has been allocated. Thus, when explicitly concerned with risk she fleetingly proposed a fifth structure - the structure of welfare - consisting of the "politically determined arrangements which decide how and for whom, the main threats to human life and contentment are avoided, alleviated or compensated".[42] She argued that political power in any system is used both to avoid risk (or threats), or to shift such risk elsewhere, and to extend the opportunities for those holding power. This leads to the identification of questions about the perceptions of risk, and risks' mitigation, allocation or management, as an important part of any analysis. Risk is a concept which is "essentially unifying when it comes to looking at political and economic issues and outcomes". For Strange, then, analysis should always ask: What is the nature, incidence and origin of the risk? And perhaps most importantly: How have markets and states created risks, how have they attempted to mitigate them, or to convert them into costs? [43]

For Strange, risk is the obverse of opportunity, to discuss opportunities is to discuss risks, and to discuss risk is to also discuss opportunity. She suggests that studies of international relations can be divided by the sorts of risks *and* opportunities regarded as central to their analysis. For Political Realism the risks of war are often cited but the opportunity for the expansion of territory that war may make possible remains in the background. Liberalism, on the other hand is concerned with opportunities for the creation and enjoyment of wealth, but remains silent on the risk to those who are unable to 'make it', those to whom the costs of the market are transferred. It is also illuminating to ask how societies (and

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[42] Strange, Structures, Values and Risk, op.cit., p.218.
[43] ibid. p220

their particular social/political ideologies) perceive and manage risk, as this will reflect their ordering of values. Identifying risks, and their management, therefore contributes to the analysis and identification of the balance between authority and market.

However, in her later work, the discussion of risk remains on the relational level - particular political risks - rather than as an integral part of the structural analysis. This is not to say that the allocation of risk disappears from Strange's analysis, merely that after this brief appearance it submerges again into an *implicit* part of her schema. If structural power is able to rule out certain political settlements, it is able to sideline (or obscure) certain risk management strategies. The ability to set the rules has a direct impact on the ability to transfer risk by only accepting certain solutions to disorder as 'possible', and by only accepting certain risks as legitimate subjects for concern. When I come to discuss the 'knowledge structure' and more particularly its (re)formulation this question of political agenda setting will be central to the role of structural power I wish to establish.

Structural power in the international political economy

In Strange's theoretical formulation the bargain between authority and market identified above is determined by power, both relational *and* structural.[44] As in Lukes' analysis, Strange sees this structural power as being crucial to an understanding of power in general, though not at the cost of an analysis of *relational* power. She sees herself *adding* something to the analysis of power, identifying a shortcoming, not replacing the relational account of power with a structural account. While mainstream work in IPE has been concerned only with relational power (or Lukes' first two dimensions of understanding), Strange argues that structural power, informing and constructing the agenda, also needs to be examined for a meaningful analysis of the international political economy to be complete.[45]

The four structures, which in *States and Markets* reach the configuration that Strange has settled on are: security; finance; production; and knowledge. At any one time all contribute in differing weights to the structural power attributable to

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[44] Strange, What is Economic Power, op.cit., pp.217-21; Strange, States and Markets, op.cit., p.23.

[45] Strange,S 'What about International Relations' Strange,S (editor) Paths to International Political Economy (London: Allen & Unwin, 1984) p.191; Strange, States and Markets, op.cit., pp.24-5, 31.

the particular actor being analysed, be it a state, transnational corporation (TNC), international organisation or other power holder. Depending on the structural patterning within a particular sector of the international political economy, an actor's power over decision-making and outcomes may vary.[46] While having differing weights, all structures are evident in some manner, even if this is skewered in favour of certain structures in certain instances.

Crucially for Strange, there can be no fixed ordering of these four structures, none is always more important than the others. Thus while she may draw on Marxist analysis of the production structure, she is not prepared to accord this structure a prior determining role.[47] Indeed this is one of the two key issues that separates a Strangian analysis from a Coxian 'critical theory'. For Cox, in the last analysis, it is still the mode of production (the production structure) that determines the international political economy. This is a position that a Strangian analysis cannot accept as it fixes the priority of one particular structure at the expense of the other three.[48]

Within the material aspect of the historical development of the international political economy there may be competing arguments regarding economic determination (finance, and/or production) or political determination (security). But there is also the question of the development and determination by ideas (culture and/or ideology - the knowledge structure) to explore. Strange does not seek to ignore these issues but is unprepared to offer a final determination of change and development - in a sense given Strange's 'eclectic method', she implicitly denies that a final determination *can be found.* However, before developing this issue in the next chapter, I will first map out the four structures as Strange has presented them.

The Security Structure

Power in the security structure stems from the provision of security by one group for another. In the process of providing security the providers acquire advantages in the production or consumption of wealth and special rights or privileges in that society. Thus "the security structure inevitably has an impact on the who-gets-

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[46] Strange, States and Markets, op.cit., *passim*

[47] Strange, Structures, Values and Risk, op.cit., p.216; Strange, States and Markets, op.cit., p.26.

[48] See Cox,R.W. Production, Power and World Order: Social Forces in the Making of History (New York: Columbia University Press, 1987) *passim* and States and Markets, op.cit., p.26 where Strange explicitly notes her difference with Cox on this issue. (The other difference as I will discuss below is in the handling of the state.)

what of the economy" both national and international.[49] By providing for the security of a social grouping, a price is exacted (either formally or informally). This is similar to the way that Blau suggested a cost-benefit analysis accompanied the notion of power as a voluntary relationship. Security may not be available from another source, or at least may not be *recognised* as available.

Strange's inclusion of the security structure in her analysis is rooted in an historical understanding of the development of the discipline of Political Economy. When 'Political Economy' was first elaborated in the eighteenth century, the two questions it was concerned with were security - "safety of the realm" - and finance - "the value of the currency".[50] Power continues to lie with those in a position to exercise control over (both to threaten and preserve) security, especially through the use and/or threat of violence. On a structural level this is through the ability to identify 'threats' to that security: the structural power over security lies in the ability to construct an agenda of security, and therefore the 'recognition' of risks to that security. The combination of relational power (the threat of force) and structural power (who this force can *legitimately* be used against) is a crucial issue for any *international* social science.

This is not to say that Strange wishes to dispense with a Realist analysis of the security relations between states.[51] She offers an analysis of the security structure that is built upon the balance of power, and, for instance, differs little from Morgenthau's discussion of the international system and how it responds to the lack of authority.[52] But the key difference between a Political Realist analysis and that offered by Strange is that the security structure does not take *automatic* precedence. As few of the conflicts between actors in the international political economy are pushed as far as the utilisation of force, power in the security structure is not the conditioning structure of international political economy, but instead is only a special case, subject to the impact of power in the other three structures.[53]

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[49] ibid., p45.
[50] Strange,S 'Who Runs World Shipping?', *International Affairs* Vol.52 (1976) p.346.
[51] Strange,S 'The Global Political Economy, 1959-1984', *International Journal*, Vol.39, No.2 (Spring 1984) p.281 where this element of her perspective is made explicit.
[52] Strange, States and Markets, op.cit., p.50 ff; Morganthau,H.J. *Politics Among Nations. The Struggle for Power and Peace* (sixth edition) (New York: McGraw-Hill Inc, 1993) for the *classic* Political Realist position, in response to which writers such as Waltz then developed (neo) Realism. Of course Waltz's parsimonious structuralism has little in common with Strange's, see Waltz,K Theory of International Politics (New York: McGraw-Hill, Inc., 1979)
[53] Strange, States and Markets, op.cit., p.31.

The security structure plays a role in the international political economy that is important but not determining. Though the ability to utilise force and the ability to establish the threats or risks to security need to be examined, what must be avoided is an over weighting of such issues. This links back to Strange's perception of the role of the state. Given the historic role of states in the international system, there can be little surprise that the state (conventionally claiming a monopoly of force) should play a central role in analyses that see the role of force and the threat to security as paramount. By removing the concentration on force, Strange thus also removes the requirement to place the state at the centre of analysis.

The Production Structure

Strange identifies the production structure as being a society's arrangements to determine what is produced, by whom and for whom, by what method and on what terms: "The production structure is what creates the wealth in a political economy." The interaction between the production structure and the social groups involved in production affects outcomes over the allocation of benefits. When a particular social group loses relative power, changes are likely to follow in who produces what and how such processes are organised, and thus who benefits from productive enterprise. Equally, when methods of production change there will likely follow a shift in the distribution of social and political power and the nature of the state and the use of authority over the market may be modified. "Change in the production structure changes the very nature of the state. Its capabilities are changed and so are its responsibilities." [54] The production structure impacts on the state through the relative power of the classes who are involved in production.

Strange it would seem agrees with the broad structural basis of Marxian economic analysis. However, she does so only up to a point: not accepting that it is *the* structure, she argues that like security, it is but one of a number.[55] The struggle between classes influences change in the structures of power, and the division between classes is tied up with the relations of production, but this does *not* determine such change. Despite this assertion, it might be feasible to try and integrate Strange's structures back into a Marxist-social relations approach.[56] The

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[54] ibid., p.87 (both quotations in this paragraph)

[55] Strange, Structures, Values and Risk, op.cit., pp.216-7; and Strange and Tooze, Politics of International Surplus Capacity, op.cit., p.216.

[56] see Cox,R.W. 'States and Markets' (Book review) *Millennium: Journal of International Studies* Vol.18, No.1 Spring 1989, p.108 ff where a brief if inconclusive attempt is made in this direction. It should be said that in ' "Take Six Eggs" Theory, Finance and the Real Economy in the work of

key problem here is that Strange decries any sort of (economic) determinism. While this might not preclude her from being situated within a conception of some sort of neo-Marxism, this explicitly goes against her own claims not to be a Marxist.[57] And given the epistemological 'eclecticism' she has adopted, methodologically she is some distance from what might be accepted as a 'rigorous' Marxist approach to IPE.

The analysis of the production structure, and how it is changing, has been taken furthest in *Rival States, Rival Firms*. Strange and her co-authors suggest that states are now in competition over the means to create wealth within their territory rather than for domination over more territory. In the past, states competed for power as a means to wealth, now they compete more for wealth as a means to power. National choices of industrial policy and the attempted promotion of efficiency in economic management are beginning to override choices of foreign or defence policy as the primary influences on how resources are allocated.[58] This is reflected in the recent and wide-ranging debates over the question of 'national-competitiveness' which have revolved around this very issue.[59]

On this issue, Strange argues that changes in the production structure due to state policies and market trends, transnational management strategies and changing technology have all altered the relative importance of the factors over which states have most control. The balance has shifted in terms of economic development to those over which TNCs have most control.[60] States control access to territorial resources and effectively a large portion of the national labour force. TNCs and

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Susan Strange' Cox,R.W. & Sinclair,T.J. Approaches to World Order (Cambridge: Cambridge University Press, 1996) a later piece on Strange's work, Cox does not repeat this attempt, accepting that Strange can not be claimed for a broadly Marxist tradition.

[57] Strange, States and Markets op.cit. p26 and if there were any doubt as to this point, her discussion of the possibilities for *global opposition* in Strange,S 'Global government and global opposition' Parry,G (editor) Politics in an Interdependent World. Essays presented to Ghita Ionescu (Aldershot: Edward Elgar, 1994) reveals her as clearly un-aligned to a Marxist position. That said, I am not claiming Strange is hostile to Marxists, as I have argued above she merely sees them as only offering a *partial* analysis!

[58] Strange, Stopford and Henley, Rival States Rival Firms, op.cit., p.1, 33 and 204 and *passim*.

[59] See for instance Rapkin,D.P. & Strand,J.R. 'Competitiveness: Useful Concept, Political Slogan or Dangerous Obsession?' Rapkin,D.P. & Avery,W.P. (editors) National Competitiveness in a Global Economy (International Political Economy Yearbook volume 8) (Boulder: Lynne Rienner, 1995) and other articles in this volume. Also see Porter,M.E. The Competitive Advantage of Nations (New York: Free Press, 1990) for one of the most cited sources on the subject.

[60] Strange tends to use TNCs as a generic group rather than MNCs (multinationals), however this can be a terminological problem given the lack of *truly* transnational corporations. For a discussion of this issue see Hirst,P & Thompson,G Globalisation in Question. The International Economy and Possibilities of Governance (Cambridge: Polity Press, 1996) chapter 4, p76ff.

other companies control capital and technology, or at least now have considerably better access to both. If it is true "that the relative importance of labour and raw materials derived from land has fallen dramatically in determining competitiveness, while that of capital and technology has risen" then changes in the international production structure may have changed the roles of states and firms.[61] And therefore the allocation of benefits arising from production may have also have changed.

Structural power over production concerns the way that productive relations are arranged. The economic choices within a society - what is produced, for what purpose, *what is not produced* - take place within the production structure. Through the role of wealth creation, the production structure has a major impact on the division of benefits within a society. By valuing some skills more highly than others, for instance certain class divisions are reinforced, while others may be side-stepped. Equally through the ability to influence or condition *what* is produced in any particular location, cash crops or high technology, cars or textiles, power in the production structure has a far reaching impact on the international political economy and its uneven development.

The Financial Structure

The third structure that Strange considers as a location of economic power is the one about which she has written most.[62] She argues that the financial structure has risen in importance in the last thirty years and is now *decisively* important in international economic relations. While not denying the important role that finance has played in the past, Strange argues it has now penetrated many social relations that had until recently remained outside the structure. The use of market structures and service pricing as allocational tools (for instance, the development of sophisticated international agricultural futures markets, or new methods of corporate risk reduction through international financial instruments) have increased its global systemic importance. The key point that Strange has emphasised is that what is invested in modern economies is *not* money but credit, and credit can be created - it does not have to be accumulated. Therefore, whoever can gain the *confidence* of others in their ability to create credit will accrue power

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[61] Strange, Stopford and Henley, Rival States Rival Firms, op.cit., pp.215.

[62] Her early research work at Chatham House (where she was Research Director) and later work both on the Ford Foundation's Transnational Relations project and at the LSE, focused on international monetary relations. See Strange, 'I Never Meant to be an Academic', op.cit., p.433-4. For a partial list of her works on the financial structure see note 17 (this chapter).

in the financial structure of a political economy.[63] Political authority dictates what money may be used (that is, what is recognised as the medium of exchange, as legal tender), enforces, if needs be, agreed monetary transactions, and licenses and, if necessary, supports major credit-creating operators in the system.[64]

In any economy, national, international or transnational, the power to create credit implies some influence over purchasing (that based on projected rather than realised earnings) and thus the ability to influence markets for production. And, given the need to, in most cases, fund investment from projected earnings, this power plays a major role in the production structure. In addition, it implies the ability to "manage or mismanage the currency in which credit is denominated, thus affecting rates of exchange with credit denominated in other currencies". The financial structure, therefore, has two inseparable aspects: the structures through which credit is created (and its impact on credit users), *and* the monetary systems which determine the relative values, or exchange rates of the currencies in which credit is denominated.[65] In neither case does authority any longer lie exclusively with state actors (if it ever totally did).

The power to create credit is shared by governments and banks (and much will depend on the political, and regulatory relations between them). Exchange rates between different currencies are determined by the policies of governments and by markets (but this will depend on how much freedom governments allow to markets in the realm of international currency exchange). Both aspects of the financial structure involve a bargain between authority and market, which will reflect the power within the structure itself.[66] While the balance may have recently shifted explicitly away from authority, and towards markets, this does not necessarily represent a *replacement* of the power of authority over markets, authority still plays a major role. Nor, it should be stressed, does this represent an inevitable or natural shift, but is rather the result of a history of specific bargains, based on decisions made by political authorities.[67]

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[63] Strange, States and Markets, op.cit., p.30. Strange here draws explicitly on Simmel,G The Philosophy of Money (Translated by T. Bottomore and D. Frisby) (London: Routledge and Kegan Paul, 1978) which discusses money as an expression of trust, and the problems inherent in the destruction of that trust (say, by inflation) and the time it takes to rebuild that trust.
[64] Strange, Casino Capitalism, op.cit., pp.25-6.
[65] Strange, States and Markets, op.cit., p.88.
[66] ibid. p88ff
[67] Strange, Casino Capitalism, op.cit., p.99; and Strange, 'An Eclectic Approach', op.cit., p.35.

For much of Strange's career she has argued that the disorder within the financial structure, and the international economy as a whole, has been the result of the United States exploiting its position "for its own particular ends rather than for the general welfare".[68] Its financial pre-eminence, in conjunction with its domination of the security and production structures, is assured by its unassailable position as the issuer of the world's preferred medium of international exchange.[69] It is the history of decisions and bargains originating with *this* authority that has shaped the financial structure, and with it Strange argues the problems for the global economy. As I noted above, it was this perception of the American role in the international political economy (and American academic failure to share this view) that spurred Strange on to develop her ideas about structural power. It is also evident that such an argument involves a counterfactual element, which explicitly introduces her own value judgements into the analysis.

As the volatile variables in the financial structure have multiplied, so has uncertainty. This uncertainty has set off a vicious circle of risk-aversion responses (such as futures trading or hedge funds), which in their turn have contributed to the further volatility and "consequently to the general sense of confusion and the faltering confidence in the long-term viability of the global financial system". Far from stabilising the system by damping its movements, these devices which were developed to deal with uncertainty have actually exaggerated and perpetuated it.[70] And while this represents a shift from authority to market, for Strange, it could not have happened without the acquiescence, and decisions of the leading political authority, the United States. There is also the question of identifying who has benefited from such changes, who has been able to take advantage of the opportunities that such risks have opened up?

Power in the financial structure therefore lies in the ability of an authority to create or control the creation of credit in the international economy. That the authority itself is not creating the credit does not necessarily reveal a lack of power, for while the authority is able to control the provision of the credit created and command such credit as it needs, financial structural power is still evident.[71] Through the application of reforms which have expanded the reach of markets, at the cost of authority (which is to say that the bargain between them has changed),

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[68] Strange, States and Markets, op.cit., p.96.
[69] Strange, 'Still an Extraordinary Power...', op.cit., p.92.
[70] Strange, Casino Capitalism, op.cit., p.119.
[71] Strange, 'Still an Extraordinary Power...', op.cit., p.82 ff.

risk has been created, but at the same time so has opportunity. A central issue is to locate and explore where the opportunities which come with these new risks have been profited from. The management of these risks is intimately tied up with the flow of information, the perception of available policy options and the role of non-state actors (such as the transitional banks based in New York and other 'global cities') in assessing 'credit-worthiness'.[72] This leads us directly to the last structure that Strange has proposed.

The Knowledge Structure

Strange suggests that power derived from knowledge has been mostly overlooked, or at least underrated, in IPE. Its influence and role has been hard to assess because it concerns what is believed, what is known (and perceived as understood or 'given') and the channels by which these beliefs, ideas and knowledge are communicated or confined.[73] In the history of the international political economy, ideas may not leave the same material traces as other aspects under investigation.

The power derived from knowledge often stems from consent rather than coercion as Strange puts it, though *acquiescence* may capture the notion of acceptance of knowledge derived structural power better. Authority may be recognised on the basis of a socialised belief system or on status conferred by possession of knowledge, and with it access or control over the means by which it is stored and communicated.[74] There is a parallel to Strange's conception in the work on 'epistemic communities', concerned as it is with the power of intellectual elites over agenda formation in international organisations, and social movements, where knowledge is seen as central to the mobilisation of power behind certain issues (and not others).[75]

The agenda setting nature of the impact of epistemic communities, the ability to reform the political context in which decisions are made by states is however only one part of what a knowledge structural analysis seeks to illuminate. The

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[72] For instance see Sinclair,T.J. 'Passing judgement: credit rating processes as regulatory mechanisms of governance in the emerging world order' *Review of International Political Economy* Volume 1, No.1 (Spring 1994) which offers an interesting account of this process.

[73] Strange, States and Markets, op.cit. p115

[74] ibid. p118

[75] see the useful overview of the roots and the approach's perspective in Haas,P.M. 'Introduction: epistemic communities and international policy co-ordination' (Special Epistemic Communities Issue) *International Organisation* Volume 46 No.1 (Winter 1992) pp1 - 35. See also Litfin,K 'Framing Science: Precautionary Discourse and the Ozone Treaties' *Millennium. Journal of International Studies* Volume 24, No,2 pp251-277, where the concept of the 'knowledge broker' is utilised to explain the preference accorded certain knowledge(s).

epistemic communities literature is centrally concerned with distinguishing particular epistemic communities,

> from other groups that seek to exert influence on decision makers, and it specifies in greater detail both the factors that lead knowledge-based groups to cohere and the mechanisms by which they gain and retain influence in the policy making process.[76]

This approach is limited to the notion of knowledge being mobilised to affect changes in state policy making processes. In a sense this a refinement of the 'bureaucratic politics' model which seeks to identify different interest groups and power centres within complex state or organisational decision making bodies. This is to say the idea of knowledge being mobilised is essentially instrumental - epistemic communities produce 'better' knowledge, a more powerful resource, that is then utilised to change political debates within policy making groupings. This is an important and interesting issue, yet such a perspective essentially only recognises relational power within a set knowledge structural settlement (or a 'dominant world view').

That this perspective introduces a new and powerful typology or power resources is undeniable, but Strange's perspective on the role of knowledge in the international political economy, while including such insights also seeks to identify other aspects of knowledge based (and related) power that this literature would not recognise in its analysis - not least of all due to its concentration of policy making apparatus as field in which change takes place. Thus while recognising the value of epistemic communities literature, and expecting to utilise and build on its insights, the perspective on knowledge derived from Strange's understanding includes many fields and actors (and structural settlements) that lie outside this limited view.

Strange has suggested a wider analytical framework, based on three central changes possible within the 'knowledge structure' itself. She argues that analysis needs to be concerned with: changes in the provision and control of information and communication systems; changes in the use of language and non-verbal channels of communication; and changes in "the fundamental perceptions of and beliefs about the human condition which influence value judgements, and through them, political and economic decisions and policies".[77] This third group of changes remains a problem for Strange, but I will return to this issue in the next

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[76] ibid. p34

[77] Strange, States & Markets op.cit. p116

chapter when I seek to reformulate Strange's perspective on knowledge utilising this aspect as my starting point.

Here I shall note that Strange draws a parallel between the production and knowledge structures: "If a production structure determines what is produced, by what means, by whose efforts and on what terms, so a knowledge structure determines what knowledge is discovered, how it is stored and who communicates it by what means to whom and on what terms."[78] She proposes that changes in the international political economy are bringing about a new distribution of power, social status and influence within national societies and across state boundaries. "Power is passing to the 'information-rich' instead of the 'capital-rich'." It is information that unlocks the door giving access to credit, not the *mere* possession and accumulation of capital.[79] Where the economic role of knowledge is expanding, those who enjoy a privileged access to knowledge resources, or whose knowledge is valued more highly, will be in an increasingly powerful position vis-à-vis those who do not enjoy similar knowledge benefits.

Strange herself has admitted that in the 'knowledge structure' she is seeking to combine two rather different phenomena. On one level there are "belief systems and their associated value preferences that inhabit or validate some kinds of actions rather than others". On the other, information, which has "a direct and sometimes quite a substantial effect on the bargaining power of actors as well as on the prioritised values of the system".[80] This distinction between action conditioned by belief, and action conditioned by information is a key to reformulating the 'knowledge structure'.

Whereas the previous three structures can be located within particular histories of theoretical development in IPE, and Strange's insight has been to bring them together, the fourth structure is different. Here, and this is the attraction of a Strangian world-view, she is doing something even more interesting. Strange suggests that the role of knowledge is a central and crucial aspect of any analysis seeking to understand and explain power in the international political economy. When I return to this aspect of her theoretical perspective in the next chapter, I will argue that she does not take this idea far enough in her own work. Even so

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[78] ibid. p117

[79] ibid. p132ff. And also see Halliday,F 'The Pertinence of International Relations' *Political Studies* Vol.38 No.3, p502 - 516 where Strange's position is supported as part of a critical review of recent IR/IPE literature.

[80] Strange An Eclectic Approach, op.cit. p37

this addition to the other three structures is powerfully suggestive of a new IPE and as such is a major contribution to the discipline whatever my concerns regarding its overall theorisation.

Secondary Structures

For Strange, once the four structures above have been appreciated, then other aspects of the international political economy can be considered as a secondary level conditioned by the interaction of these primary structures.[81] Strange has identified the most important as: transport systems; trade; energy; and welfare (where, unlike the welfare structure she has proposed in an earlier work,[82] this is more operational and less concerned with the ordering of values).[83] More recently she has added telecoms, insurance, accountancy and, interestingly, organised crime to the list she has looked at (though this is not to suggest that these are the only secondary structures which could be identified).[84]

While these secondary structures bear a passing resemblance to the issue areas in theories of interdependence, for Strange this secondary level can only be understood as a product of the four primary structures and the power considerations therein.[85] In these secondary structures economic or political developments, and bargains over outcomes, are conditioned by primary structural power. For any particular issue the investigator needs to look beyond the superficial relational manifestations of power to identify which actors are shaping the agenda of decision-making and ruling out certain solutions or outcomes, where authority lies, without others necessarily being aware of the way parameters are being set.

For Strange, part of the problem in International Relations and International Political Economy has been the concentration on secondary structures. In the main other writers have failed to recognise the importance of the underlying primary power structures. This is not to deny that investigations of specific secondary structures can be enlightening and important. But without an appreciation of the four primary structures and their role in defining the social relations in the secondary structures, an analysis will not only be incomplete, it may be

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[81] Strange, States and Markets, op.cit., pp.135-6.
[82] Strange, Structures, Values and Risk, op.cit.
[83] Strange, States and Markets, op.cit., p.135 ff and chapters 7-10 *passim*.
[84] Strange, Retreat of the State, op.cit. part 2 *passim*
[85] Strange, States and Markets, op.cit. p135

fundamentally mistaken in its understanding of how the relations it is considering are constituted.

A Strangian foundation

Above I have presented Strange's theory of structural power in outline. I have suggested that this approach would orient analysis away from a singular concern with the state and towards a focus on authority/market bargains. Strange's own work developing this theory of structural power has led her to argue that changes in the four structures of power are altering the way in which the international political economy is organised. The knowledge structure is emerging as central to power considerations, leading her to conclude that power is increasingly non-territorial in nature, and that transnational firms or enterprises are increasingly important in the international political economy. While this is certainly a plausible and interesting position, the relatively under-theorised nature of the 'knowledge structure' leaves it in need of some development.

Strange has also argued that "the close coincidence of three things - political authority; economic activity and exchange; and geographical territory - no longer holds".[86] While this is similar to Rosenau's work on turbulence in international relations where he proposes the emergence of two 'worlds' - one state-centred, one knowledge-centred - Strange rejects this division, and insists that there is still only one world where the four structures interact.[87]

Strange herself explicitly sees her work, especially in *States and Markets* as suggestive rather than offering final answers - she refers to it as a set of tools.[88] This might suggest that Strange is not really offering a fully developed theory at all. This is important, not least of all because it conditions any engagement with her work. If she *is* offering a fully developed theory then a critique needs to be primarily concerned with possible problems *within* her analysis. But if she is offering a *research programme*, then development of the theory can proceed in ways that engage with her work (and perceptions of its possible shortcomings), but also explicitly reflect particular positions, interests and perspectives. To argue

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[86] Strange, Towards a Theory of Transnational Empire, op.cit., p169-70

[87] Strange,S 'Territory, State, Authority and Economy: A New Realist Ontology of Global Political Economy' (Unpublished article for Robert Cox's Multilateralism Project at the United Nations University) *(Written during 1993)*, p.27; and Rosenau,J.N. Turbulence in World Politics: A Theory of Change and Continuity (Hemel Hempstead: Harvester Wheatsheaf, 1990)

[88] Strange, States and Markets, op.cit., p.230.

that Strange's work represents a research programme more than a theory is not to devalue its significance in any sense. Rather it is to reinforce the need for theoretical work that remains open to new insights.[89]

It is fairly easy to identify within Strange's work both the negative and positive heuristics that Lakatos proposes for research programmes. The negative heuristic would require theories to avoid dealing only with secondary structures, avoid examining only the national or the international, and avoid dividing off the political from the economic. The positive heuristic would encourage investigations to pursue considerations of structural power, the ordering of values and the importance of non-state actors. This is not to say that the fit between Strange's approach and a Lakatosian research programme is perfect, but it is a useful way of characterising Strange's theoretical project. It offers a way to engage constructively with Strange, to work within a Strangian world-view, while at the same time reworking and reformulating certain elements of the perspective.

Having now discussed Strange's work, I will now move onto to develop (or reformulate) certain aspects of this perspective. My aim in the next chapter is to reconstruct the 'knowledge structure' in such a way that it enables a thorough structural analysis of the international political economy of intellectual property. One of the key reasons that Strange's work is important is the recognition of the importance of knowledge which it makes central to the study of the international political economy. If value-added in capitalism is increasingly predicated on the production, exchange and power of knowledge then a theory of international political economy that has knowledge as an integral part of its framework is required to understand these developments. That said, there is a need to rework the knowledge structure from Strange's writings to reinforce the centrality of knowledge in the analytical approach I wish to develop.

The above passage implicitly suggests that the other three structures - security, production and finance - are fully theoretically developed. However, I am not sure that any perspective can be said to have been fully developed, though the other three structures seem to me to be more accepted in the discipline than the fourth - knowledge. While their co-ordination through an overarching construction such as

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[89] See Lakatos,I 'Falsification and the Methodology of Scientific Research Programmes', Lakatos,I & Musgrave,A (editors.) Criticism and the Growth of Knowledge (Cambridge: Cambridge University Press, 1970) pp.91-196; Josling,J.E. 'States and Markets' (Book review) *The World Economy* Vol.11, No.4, (December 1988) makes this point, though from a position informed by classical economics.

Strange's is perhaps less widely embraced, in the main the operations of the other structures seem to fit in more easily with the recent disciplinary developments and theoretical perspectives. Thus, developing and concentrating on the knowledge structure from Strange's perspective, I will now start to move towards the framework for the substantive research project this study is concerned with.

Chapter four - On the knowledge structure & change

Introduction

I have now outlined the theory of power in the international political economy proposed by Susan Strange, which forms the foundation of my own work. This idea of power rests on four structures: security, finance, production, knowledge. In this chapter I will suggest that the conceptualisation of the 'knowledge structure' as originally theorised is under developed, and make some moves to reconceptualise it. This will involve, and be integral to, an examination of the problem of change in the international political economy. By developing Strange's theory in this manner I am approaching what O'Brien has termed an 'inclusive' International Political Economy, one that does not seek to close off areas from investigation but rather is able to identify, recognise and theorise 'new' social forces, actors, and structures, often left out of 'mainstream' analyses.[1]

While O'Brien has suggested that Strange's work is at the forefront of developments towards a more 'inclusive' IPE, he does not explicitly argue that it should be 'eclectic' in its method. However, without something akin to Strange's 'eclecticism' there is still a considerable danger of continued closure. This new IPE will shift its focus from a privileging of the state, to a focus that while including the state does not accord it an *a priori* importance. By doing so such a perspective enlarges an agenda of study to include structures and process which receive little if any attention in some mainstream approaches to the subject.

A (re)integration of *knowledge* is a major component of a reformed study of the international political economy. This involves going beyond a conception of 'knowledge' that is information based, and beyond an analysis that limits belief systems' importance to those beliefs held by policy makers (though these beliefs will still be analytically significant). This (re)integration is possible by first addressing some criticisms of, and then reformulating, Strange's conception of the knowledge structure. This I will do by widening the conception of knowledge that is used, and by suggesting that previous usage (of which Strange's mobilisation of the concept is an incomplete, though valuable critique) has represented a closure

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[1] O'Brien,R. 'International political economy and International Relations: apprentice or teacher?' MacMillan,J. & Linklater,A. (editors) Boundaries In Question. New Directions in International Relations (London: Pinter Publishers, 1995) pp89 - 106

obscuring the crucial role knowledge plays in the power relations that shape and change the emerging global political economy.

Though I am engaging with, and re-theorising some of the ideas from *States and Markets* I want to make absolutely clear, that I see myself as working *with* Strange and not against her. While critical of certain aspects of her work, this is not a rebuttal of Strange's perspective or research programme, rather I suggest the foundations she has laid should stimulate and inform further (theoretical *and* empirical) investigations. While Strange deals with what she has always termed the *international* political economy, I will be working with the term *global* political economy. A 'Strangian world view' accords no *a priori* role or importance to the state, and though states still play a major role, I want to signal that this role can no longer be taken for granted in political economic analysis. This has led me to use the term *global* political economy for the field in which the relations and structures I will be discussing are arrayed. And this now leads me to note that the discipline in which I am working is *Global* Political Economy (GPE).

The Knowledge Structure

Strange suggests that knowledge as a source of power in political economy is underrated and seldom accorded sufficient weight. She argues that it is hard to analyse because what is believed, what is known (perceived as understood or 'given') and the channels by which these beliefs, ideas and knowledge are communicated or confined, are not easily quantifiable.[2] This lack of materiality has led to a misrecognition of the importance of knowledge. This has also been partially a result of the way the power of (and within) the knowledge structure manifests itself. Strange argues that as power derived from knowledge is often based on acquiescence, authority may flow from a socialised belief system, or from the status conferred by possession of knowledge.[3] There is often not a clear power relation involved that the analyst or investigator can recognise and allocate importance to.

As I noted, Strange has suggested that there are three sorts of change within the 'knowledge structure': changes in the provision and control of information and communication systems; changes in the use of language and non-verbal channels

[2] Strange,S States and Markets (London: Pinter Publishers 1988) p115
[3] ibid. p118

of communication; and changes in belief systems.[4] This third group of changes presents a problem for Strange, as she tends to hold conflicting positions on the characterisation of knowledge. However, even the second type of change, with its consideration of the power of discourse (changes in the use of language) is not without difficulties. Reworking these issues will provide the key to reformulating Strange's theory of structural power.

Though Strange accepts that she is seeking to combine two rather different phenomena in the 'knowledge structure' she does not develop the structure to a point where this combination could be subsumed within a more overarching conceptualisation. The distinction that she allows between the perceptions of actors and the information that they may control could be characterised as that between action conditioned by belief, and action conditioned by information. This distinction might be posited as between ideational knowledge and instrumental (or even *material*) knowledge. Alternatively a distinction could be drawn between *reactive* action (based on incoming information) and *proactive* action (based on beliefs *about* the field of information). Strange argues that analysis of secondary structures can only be undertaken after an account of the primary structures has been proposed. In the 'knowledge structure' it seems to me that her discussion has only been concerned with the secondary structures and has not presented an account of the primary structure.

I am arguing therefore that as currently constructed the 'knowledge structure' holds a promise, that in effect it fails to live up to. Strange continually uses 'knowledge' and 'information' as interchangeable terms, and thus suggests that 'knowledge-information' is a resource, proposing that in the main it should be considered as informational.[5] Indeed she defends this instrumentalist view of knowledge-information by suggesting that what "the student of international political economy is more immediately concerned with is the nature of power exercised through a knowledge structure" rather than the unresolved debates over the very nature of knowledge itself.[6] In effect she tries to establish a distinction between the debates over the construction of knowledge and an analysis of its deployment. This then enables her to suggest that the first can be safely ignored or left to one side.

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[4] ibid. p116
[5] ibid. p118
[6] ibid. p132, though in all fairness she does provide in a footnote a useful starting bibliography for an investigation of these issues including works by Barthes, Foucault, Habermas and others. Though she is not unaware of the debates, she *does* downplay their impact on IPE/GPE.

This begs an important and central question on which her conception of the knowledge structure is based. *How does knowledge interact with and affect the other structures?* For Strange, donning her instrumentalist hat, it is the control of information and know-how, that enables structural power to set the agendas in the other dimensions - security, finance and production. This argument elides the distinction between the two different forms of knowledge she is concerned to recognise. Additionally, to carry this to its logical conclusion, as Ellehøj has done,[7] is to place the knowledge structure in a foundational role. If the manipulation of knowledge is how agendas are set, and agenda-setting is a central role of structural power (in that it shapes outcomes - intentionally or non-intentionally), then knowledge issues must be structurally prior.

Now I am certain that this is not the direction in which Strange wishes to move, her argument has always been that the four structures interact, with none being necessarily prior in any particular situation - this is her work's central analytical motif. The proposition that the knowledge structure could condition all other structures would seem to go against the explicit theoretical position she has been elaborating. Indeed it is to lapse into the mono-causality that she has constantly derided over the years. To maintain a 'Strangian world view', the opening that a denial of *a priori* structural priority allows, needs to be retained.

Having introduced knowledge in a structural form then, Strange tried to close the Pandora's box she had opened. When the discussion of 'belief systems' approached an opening up of issues around power, knowledge and discourse foregrounded by Foucault, Habermas and others, Strange pulled back, only accepting a definition of 'knowledge' that focuses on its informational uses and attributes.[8] And while Strange has continued to work with a clear central position for knowledge, she has made no further attempt to refine the conception of the structure that was presented in *States and Markets.*[9] This has left the knowledge structure incomplete, and under-theorised. Strange is rightly unwilling to resolve

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[7] Ellehøj,P 'Deus ex machina: The Process of International Economic Co-operation' Morgan,R., Lorentzen,J., Leander,A., & Guzzini,S. (Editors) New Diplomacy in the Post-Cold War World: Essays for Susan Strange (Basingstoke: Macmillan Press Ltd, 1993). This article takes the first steps towards re-theorising the knowledge structure, but makes a different theoretical move to the one that I shall develop below.

[8] Strange, States & Markets op.cit. pp123 - 125.

[9] In her most recent work Strange,S The Retreat of the State: The diffusion of power in the world economy (Cambridge: Cambridge University Press, 1996), knowledge is once again primarily treated as the mobilisation of information and the resources needed for its transfer and use - telecoms, computers and such like. And while these are clearly important, they are hardly the whole story.

the paradox of a knowledge structure using Ellehøj's approach because she refuses to accept the foundational solution. This leaves the structure's conception as little more than a sketch, and certainly not a fully theorised conceptual tool. Below, I develop these ideas and construct such a conceptual tool in a manner that I trust will not offend Strange's idea of a theory of structural power.

Firstly, while it is acceptable that knowledge-information can be an instrumental influence on action, this is not the end of its influence. As Bourdieu has argued:

> The theory of knowledge is a dimension of political theory because the specifically symbolic power to impose the principles of the construction of reality - in particular, social reality - is a major dimension of political power.[10]

The ability to establish warrant for truth claims enables power to define the social agenda in which resistance and opposition can be mobilised. Even to claim that the knowledge issue is not problematic, is to make an 'ideological choice'; it is to maintain that one particular world-view is 'correct' while others are not. It is to pre-judge the very issue that should be analysed. [11] This leaves power's construction of its *own* social reality unanalysed. This is not necessarily to say that a choice between contending world-views cannot be made, on whatever criteria that one would wish to propose, merely that an appeal to 'objectivity' or 'common-sense' is not a 'trump card' that precludes further investigation.

If claims about the nature of knowledge *are* political, in that power relations delimit 'knowledge' and 'not-knowledge', then knowledge's interaction with the other structures Strange identifies needs to be examined, using a much wider concept of knowledge. The *use* of knowledge-information is not a sufficient analysis of its role, if an 'inclusive' theory of Global *Political* Economy is to be developed. This is to say, if knowledge plays an important role in the agenda setting processes of structural power, then any analysis needs to be aware that *the knowledge structure is itself subject to this agenda setting process.*

Curiously Strange lacks the courage of her own convictions - she sees the importance of knowledge in the global political economy, yet closely delimits her conception when suggesting its structural potential. At least part of Strange's desire to step back from such a position stems from her indecision over her own

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[10] Bourdieu,P Outline of a Theory of Practice (Translated by Richard Nice) (Cambridge: Cambridge University Press, 1977) p165

[11] see the discussion of ideological choices of world views in the first chapter.

materialism. She wants to retain her contact with the 'real world' (for instance, her continuing and important links with business schools) but also recognises the 'reflexive' nature of social existence (and thus her interest in knowledge as power) is also important. She is therefore unable to fix on a satisfactory balance between the use of knowledge (its existence) and its formation (how it comes to exist), while recognising that both are crucial to the 'knowledge structure' if it is to play its allocated role within her perspective.[12]

The way forward from this position is to reconstruct the view of the field of knowledge, to establish a much wider agenda for the inclusion of knowledges into the 'knowledge structure'. By doing this I will be able to deal with both sides of the knowledge issue, and offer a tentative bridge over the material/ideational divide. This theoretical development crucially will involve an exploration of how change (and therefore causality) can be understood in the global political economy. By working through these two linked paths of theoretical development, I will attempt to establish a new and more powerful characterisation of structural power.

A Way Forward - The Domain of Knowledge

My first step is to expand the knowledge structure, from its original, mainly instrumental (or informational) based conception to one that includes ideas, belief systems, ideologies and other products of the mind. Like Shotter, I want to move from a view of knowledge which "one day, will give us a single true answer to each and every one of our questions, with all answers being compatible with each other" towards a conception that recognises knowledge as multi-layered and multi-sited, continually (re)emerging and being remade in the communications between self and other, between person and world.[13] As Vico argued, there is a need to put aside the metaphor of the book, where knowledge can only be outside the self (fixed in material form) and recognise other forms that knowledge may take.[14] One simple, yet useful way of presenting this expanded domain of

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[12] I would like to thank Chris Farrands for helping me develop this point.

[13] Shotter,J Cultural Politics of Everyday Life. Social Construction, Rhetoric and Knowing of the Third Kind (Buckingham: Open University Press, 1993) p50/51; p12-14

[14] ibid p61-65 for Shotter's discussion of Vico's *New Science*. Also see Berlin,I Vico and Herder. Two Studies in the History of Ideas (London: The Hogarth Press, 1976) pp99-114 which goes into considerably more detail.

knowledge - a domain that is 'inclusive' - is to adapt E.H. Schumacher's topography of knowledge-spaces.[15]

Schumacher suggests four fields of knowledge which stem from the essential duality of man's reflexive existence: 'there is me... and there is everything else'. He then adds to this first duality a second: types of experience, inner and outer - the inner, what we perceive *within* ourselves; and the outer that which we perceive happening *outside* ourselves. The nodes in the domain of knowledge then result from the linked pairs: 'I' and 'the World' *and* 'Outer Appearance' and 'Inner Experience'. And by the 'combination', or superimposition of these pairs Schumacher proposes his topography:

(1) I - inner (2) I - outer

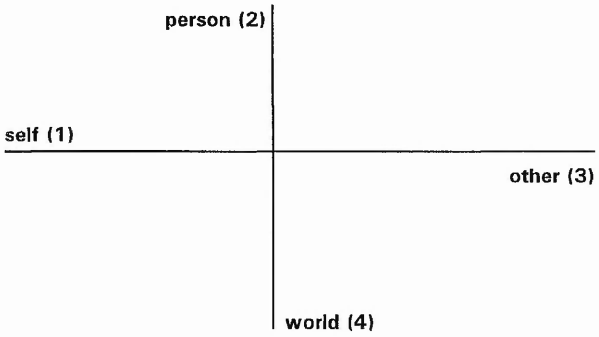
(3) the world (you) inner (4) the world (you) outer.

This is similar to Shotter's notion of knowledge appearing in the communication between the pairs self-other, person-world. However, while Shotter suggests knowledge arises/emerges in the conversations between these nodes, Schumacher sees them as specific (though joined) sites of knowledge in themselves. That said, interactions between these nodes must be based on initial knowledge, and though further knowledge emerges in the interactions, this is additional to, rather than necessarily a replacement for knowledge at any particular site.

By linking Schumacher's sites with Shotter's notion of conversation or communication between them, these four fields of knowledge can be posited as the overall *domain* in which the 'knowledge structure(s)' exists. Indeed, if these four fields taken together account for all knowledge, they are constitutive of everything that can be recognised, that can be epistemologically warranted by whatever means. There can be nothing plausibly described (or understood as) knowledge that is not recognised by one or more of these nodes or sites.

[15] Schumacher,E.F. A Guide for the Perplexed (London: Jonathan Cape, 1977) p74ff

figure 1: The domain of knowledge [16]



The numbers in the diagram represent Schumacher's various fields.

I shall leave to one side Schumacher's claim that a *transcendental* reflexiveness needs to be developed, and suggest that if I widen the domain of knowledge in such a manner I am recognising the reflexive nature of knowledge through the (re)inclusion of the self.[17] This leads me to a position where knowledge (if it is mediated through the self, as argued in chapter one) consists not only of 'facts' but as importantly of knowing the inner world - knowledge of the self (the first field) - and knowing oneself as known by others - knowledge of outward appearance (both physical *and* social) (the third field). Without knowledge of the latter, the former may lead to destructive illusions. Intentions are better known to the actor than actions (actors always *know* what they mean, what the *intended* outcome was), and this can lead to misunderstandings with others, to whom actions tend to be much more real than intentions.[18] Thus, as noted in the second chapter, to only look at power's intended effects is to miss the impact power's actions may have throughout the socio-economic context.

In as much as I am seeking to establish a domain of knowledge whose topography stretches from the internal knowing of sensation to the externalised 'objective'

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[16] adapted from Shotter, op.cit. p13 and Schumacher, op.cit. pp74-138. Vico also produced a similar, if slightly differently delimited topography (the distinction between inner and outer, leading to four 'types' of knowledge), see Berlin op.cit. p105/6.

[17] Schumacher, op.cit. p86ff. But see Strange,S 'A Reply to Chris May' *Global Society* Volume 10, No.3 (1996) p304 for Strange's brief comments on an earlier draft of my position (published as May,C 'Strange Fruit. Susan Strange's Theory of Structural Power in the International Political Economy' *Global Society. The University of Kent Journal of International Relations* Vol.10 No.2 (Spring 1996)) regarding my taking 'his ideas out of context', though she argues that Schumacher would have supported her overall position.

[18] See the work on (mis)perception in international relations, for instance, Jervis,R. Perception and Misperception in International Politics (Princeton NJ: Princeton University Press, 1976) or Little,R. & Smith,S. (editors) Belief Systems and International Relations (Oxford: Basil Blackwell, 1988).

class of 'information', there is a parallel to Ryle's argument regarding the problematic (but wide-spread) acceptance of the Cartesian division between mind and matter. Both Schumacher and Ryle recognise this duality but explicitly refuse to accord one side or the other precedence or priority. Indeed as Ryle argues,

> both Idealism and Materialism are answers to an improper question. The 'reduction' of the material world to mental states and processes, as well as the 'reduction' of mental states and processes to physical states and processes, presupposes the legitimacy of the disjunction 'Either there exist minds or there exist bodies (but not both).'[19]

Like Ryle, in the expanded domain of knowledge, I am not making the claim that particular nodes or fields de-legitimise others, but rather that this is not an either/or situation, all elements of the domain need to be accorded recognition, none automatic precedence. Ryle's category of 'knowing how', in addition to the more accepted 'knowing that' (which is represented by (4) in the diagram above), links with Habermas' project, whose "aim of rational reconstruction is precisely to render explicit, in categorical terms, the structure and elements of such 'practically mastered, pre-theoretical' know-how" which Ryle is concerned to identify.[20] And as I noted at the end of the first chapter, though Habermas' presumption of a possible universal rationality seems problematic, undoubtedly his interest in non-instrumental knowledge has a resonance with the expansion I am undertaking here.

Essentially the fourth field (Ryle's 'knowing that'; Habermas' 'instrumental' knowledge) is "the real homeland of every kind of *behaviourism*: only strictly observable behaviour is of interest.... and many people believe that it is the only field in which true knowledge can be obtained".[21] Those who limit knowledge to this field maintain only what is 'objectively' observable can be known and be seen as causal. But in the topography I am proposing, this excludes much that needs to be recognised as knowledge. The concentration on the measurable material observations of this fourth field (this 'instrumental knowledge') is an incomplete, and thus problematic conception of knowledge; one that sets up a certain agenda excluding much that impacts on social relations.[22]

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[19] Ryle,G The Concept of Mind (London: Peregrine Books, 1963) p23/24 and *passim*. Ryle has little time for 'epistemologists' and spends much of the book suggesting the construction of formalised theories of knowledge is an incomplete (or at best specialised) project.

[20] McCarthy,T The Critical Theory of Jürgen Habermas (Cambridge: Polity Press 1984) p276, where McCarthy discusses the parallels between the Habermasian project and Ryle's work, and Ryle op.cit. p28ff for 'knowing how' and 'knowing that'.

[21] Schumacher, op.cit. p115

[22] In International Relations theory this critique of a limited field of knowledge has taken place under the rubric of 'post-positivism' see Smith,S 'Self-Images of a Discipline' *and* Vasquez 'The

The recognition of the inadequacy of the narrow view of knowledge is the crucial foundation for the reformulation of the conception of the knowledge structure. What needs to be returned to the domain of knowledge is the rhetorical, that which is not grounded in 'facts' but which is revealed through communication and argument.[23] The difficulty of fixing much that is knowledge into a model limited to 'objectivity' opens the domain of knowledge to the recognition of 'tacit knowledge'. Knowledge may exist in practices, in 'ways of doing' (or for Ryle, 'knowing how') that is not recognised or accorded analytical importance when a narrow view of knowledge is used. Polanyi suggests that only when 'tacit knowledge' of the connections between the 'subsidiary' (the broad field to which an object is perceived to belong) and the 'focal' (how the object is integrated into this field) is brought to bear on the world can 'facts' even be discovered.[24] The knowledge that is required to investigate the world is not completely available in the world (node 4) but needs to be brought forth from elsewhere in the domain of knowledge. Therefore, to have a complete (or at least fuller) understanding of knowledge and its revelation, its domain has to be expanded to include that knowledge available to the self.

However, as Gellner notes, in philosophy the opposite concentration on the inner-known (node 1), that which is the subject of reflective thought, has been just as problematic. This supposes that the inner life can remain unaffected by the material outer life, inasmuch as all that can be known might be based on the speculation of the mind, as if we come to the world afresh with no preconceptions or experiences.[25] If an analysis is to consider the domain of knowledge in its entirety, then all the fields (each node) of knowledge must be considered. If, as I want to argue, it is not just any *one* field of knowledge that is 'really' knowledge, then the choice between material and 'tacit knowledge' is a false one: they can be combined to embrace the seeming duality. So, what I am arguing for is not the

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Post-Positivist Debate' Booth,K & Smith,S (editors) International Relations Theory Today (Cambridge: Polity Press, 1995); numerous contributions to Smith,S, Booth,K & Zalewski,M (editors) International theory: positivism and beyond (Cambridge: Cambridge University Press, 1996); the rather more polemic George,J Discourses of Global Politics: A Critical (Re)Introduction to International Relations (Basingstoke: Macmillan Press, 1994); and Brown,C 'Turtles All the Way Down: Anti-Foundationalism, Critical Theory and International Relations' *Millennium. Journal of International Studies* Volume 23, No.2 (Summer, 1994) pp 213-236

[23] Shotter,J Conversational Realities. Constructing Life through Language (London: Sage Publications, 1993) p166ff

[24] Polanyi,M 'Tacit Knowing: Its Bearing on Some Problems of Philosophy' Knowing and Being: Essays (Edited by M.Grene) (London: Routledge & Kegan Paul, 1969) p179 and also Polanyi,M Personal Knowledge. Towards a Post-Critical Philosophy (London: Routledge & Kegan Paul, 1958) p133ff and chapter 5 'Articulation' p69-131 *passim*

[25] see Gellner,E Thought and Change (London: Weidenfeld & Nicolson, 1964) pp105ff

replacement of one knowledge by another, but rather the expansion of what we understand as knowledge - a widened domain.

If knowledge is defined as being all that can be known across these sites (between these nodes), then within a community (be it local, regional international, epistemic or otherwise constituted) the domain includes all that is known and why. But 'to know' in this conception does not entail the same strict epistemological warrant that is proposed for 'objective' knowledge. I include within this widened reading of knowledge what is more often coded as opinion, those other aspects of mental activity that drive and influence further knowledge formation as well as material actions. There are also things the individual knows tacitly, a 'knowing how', that cannot be reduced to epistemologically warranted claims within a notion of 'objective' knowledge. Though different communities may 'know' differently, *what* they potentially know is represented by knowledge across the whole domain I have described. How things are known, what is unknown, and how power relations affect this distinction are the key questions for an analysis of the knowledge structure.

Within this necessarily broadened reading of knowledge, there is no line to be drawn between politics and other relations. In one sense, everything is political and therefore following the classic feminist maxim, 'the personal *is* political'. To assign some knowledge(s) to the perimeter and other(s) to the centre of analytical importance is once again to make an ideological choice. This choice may be required for any study to be able to handle its subject, but *this choice needs to made explicit.* The choice cannot be presented as self-evident, as 'common-sense', 'objective' or final.

What I am suggesting is that no hierarchy of analytical interest is 'natural' or fixed. The hierarchy that produces an account of a particular social-historical field can be justified but this needs to be explicitly undertaken. And within the knowledge that is the subject of study, the same qualification applies. Indeed, politically, some knowledges may be more important than others in the field being studied, but part of the investigation must uncover the reason for these particular hierarchies and why these orderings have been chosen (been imposed, or come into existence) rather than others. And perhaps of most interest is what might cause such knowledge hierarchies to change.

Towards a Theory of Change

Before continuing with the reformulation of the knowledge structure, this question of causality leads me to the necessity of addressing the lack of an explicit theory of change in Strange's work. This is not to say that Strange is insensitive to change - quite the opposite, she has continually argued that IPE must be built on an historical appreciation of changes within the system.[26] However, she tends to assume change and then explain it, rather than to *analyse* the dynamic she identifies. Thus, while she has consistently identified three main areas determining structural change - technology, states, markets[27] - she offers little direct analysis of the dynamics of these determinants. It may well be the case that the interaction of technological, market and authoritative shifts inform or even determine changes in the primary structures, but this essentially just moves the analysis back a stage - the question that has been evaded is what *causes* these changes in the first place.[28] Importantly this is not a criticism that can be only levelled at Strange. Indeed there are many theorists, especially those working on globalisation for whom causality receives little if any analytical discussion at all.[29]

Strange has always argued against mono-causal explanations, and decried determinism where change is understood as the result of particular historical processes (long waves, the decline of capitalism, class struggle), stressing instead

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[26] The discussions of change in Strange,S 'From Bretton Woods to the Casino Economy' Corbridge,S., Thrift,N. & Martin,R. (editors) Money, Power and Space (Oxford: Blackwell Publishers, 1994) and Strange,S 'Global government and global opposition' Parry,G (editor) Politics in an Interdependent World (Aldershot: Edward Elgar, 1994) go some way to making explicit what previously had only been implicit within her work. And see also her comments in Strange, Reply to Chris May op.cit. where she argues that she indeed has no *general* theory of change, because such a theory is not possible.

[27] Strange, States & Markets op.cit. p200; Strange,S 'The Name of the Game' Rizopoulos,N.X. (editor) Sea Changes: American Foreign Policy in a World Transformed (New York: Council on Foreign Relations Press, 1990) p245ff; Strange,S, Stopford,J.M. & Henley,J.S. Rival States, Rival Firms: Competition for world market shares (Cambridge: Cambridge University Press, 1991) p22, p34 and Strange,S 'An Eclectic Approach' Murphy,C.N. & Tooze,R (editors) The New International Political Economy (International Political Economy Yearbook No.6) (Boulder: Lynne Rienner Publishers, 1991) p38 (and Strange,S '*Cave! Hic Dragones*: A Critique of Regime Analysis' International Organisation Volume 36 No.2 Spring 1982, p490 for a precursor to this argument) and its most recent discussion in Strange, Retreat of the State op.cit. p184-6.

[28] Holsti,K.J. The Dividing Discipline: Hegemony and Diversity in International Theory (Winchester,Mass.: Allen & Unwin, 1985) p46/7 makes a similar criticism of 'global society' theories and see Buzan,B & Jones,R.B.J. (editors) Change and the Study of International Relations: The Evaded Dimension (London: Francis Pinter, 1981) for one of the few texts that gets to grip with this particular lacuna in the discipline.

[29] For a useful roundup of 'offenders' see Hirst,P & Thompson,G Globalisation in Question. The International Economy and Possibilities of Governance (Cambridge: Polity Press, 1996) and Strange, Retreat of the State op.cit. pxiii

that change is the result of many factors.[30] However, if an analysis is to go beyond explaining and offer a theory of understanding,[31] (from how to why) it needs an idea (or a theory) of what drives change. In other words, Strange's theory of structural power seems to assume a sort of social perpetual motion, with no driving force identified to push the observed dynamic(s) onward. It explains the 'how' of changes, but in its present form does not offer a convincing 'why'. And as Cox has pointed out, to establish a 'critical theory' rather than one that is merely 'problem solving', the question of *why* certain outcomes have come to pass is a central concern.[32]

The epistemological and ontological dimensions of change are intimately tied up with any discussion of the operation of the knowledge structure. A discussion of change is dependent on knowing that there has been a change in the observed field of study. Thus, there is the epistemological question of what is entailed in claiming warrant for such a recognition. But there is also an ontological issue to be surmounted: what is recognised as change and how is this to be divided off from things that have remained the same.[33] There is a need to separate changes from the background against which they appear. When all around appears to be changing (the continual movements of socio-economic relations) there is a requirement to develop an ontology that can be used to throw subjects for analysis into relief. And by doing so, significant and meaningful change can be identified (and thus the theory in which this particular change *is* significant and meaningful can be constructed).

This lends a certain circularity to these discussions. If there is a need to widen the conception of knowledge with which I wish to work, this also produces shifts in the available epistemology and ontology for discussing change. Indeed, if the arguments presented in the first chapter are accepted, then the recognition of certain changes is to make an ideological choice - in the sense that certain

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[30] Strange,S Casino Capitalism (Oxford: Blackwell Publishers, 1986), p97/98, p146 and Strange, Stopford & Henly, Rival States, Rival Firms, op.cit. p227ff. It should be noted that in some of her more business studies oriented work Strange has lapsed into a mild technological determinism herself, though in her more theoretical work this is generally not the case.

[31] To use the types of theory identified by Hollis,M & Smith,S Explaining and Understanding International Relations (Oxford: Clarendon Press, 1990)

[32] Cox,R.W. 'Social Forces, States & World Orders: Beyond International Relations Theory' *Millennium: Journal of International Studies* Vol.10 No.2 (Summer 1981) *passim* [reprinted in a slightly abridged form in Cox,R.W. & Sinclair,T.J. Approaches to World Order (Cambridge: Cambridge University Press, 1996) pp 85-123]

[33] Maclean,J 'Marxist Epistemology, Explanations of 'Change' and the Study of International Relations' Buzan & Jones, op.cit. p48

'changes' are privileged. As Little has noted, "change is an inherently ideological concept, social scientists who adhere to different ideologies will emerge with competing conceptions of change".[34] When it comes to the relationship between property, intellectual property and power relations one of my central arguments will revolve round the structural power over ontological constructions of what might be intellectual property, and what might not, and the movement of knowledge between these two distinct characterisations. I will therefore propose a pragmatic ontology, one that will move the argument forward while recognised as contingent on the particular operation of the knowledge structure in the field that is the subject of this study.

If human decisions shape the world, then Strange's concentration on the bargains that are made over outcomes in power relations remains a useful starting point for analysis. Change flows from bargains in the field which is being studied (the material 'reality'), but these changes are *not* naturally occurring phenomena. Bargains are the 'trade-offs' between different outcome-stasis-costs-benefit relationships delimited by the agenda of choices recognised by actors making decisions over these outcomes (which importantly must recognise the possibility of an outcome that promotes stasis, no change). The identification of change starts with the recognition of particular *moments* and requires a sensitivity to the perception of 'counterfactual histories', the different histories cut short by the particular results of particular bargains. While this needs to be understood incrementally, there is always the danger of allocating too much weight to a specific bargain. Thus, an historical sensitivity must be reflected in the analysis presented, both in the identification of moments and of the overall *context* in which such moments are embedded.

This suggests two distinct conceptions of analytically significant change which correlate to the previously discussed view of power as both structural and relational. The change at particular moments which are important are in the ability or capacity of actors to produce desired outcomes in their political economic relations. In one sense, the change I seek to identify is in the balance of power at certain moments in specific material power relations. When one actor's power to bring about outcomes changes relative to another's in the relationship under analysis then this is a crucial moment. Investigation needs to focus on such a

[34] Little,R 'Ideology and Change' Buzan & Little, op.cit. p42 and *passim*, where Little argues that there is a normative element to the recognition of certain sorts of change as being analytically significant.

change and suggest its causes. These moments may be indicated for instance, by the ability of previously weak actors to have more impact on bargains in a particular context, or perhaps the success of previously side-lined groups in resisting certain imposed outcomes. Indeed, analysis may reveal shifts in the importance of certain types of resources for the settlement of bargains over outcomes, changing effective resource endowments. However, this identification of relational change cannot be finally separated from the structural.

With structural change, I am concerned to identify changes in what might be termed the 'rules of the game'.[35] Thus in my pragmatic ontology, change in the context within which power relations are played out is also analytically significant. These changes are the shifts in the recognisable options available to relational power holders, the agendas from which their actions may be chosen (as developed in chapter two). Though the balance of power may change in political economic relations, how that power may be used and what is deemed possible may also shift and change. This second sort of change is implicated in the structures of meaning utilised to make sense of the world, which are the subject of the knowledge structure's conditioning.

Finally, bringing these two groups of significant changes together, a third key concern emerges. How do they interconnect in specific instances? They may reinforce each other, or they may be in tension. Changes in effective resources may have little impact due to a strong and unchanging structure (or agenda). Shifts in the structural agenda may not overcome the distribution of resources in the power relationship. Alternatively change in one may reinforce changes in the other, or stasis in both may support the status quo. Therefore analysis must be concerned to ask *why* this particular change, why did actors make these particular choices, why did structural and relational changes interact in a certain manner at a certain moment? This suggests that any understanding of these changes needs to be rooted in an historical narrative, rather than an abstract (or modelled) account of the field under investigation.[36] Thus, while my account suggests a mechanism for identification of change and causality, it specifically does not aim to suggest any conclusions that are not rooted in particular investigations.

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[35] Here I am disaggregating the complex of multi-level 'games' that are the arena for change in Cerny,P.G. The Changing Architecture of Politics (London: Sage Publications, 1990) p4ff

[36] For a survey of this position which parallels my discussion in the first chapter, see Gaddis,J.L. 'History, Science and the Study of International Relations' Woods,N (editor) Explaining International Relations Since 1945 (Oxford: Oxford University Press, 1996).

Strange and Cox

Moving back to my concern with why such change happens, it seems to me that this can be understood as the result of a continual action of 'contradiction'. Following my earlier discussion of knowledge (in the first chapter and earlier in this), elaboration stems from the conversation between knowledge and information, between self and other. This leads to changes both in the knowledge used to organise information (and through such organisation, social actions) and in the recognition of certain information by knowledge. I am therefore proposing a substantive link between argument, contradiction and knowledge. Robert Cox has suggested that we can see contradiction operating at two levels:

> At the level of logic, it means a dialogue seeking truth through the exploration of contradictions... the continual confrontation of concepts with the reality they are supposed to represent and their adjustment to this reality as it continually changes... At the level of real history, dialectic is the potential for alternative forms of development arising from the confrontation of opposed forces in any concrete historical situation.[37]

As the last sentence reveals, Cox is actually concerned here with a notion of the dialectic, and I wish to follow a line of development that Cox himself has suggested. Holding with Strange's 'inclusive' conception of IPE, I want to (re)establish a (non-exclusive) link with a Marxist conception of social change,[38] as I will explore below in my discussion of the dual-dialectic.

As I have already discussed, Strange has always been 'friendly' to Marxist analyses, but has argued that a Marxist perspective can only be part of an overall view of the field. And while this accords with the perspective I am developing in this study, I propose a more central role for a Marxian-connected analysis than has been evident in Strange's work. (Additionally *if* Althusser's distinction between an earlier 'humanist' Marx and a later more 'materialist' Marx is acceptable it is the former with whom I am forming a link.[39]) First though it is as well to note that there are certain elements that divide a Strangian structural analysis from a Coxian one.

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[37] Cox, Social Forces, States & World Orders op.cit. p134.

[38] For Cox's brief discussion of a Marxist (re)integration see Cox,R.W. 'Susan Strange, *States and Markets*' (book review) *Millennium. Journal of International Relations* Volume 18 No.1 (Spring 1989) p109.

[39] As set out in Althusser,L For Marx (London: Allen Lane, 1969) p33-39

The first of the two differences between Strange and Cox that I want to stress is his retention of the state as a prerequisite of his analysis.[40] By maintaining a 'levels of analysis' element to his argument, Cox prejudges an issue which in a Strange derived analysis can be included but remains non-*a priori*. That is, utilising Strange's structures a debate about states can be developed (and this may locate them as utilising different structural elements to maintain power) but they have to argued into place, they do not appear as a fixed element, waiting to be analysed. If as Cerny contends, "[n]on-state actors and structural categories may not actually be replacing the state, but they are co-existing with it, and cutting across it",[41] then, it seems to me, sensible to suggest an examination of arguments for particular roles for states, rather than just positing their significance. This should not be taken as a state-in-decline argument, but one that suggests state involvement in the global political economy needs to be handled carefully, especially if the state is itself 'in transition'.[42] Nor is this to assume that states are 'like units' in any way. Thus while there are parallels and strong resonances between the two analyses, an approach built on Strange's work remains the more useful and 'suggestive' analysis.

Secondly, as I noted in the previous chapter, while in Marxist analysis the production structure is the site of change due to its determining role (and here Cox's arguments are considerably more nuanced and less deterministic than many[43]), Strange is unwilling to allocate any of her structures a *necessary* role in this manner. Thus, given Cox's concentration on the production structure, it is not sufficient merely to adopt his perspective on change and social forces as this would limit the possibilities for causality in a way that is unacceptable to a Strangian perspective. Therefore I need to develop a theory of change and causality that will reflect the pragmatic ontology I will mobilise.

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[40] see Cox, Social Forces, States & World Orders op.cit. and his later Production, Power and World Order: Social Forces in the Making of History (New York: Columbia University Press, 1987)

[41] Cerny,P.G. 'Pluralateralism: Structural Differentiation and Functional Conflict in the Post-Cold War World Order' *Millennium. Journal of International Studies* Volume 22, No.1 (Spring 1993) p45. In note 17, Cerny briefly notes the similarities between his account of a complex of structures and Strange's.

[42] see Camilleri, J.A., Jarvis, A.P. & Paolini, A.J. (editors) The State in Transition. Reimagining Political Space (Boulder,CO.: Lynne Rienner Publishers, 1995) which usefully sets out the current critical debates regarding the state.

[43] see for instance 'Production and Security' in Cox & Sinclair op.cit.

Components of a dialectical theory

Firstly, I want to stress that if I am going to produce a dialectic theory of change then such a theory,

> absolutely requires *both matter* (phrased as social relations, simple activity, mode of production, or whatever) *and mind* (whether seen as cognitive process, psychoemotional states, and so forth) in interaction with each other. They are inseparable...[44]

And further, when appropriately developed, a dialectic approach "negates the opposition between materialism and idealism" by producing a theoretical understanding based on the analysis of the *whole*. The notion of dialectical historical change is by no means limited to post-Marx political theory. And while it may be true that as a concept it "has been almost completely pre-empted by him and funnelled down to us through the medium of his writings", this is more a testament to Marx's enduring importance than an argument for disregarding the notion of the dialectic.[45] However, this does underline the need to make clear exactly how I wish to use the notion of a dialectic.

As Williams notes, while the term 'dialectic' has a long history, before the advent of the Germanic idealist philosophy its definition was less specific. In its earlier incarnation 'dialectic' was not a particular form of reasoning but a term used to identify the use of logical arguments in various forms.[46] However, in Kant the notion of contradiction moves from this realm of argument into the relations between (transcendental) logic and the material world. Kant argues at length that the notion of a dialectic on the transcendental plane is of no importance unless it refers in some way to experience. Kant reworks previous notions of the dialectic to link transcendental logic analyses and the objects on which such knowledge will act, to which he accorded the term 'transcendental dialectic'. However, only with Hegel, does become a process which needs to be *investigated* itself, rather than a tool of analysis.[47]

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[44] Murphy,R.F. The Dialectics of Social Life. Alarms and Excursions in Anthropological Theory (London: George Allen & Unwin, 1972) p84 (italics in original)

[45] ibid. p86 and see also Williams,R Keywords. A Vocabulary of Culture and Society (London: Oxford University Press, 1976) p91-93

[46] ibid. p91

[47] see Kant,I Critique of Pure Reason (Translated by Norman Kemp Smith) (Basingstoke: Macmillan Education, 1933 [reprinted 1990]). The argument is briefly alluded to in a number of places in the text, then laid out in some detail in the section *Transcendental Dialectic* pp297-484 and most particularly section 9, p454ff.

There are two distinct and differing ways of theorising the operation of an historical dialectic: the first as formulated by Hegel; and then the second, as (re)formulated by Marx. In that Marx was a 'young Hegelian' before he stood Hegel's dialectic 'on its head' there is a clear and important link between the two writers.[48] Indeed the frequent reconsideration of Hegel throughout the history of Marxism is a testament to the interconnections between the two on this and other issues. Thus, in true Fichtian dialectical fashion, I will present Hegel's dialectic as thesis, Marx's as antithesis and then the notion of a dual-dialectic as *synthesis*.[49]

For Hegel, then, the dialectic was a process that would finally lead to the 'unity of essence and existence', history was essentially teleological. In contradistinction to Kant, Hegel did not accept the separation of the realms of essence and existence - the division of ideas and materiality - rather, unity is the object of historical process. However, while not accepting this division, Hegel *does* claim that the "only necessity in historical development is that of freedom's progress towards self-realisation in human consciousness" - essence is given historical and therefore causal priority.[50] Indeed in The Philosophy of History Hegel states:

> The destiny of the spiritual World, and ... *the final cause of the World at large*, we allege to be the *consciousness* of its own freedom on the part of Spirit, and *ipso facto*, the *reality* of that freedom.[51]

Thus, the material or existing 'world' is subject to the history of Spirit's dialectic advance towards the freedom for all men. Hegel, in The Philosophy of History, sees history as the progression towards the idea of Universal Freedom, where such social relations that are the result of the age's Spirit are the historical manifestation of such progress. The essence of man and the dialectical development of Spirit drive history, and thus man's material social relations. Hegel is careful not to deny, nor exclude the existing world from history. However, it is the dialectics of essence, the way man perceives both himself and

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[48] For the famous 'on its head' remark see 'Afterword to the second German Edition' Marx,K Capital. A Critical Analysis of Capitalist Production (Volume 1) (London: Lawrence & Wishart, 1974) p29

[49] For Fichte's "dubious honour of coining the paradigm" of the dialectical triad, see Murphy op.cit. p88. For a concise account of the links between Hegel and Marx see Fetscher,I 'Hegel and Marx' Bottomore,T (editor) A Dictionary of Marxist Thought (second edition) (Oxford: Blackwell, 1991). A more complex discussion of the links between Marx and Hegel (and Kant) is presented at length in Colletti,L Marxism and Hegel (London: NLB, 1973)

[50] Averni,S Hegel's Theory of the Modern State (Cambridge: Cambridge University Press, 1972) p221

[51] Hegel,G.W.H. The Philosophy of History (New York: Dover Publications, 1956) p19

the world about him (and the possibilities for will and freedom) that in the last analysis move history forward to the achievement of Universal Freedom.[52]

Hegel makes it quite clear (when discussing the history of the state), that the "Idea is the inner spring of action", which is then realised through material existence.[53] And, finally Hegel argues that:

> Spirit - consuming the envelope of its existence - does not merely pass into another envelope, nor rise rejuvenescent from the ashes of its previous form; it comes forth exhalted, glorified, a purer spirit. It certainly makes war upon itself - consumes its own existence; but in this very destruction it works up that existence into a new form, and each successive phase becomes in its turn material, working on which it exhalts itself to a new grade.[54]

There can only be new material existence, historical development in the world of objects, once the idea (the essence) of such existence has been remade through the destruction and reconstruction of the Spirit during the operation of the dialectical motion of history. In Hegel, it is the idea of history (and its progress towards the actualisation of Universal Freedom) that conditions material existence. While the material world is by no means dismissed as is sometimes presented in cruder versions of Hegelian thought, it is subject to the operation of history (or causality) within the dialectic of Spirit, essence or ideas.

Having presented Hegelian dialectics as the priority of ideas over materiality in locating historical causality, the thesis part of my dialectical triad is that *change stems from the realisation of contradictions within the thought of individual social actors*. Theory precedes action, in the sense that the construction of the world of the 'spirit' is then compared to the 'real' world and the real world is found wanting, which drives progress and change forward. Thus, though there is a clear and necessary link between essence and existence, it is essence or ideas that are the root of changes, and thus the general cause of history's unfolding. Karl Marx took Hegel's ideas on history, and while agreeing that undoubtedly the key historical drive was some sort of dialectical development, disputed the Hegelian location of this dialectic in the realisation of the spirit. This then leads me to the second step in the tri-partite argument, the antithesis.

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[52] ibid. p20ff and see also Knox,T.M. (translated with notes by) Hegel's Philosophy of Right (London: Oxford University Press, 1967 [reprinted 1973]), p34 and *passim*.
[53] Hegel, Philosophy of History op.cit. p38
[54] ibid. p73

First it is necessary to point out that like Hegel before him, Marx did not wish to establish that only one side of the essence/existence distinction had any importance. Thus though Marx reversed and modified Hegel's dialectic, this is not to claim that Marx was a materialist determinist, arguing that existence was all.[55] Like Hegel, the argument that Marx was making is subtle and more useful than a crude statement regarding the nature of being or existence. So, while I am drawing a distinction between the two dialectics, as Bhaskar points out even if "Marx continued to be critical of the Hegelian Dialectic, [after 1844, he] believed himself to be working with a dialectic related to the Hegelian one".[56] Within Marx there are two distinct dialectics. Regarding the method of investigation, Marx uses a dialectic to uncover and analyse the centrality of the 'commodity' to the functioning of capitalism. And while this methodological insight impacts on any study of social relations, here the dialectic that I wish to explicitly draw on is the process that is theorised as the material dialectic of history. I am also leaving to one side the discussion within Marxist writings (and stemming from Engels) that raises the question of the possibility of a dialectic of nature. Here, I shall accept Marx's position that the dialectic is social. This is to say that the dialectic processes of history only commences with man's production of the means of subsistence.[57]

Marx's construction of the dialectical process of history is concerned to locate the mechanism in man's material relations and specifically in the production of the socio-economic environment which is the history of man's 'escape' from nature. Marx argues,

> as everything natural has to *come into being*, *man* too has his act of origin - *history* - which, however, is for him a known history, and hence as an act of origin it is a conscious self-transcending act of origin. History is the true natural history of man...[58]

This claim that history transcends the self, in as much as it exists outside the perceptions of such history does not involve the claim that man has *no* reflexive self, only that such reflection is related to an already extant materiality. This

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[55] see Hoffman,J Marxism and the Theory of Praxis (London: Lawrence & Wishart, 1975) p71-108 especially but also *passim* for an extended refutation of the claim that Marx was 'a crude materialist'.

[56] Bhaskar,R 'Dialectics' Bottomore op.cit. p144

[57] ibid. *passim* for a discussion of differences on this question within Marxism, and Marx,K & Engels,F The German Ideology (London: Lawrence & Wishart, 1965) p30ff for the origins of man's history. See also Wilde,L Marx and Contradiction (Aldershot: Avebury, 1989) p99ff, where Wilde supports the position that the dialectic in Marx can only be seen as social.

[58] Marx,K Economic and Philosophic Manuscripts of 1844 (Moscow: Progress Publishers, 1974) p136 (emphasis in original)

contributes to and informs man's essence, and while such essence may feed back into material relations (through their recognition and/or valorisation), the existence of specific social relations is prior. This is not to claim that man's ideas have no role to play in the dialectical processes of history, but they cannot blithely reconstruct the social relations produced in man's material history as they see fit.

Again, in much the same manner as Hegel accorded essence priority over existence, but did not wish to remove the latter from his analysis, Marx wished to do the same, but as a mirror image. For Marx, though men,

> are the producers of their conceptions, ideas, etc. - real, active men, as they are conditioned by a definite development of their productive forces and of the intercourse corresponding to these... Consciousness can never be anything else than conscious existence, and the existence of men is their actual life-process.[59]

This leads to a conception of the dialectical process as material contradictions in man's existence and crucially the social relations that such existence brings in to being. Marx can then assert in the theses on Feuerbach that "the human essence is no abstraction inherent in each single individual. In its reality it is the ensemble of the social relations".[60] Where for Hegel history is a teleological process reaching its final realisation in Universal Freedom, for Marx it is concerned with the social relations of material production. And within these social relations of production the dialectical opposition is that between classes (where class is identified as the relative function of groups in relation to the material production of man's means of subsistence).

There has been much debate about the position of Marx on the materiality of the dialectical process, and indeed Althusser suggested that the positions change between the early and later Marx.[61] If this distinction is acceptable (and this is not the place to develop the arguments over this issue), then the specific Marxian dialectic that I am suggesting might be useful is the one that appears in earlier writings, where the links with Marx's young Hegelian past are still apparent. However, Althusser famously argues, that it is the later Marx that is the one that should be accorded the recognition as the 'real' *scientific* Marx, not the earlier idealist one. Whatever the merits of this analysis of Marx's work (which given E.P. Thompson's lengthy critique[62] can hardly be said to be uncontested), *and*

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[59] Marx & Engels, The German Ideology op.cit. p37
[60] ibid. p660 (Thesis VI)
[61] Althusser's account of the Marxian dialectic is laid out at some length in part six 'On the Materialist Dialectic. On the unevenness of origins' in Althusser, For Marx op.cit. pp161-218
[62] Thompson,E.P. The Poverty of Theory (London: Merlin Press, 1978)

even if we accepted that the idealism of 'early Marx' is different from the later Marx's analysis, for this study the arguments are not particularly apposite. I am *not* suggesting an exclusively (Neo)Marxist analysis, and indeed my selective use of Marx would undoubtedly lead to accusations of me not being a *real* Marxist at all if I was to make such a claim. Rather, building on Strange's eclectic method (reinforced by my deliberations in the first chapter), I am suggesting that this central element of Marx's analysis is a useful *component* to the dialectic I wish to identify.

With the above proviso in place I suggest that while Hegel saw the conflicts that drove history where those that took place in the realm of ideas, Marx saw conflict as existing in the material world and the ideas about the world sprang from such conflict. While I make no claim to have comprehensively explored the nature of Hegel's and Marx's dialectics, what I have aimed to establish is: firstly that both saw the driving force of contradiction (the clash of opposites) as central to history and thus of social relations; secondly, while each privileged one side of the existence/essence distinction in the their understanding, neither omitted the other side from their analysis completely. This leads me to suggest that it is not appropriate to privilege either side of the relationship between ideas and materiality when proposing a general theory of the causes of change in the global political economy (or for that matter any social relations).

A Dual-Dialectal Analysis of Change

The above discussion of dialectical components leads me to argue that in the Strangian analysis I am developing here, change within the four structures of the global political economy stems from a process of dialectical contradiction. Building on Cox's insight regarding change (and as noted drawing from Marx *and* Hegel), the causality of contradiction (and thus of change) flows in two directions. In no particular order, it flows from material existence to the concepts that represent that materiality, and from those concepts to material existence. Thus, as the concepts that social actors have about a material 'reality' increasingly do not fit that reality, their ideas of the material reality shift. But because these material actions are driven by conceptions, this change will also change their actions and interventions in the material realm, which then alters the material reality itself. This then sets off another change in concepts, and so on. Change enters conceptual-material relations through a continual process of contradiction and (re)construction. However, in this circular process I resist strongly the question of

a starting place or the notion of a 'foundation' or first moment. The idea that either a material or conceptual point can be identified as being the final root of change, seems mistaken.

Changes may be resisted, attempts may be made to hide contradictions (or influence the conceptual changes taking place), but equally they may be embraced and encouraged. Fundamentally what I am arguing is that both a Hegelian and a Marxian idea of the dialectic operate simultaneously and are interpenetrated. This 'dual dialectic' is then mediated through the four structures that Strange proposes - security, finance, production, knowledge. The changes that flow from the dual dialectic take place both as relational *and* structural change. This is to say, emergent contradictions in power relations may impact on the mobilisation of resources to affect outcomes, and contradictions within structures may shift agendas. But crucially, the dual dialectic produces changes in one which will be brought into tension with tendencies to stasis in the other.

Hegel and Marx each dealt with one side of this dual dialectic flow, and focused on one direction of change - either ideational to material (Hegel) or material to ideational (Marx). However, an *a priori* focus should not (indeed *cannot*) be established in this manner.[63] In a particular case an analysis might theorise either side of this 'dual-dialectic' as deterministic but I stress that analyses need to be sensitised to the opposite movement, even if it is to put it to one side during a specific investigation. Thus what I am arguing is that while a causality might be established, from the material side to the conceptual, or visa versa, *this can only be established for specific instances, for specific moments*. In every case a previous point on the circular movement of this dual dialectic could have been chosen as the starting point rather than the one picked for a particular investigation. Differing analyses are starting from different parts of the dual-dialectic process.

Additionally what this implies for my argument is that any final postulated temporal origins of such processes are lost to investigation (even if they can be said to exist, which I doubt), as they must by definition predate recorded history. For every idea there is a material instance against which it may be located, but

[63] Derek Sayer reads Marx in such a way that Marx's dialectic is what I have called here the dual-dialectic. I am not so sure and prefer to rely on Marx *and* Hegel. See Sayer,D 'Reinventing the Wheel: Anthony Giddens, Karl Marx and Social Change' Clark,J., Modgil,C. and Modgil,S. (editors) Anthony Giddens: Consensus and Controversy (London: Falmer Press, 1990) pp235-250

equally for every materiality, there is a prior idea of its existence. I could keep tracking back round the process to the point where information (or a 'trace') is no longer available, but this does not mean that finally at this juncture knowledge had no role to play, merely the means for the recognition of such knowledge are not available to the contemporary investigator. It is the concentration on material artefacts that has limited the recognition accorded to the historic role of the knowledge structure. Ideas, by leaving few direct material traces, have been discounted in most historical analyses, which have only stressed their material manifestations.[64] Before writing, there were ideas, but they were not fixed in a form that could be recovered by research.

The reconceptualisation of Strange's 'knowledge structure' and its co-structures, then, is explicitly a rejection of the previous priority given to the material over and above the ideational. But equally, it is rejection of an 'idealism' that locates thought prior to materiality. What I am proposing is an acceptance of the interpenetration of materiality and ideas in social relations. This relation can be cut at a temporal point and a directional flow identified, but at another point this might be reversed. While I have proposed a theoretical/organisational model for thinking about the global political economy 'holistically', any speculation regarding the links and relations between structures at a specific point, as indeed Strange has frequently argued, must be based on an *historical* understanding of the relations under analysis. Analysis must be historically located utilising the full panoply of relational, structural and dual dialectic elements. It may concentrate in a particular case on one direction of material/ideational flow and certain relations of power rather than others but the generalisation of a causal hierarchy from the interrogation of specific moments is to be avoided.

Strange's Structures Reconceptualised

If the theoretical moves that I have made above are plausible, this theory of change establishes a powerful role for the widened knowledge structure. This construction is a way to bring in those causes of change that it is difficult, if not

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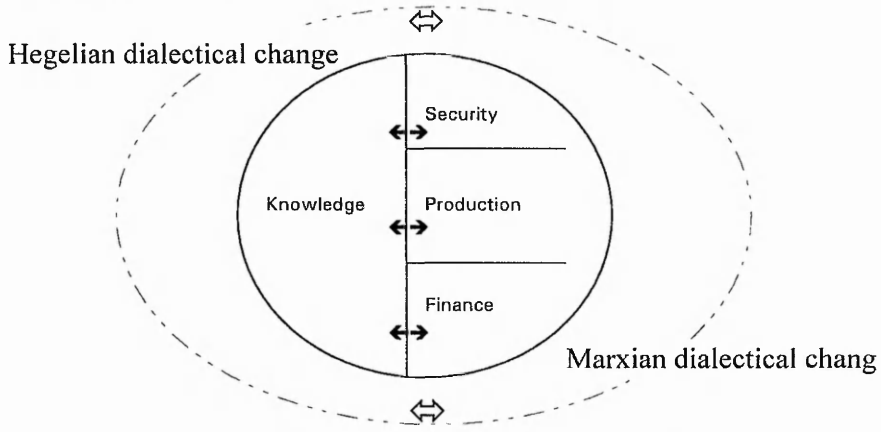
[64] Mumford,L The Myth of the Machine. Technics and Human Development (London: Secker & Warburg, 1967) which argues against a purely 'materialist' reading of the history of man's technical achievements and the implications. I should also note that even written records must be incomplete due to authorial choice, which presupposes accurate transcriptions, and societal literacy. Though there is a heroic tradition of attempting to *finally* separate material and ideas, to assign some sort of priority, for the purposes of studying social relations I am not sure this is the most fruitful way forward.

impossible, to express in material terms. The reformulation of the knowledge structure, and its co-structures, that I am proposing might thus be represented by the following diagram.

figure 2: structural interactions



It is crucial to note that this represents one 'slice' of a continuing process. Thus the circuit of the 'dual-dialectic' is in fact in the shape of an infinite spring, where the third dimension is that of time. This could be seen as similar to an induction motor, where the current (contradictions - dialectic) flows round the two way circuit (-material-ideas-material-ideas-) and producing movement in the core (the four structures).[65] *This is not to suggest a mechanistic understanding of these process - the above should only be viewed as a diagrammatic illustration and nothing more.*

I want to make absolutely clear that while the 'dual-dialectic' maps onto the four structures that Strange proposes, it does not in any way replace them. Rather, it provides a fuller understanding of how the knowledge structure's fields function as a material/ideational gateway. Interactions (and contradictions) in all the structures influence and inform the knowledge structure. Changes are then fed back into the other structures through their interaction with the knowledge structure. Where Strange did not establish a causal relationship of change, utilising this notion of contradiction I have suggested its root cause. Through the knowledge structure's role within global political economy changes within all the structures can be suggested as the product of structural interaction (and its attendant possibilities for contradiction), without detracting from Strange's analysis of *how* these changes take place. This is to say material changes are

[65] I am grateful to Chris Farrands for this useful metaphor.

refracted through the knowledge structure and pass back into either the same or different structures.

Both relational and structural changes are caused by the contradictions within these dual-dialectic flows, and when in particular historical/analytical circumstances causality is sought, both ideational and material elements of the structural power relations should be examined. Indeed this helps establish an additional 'positive heuristic' of the Strangian GPE I am proposing: *Not only must investigation be concerned with bargains (or moments) and their outcomes, but it must also be concerned with an investigation of causality that situates immediate (relational) causality within both the historical context of the moment and the structural construction of 'available' alternatives.*

Now that I have proposed the outline of an expanded knowledge structure, I need to return to the issue of how this structure interacts with it co-structures. This is not an issue for other forms of structuralism, in that the overarching structure proposed is unitary rather than a complex multiplicity. However, given the need to identify differing structures of power within the global political economy, their interaction becomes a central part of the analysis I wish to put forward. In addition to the theory of change which I have proposed, there is a further need to suggest the way these four structures work together to produce the social relations which constitute the global political economy.

Within the knowledge structure, it is necessary to understand not only how aspects of 'recognised reality' (that is, the reality revealed through observation - the fourth field, in *figure 1*) inform 'knowledge', but also how the knowledge structure informs what is recognised (the second field). Conceptions of self-identity, belief systems (the first field) and our perception of others' identities and motivations (the third field) need to be factored into the analysis of this process. As I have argued above, analysis needs to go beyond (but without dispensing with) the conception of a knowledge structure informing the other structures through the utilisation of information, and establish the mechanisms (or processes) that shape the way the world is understood. But knowledge itself must also be related to the existing social relations in some manner, which is to say that these fields within the knowledge structure inform and are informed by the other three structures must also be part of the analysis.

Structural Interactions

At the centre of a theory of structural power that posits four structures there must be an understanding of how these structures interact. As with Lukes' conception of structural power. I suggest that the key issue is that *potential* issues are kept out of politics altogether: structural power controls the agenda to obscure and hide conflict. Though potential conflicts (and contradictions) will still exist, they may never be actualised. There may be a "*latent* conflict, which consists of a contradiction between the interests of those exercising power and the *real* interests of those they exclude".[66] This involves a counter-factual argument - first a set of conflicts is recognised, then analysis leads to an argument that this set is incomplete (expected conflicts are not manifest) and thus the absence is explained by the operation of structural power. And, this positing of unmanifest (though analytically expected) conflict, leads me to suggest the way these structures interact.

The prevailing actor(s)/authority/power, through their intervention in the operation of social forces and institutional practices, define problems and by doing so, the choices of solution. By controlling the agenda, the decision-making process may be presented as fair and equitable because unpalatable or unacceptable solutions never reach the agenda for consideration. Thus the recognition of knowledge can be constricted by the power relations that structure the availability (in an ontological sense) of possible outcomes. That is, the recognition of the outer manifestation of actions of the self - my social options, what can be 'done' at a particular juncture (in that I need to have expectations about the results of social actions to make decisions as to their possibility or viability) - are subject to knowledge structural agenda formation. However, given the existence of the material side of the dual dialectic, then materially existing (and therefore *possible*) options cannot be marginalised indefinitely, as the contradiction between their existence and the representation of their (non) existence will lead to pressures for change at the level of social relations.

Firstly then, the idea of agenda formation needs to be read widely, agendas are not just explicit lists from which social actions are chosen, but the implicit (sometimes hardly conscious) choices among perceived alternatives that are made by social actors, their world-views. The very reality these world-views recognise will be

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[66] Lukes op.cit. p24 and the extended discussion of Lukes in the previous chapter.

informed by the structural power of knowledge. The formation of agendas through the 'prism' of the knowledge structure informs the choices (and the perception of *available* choices) made in the other structural dimensions of the global political economy. But, secondly, the power relations within the other structures (and the changes therein), also feed into the process of contradiction and elaboration of alternatives. The conflicts within material social relations - the competition for scarce resources, for security, for the limited provision of credit - feed into the continual (re)construction of agendas within the knowledge structure. Conflicts are continually mediated through the operation of legitimated and social accepted problem solving mechanisms. As these mechanisms seem to favour one side at the expense of the other, their particular construction seems to be at odds with the analysis of the potential conflict those effected perceive as 'real'. This is expressed by the failing ability of structural power to mask the operations of relational power.

This sort of approach to the issue has led Ellehøj to suggest that the knowledge structure should be seen as the base of the pyramid formed by the other three structures.[67] However, utilising the notion of the dual-dialectic, materiality is not held to be built upon the knowledge structure but is constantly mediating (and being mediated by) the concepts employed to build perceptions, and the world of material relations they impact on; the individual/social group's material existence. Through the recognition of contradictions and commonalties within the interactions of the actors in the global political economy, power within the knowledge structure is constantly being both challenged and reinforced by power in the other structures (and vice versa). As these dynamics ebb and flow so the pressures for change and continuity become evident.[68] Equally by influencing agendas within the knowledge structure, attempts to limit unpalatable contradictions being too widely recognised will take place.

These interactions of the four structures can only be understood on the basis of their deep interpenetration in the first place. In the complex social relations of the global political economy the different structures of power impact on each other, though the weights accorded each may vary across issues and time. The power

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[67] Ellehøj op.cit. *passim*

[68] Here I wish to acknowledge the influence of Archer,M Culture and Agency. The Place of Culture in Social Theory (Cambridge: Cambridge University Press, 1988). While I have not explicitly used Archer's arguments in this theoretical development, the underlying conception of the importance of contradiction and commonalty in the analysis of change first entered my work through an engagement with and exploration of Archer's important and powerful arguments.

within each structure - security, production, knowledge, finance - is the product of its interaction with the other three, structural power is mutually constituted. This mutual constitution takes place through the operation of the dual-dialectic and the mediation of the knowledge structure as a gateway for the recognition of commonalties and contradiction. Power within these structures is produced through the combinations of both ideational and material changes, stasis, contradictions and commonalties. Changes in power relations affect changes in the ways structures interact as much as structural power (re)creates the context in which relational power is played out. And it is this relationship - that between the mutually constituting structures of the system and the relations of power that take place within them - to which I now turn.

Structures and Power Relations

If structural power in any one structure is linked with the structural power in the other three, on what is overall structural power built? One way of dealing with this is to argue that in fact there is only one structure (returning to a unitary structural analysis) of which the four Strangian structures are only elements. However, this then leaves little if any room for shifts in structural power and reduces analysis in the end to a more static form of structuralism. Here, and stressing the point that both Lukes and Strange make concerning the need not to divide of structural and relational power, the interaction between structures is also the interaction between structural and relational power.[69] This interaction, in itself is the interaction between essence and existence that lies at the centre of the dual-dialectic. Again I want to stress that while in a particular situation there is likely to be a perfectly plausible analysis that will point to either the determining nature of changes in relational (resource/material based) power, or on the other hand structural (knowledge/agenda setting based) power, this cannot be read up into a general argument of one conditioning the other. The Strangian research programme's negative heuristic in this sense is the disavowal of a general theory at this level - all that can be offered at this level of abstraction is the likely components that an analysis needs to take account of and include.

The relationship between relational power and structural power is one that is based on the ability to mobilise resources to establish the way the four structures

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[69] see Strange, States and Markets op.cit. p24/25 where Strange argues that while structural power may now be more important, we cannot ignore relational power, and Lukes op.cit. p57 where he explicitly argues that all dimensions of power need to be part of the analysis.

operate and are perceived as operating. Thus, if we take the security structure, the ability of an authority to mobilise sufficient resources to guard against specific threats enables it to start to legitimately define the nature of future (unknown) threats on the basis of its past successes in providing security against agreed threats. Thus, relational power over time may become structural power, though equally as time passes perceptions of threats may change in a manner that does not sit well with the resources that the power holder is able to mobilise to support security. This may then lead to a changing notion of security that sits better with another authority's resources, or alternatively may lead to an attempt to reconceptualise security in such a way that the original resources can once again be related to the new agenda of security issues. The 'history' of threats itself may be rewritten in an attempt to reinforce the agenda that now reflects the availability of material resources. Again, this is a fertile, though by no means uncontested area, for the revelation of contradiction.

The nexus of relational power, structural power, and time is the dual-dialectic. By stressing the two way relation of materiality and what I have variously referred to as essence, ideational factors or ideas, I am arguing that over time both ideas have an impact on material relations *and* material relations have an impact on ideas. This impact is best captured through the operation of contradiction between the two aspects of the dual dialectic. If material relations remain unchanged but ideas about them shift then there will also be pressure for change in power relations. And equally, if material relations change but ideas about those relations remain fixed a similar pressure will build up. Structural power uses the weight of history and the ideological armoury of knowledge - and as I have argued this is much more than just information and its control - to limit or avoid these possible challenges. Relational power, may at the same time be the basis of the historical construction of structural power, and through the material aspect of the dual dialectic offer the ground on which contradictions are both revealed and turned into sites of resistance and potential change.

The introduction of time into this interaction between relational and structural power reflects the importance of particular incidences power relations. That the interactions of structural and relational power should change (as will the relations between the structures themselves) over time is a key aspect of the analysis. Change over time allows the operation of specific patterns of power to be recognised and judged by those who are subject to their operation. It also engenders the possibility of resistance and the challenge to entrenched power that

is evident in the global political analysis, but often appears as outside an analysis that wish to stress structurally defined power as a central concern. Within this analysis change over time does not 'just happen' but is the result of the emergence, recognition and accommodation of contradictions within the dual dialectic, be they material or ideational.

A structural approach

While belief-systems, and other psychological issues have been explored quite extensively for the security structure,[70] for the other structures this is less the case. Thus to investigate belief systems, the way the knowledge structure controls/shapes knowledge flows and how these interact with competing knowledges is at present an under-developed site of analysis. Any analysis will need to show how symbolic meanings are developed and managed and how the agendas of difference close out *certain* differences. These knowledge factors exist within the context of the playing out of relational power, which is to say the structures of the global political economy. There is a need to understand how different aspects of these structures come to have differing impacts on the recognition or otherwise of contradiction. Crucially, the role both sides of the dual-dialectic play in producing both change and stasis within the structures of the global political economy needs to explored, through an appreciation of the role of shifts in the knowledge structure.

Structural power over knowledge, the ability to set (or at least influence) the agenda of knowledge production and recognition, impacts on the other structures by shaping the endeavours undertaken, and the values pursued. The ability to shape and condition knowledge (its utilisation as a resource and its role in shaping the very way socio-economic-cultural interactions are viewed) through structural power over the global political economy is an under recognised subject for International Political Economic investigation. While I do not want to deny the possibility for resistance to be sidelined and marginalised, there is also a need to be sensitive to the power imbalances within the structures of the global political economy that offer sites of possible changes within the current power structures.

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[70] See Jervis op.cit., a number of the contribution to Little & Smith op.cit., Kaldor,M. The Imaginary War. Understanding the East-West Conflict (Oxford: Basil Blackwell, 1990) or Rhodes,E. 'Constructing Peace & War: An Analysis of the Power of Ideas to Shape American Military Power' *Millennium: Journal of International Studies* Vol.24 No.1 (Spring 1995) pp53 - 85, all of which offer insights into how we might understand the impact of the knowledge structure on the security structure.

This is to say while I am interested in the knowledge structure's important role, I am not suggesting a dismissal of material relations and their possibilities for engendering change - indeed I hope the argument I have made above is clear in the importance I would want to retain for materiality. Thus I seek not to replace an account of existence *by* one of essence but to argue for the requirement to join such accounts together.

By expanding the knowledge structure's domain I have suggested areas which even Strange's generally 'inclusive' work has left outside IPE's remit can be included. Additionally I have attempted to move away from a binary opposition between material and idealistic determination, to suggest that while in specific cases causality may be established, no *a priori* assignment of causality to either material or ideational factors is plausible. In the next two chapters I will bring the insights of these first four chapters to bear on a particular issue area, that of Intellectual Property Rights. In doing this I aim to make more solid some of the claims I have made above through an exploration of a particular issues of structural power - the definition and use of intellectual property in the global political economy.

Chapter five - On Intellectual Property (1)

"ideas, like wild animals,
are yours while they continue in your possession;
but no longer." [1]

"It is incorrect to say that the judiciary protected property;
rather they called that property to which they accorded protection." [2]

Introduction

While work has started to appear on intellectual property in the global political economy, this has been largely 'problem solving' and not 'critical', to use Cox's terms.[3] It is my aim in this study to use the perspective (or research programme) I have been developing to problematise the concept of intellectual property and reveal the power structures that underlie its political economy. If "almost everyone who has thought about politics seriously has something to say about property",[4] a 'serious' account of the global political economy should also say something about it. 'Property' within the global political economy should not be taken as a given (as an uncontested concept), it needs to be investigated alongside other factors such as authority and markets which form the central concerns of a Strangian research programme.

Reeve argues that 'property' links economic, legal and political systems together, but while 'property' has been a way in which the boundaries between these systems have been established, it has also made those very distinctions difficult to

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[1] Yates,J in *Milar v. Taylor* (1769) Y Burr 2303, quoted in Grosheide,F.W. 'When Ideas Take the Stage' (Opinion) *European Intellectual Property Review* (1994) No.6, p220

[2] Professor Walter Hamilton, cited in Cribbet,J.E. 'Concepts in Transition: The search for a new definition of property' *University of Illinois Law Review* Volume 1986, No.1 p4

[3] For instance Sell,S.K. 'Intellectual property protection and antitrust in the developing world: crisis, coercion, and choice' *International Organisation* Volume 49 No.2 pp315-349, presents an interesting and useful account of the gaps between legislation and implementation of IPR policy in developing countries and the United States' responses (and the power relations this reveals). However the author does not identify the locus of such political disputes in the actual *meaning* of intellectual property, and thus misses the underlying *structural power* which operates to maintain the agenda in which such disputes take place. While I do not wish to damn an author for not doing what she does not claim to want to do, it does reveal the existence of a 'problem solving' discourse around the political economy of IPRs. (Interestingly Sell recognises this issue and sees her own work moving more in the direction this study takes [conversation with the author during ISA, Toronto, March 1997] which is evident in Sell,S.K. 'The Agent-Structure Debate: Corporate Actors, Intellectual Property and the WTO' Paper delivered at the 38th Annual International Studies Association Convention, Toronto March 1997)

[4] Reeve,A Property (*Issues in Political Theory* series) (Basingstoke: Macmillan Education, 1986), p7

fix.[5] In much the same way Polanyi established there was nothing 'natural' about markets (their emergence and persistence),[6] I need to show that there is nothing fixed or 'natural' about property (and *its* emergence and persistence). Formally this may seem unnecessary as property is a social institution which is therefore constituted by its social/cultural environment. However, the current conceptual settlement of the character and applicability of 'property', implicitly denies its contingency on the *current* political economic settlement: it is characterised as having 'always been with us'. Therefore, let me start by posing the seemingly innocent query 'what is property?'. As the following account will show this is actually a fundamental conceptual question.[7]

My consideration of property will take two main paths below. Firstly, utilising Burch's account, I will suggest that conceptions of property played a major role in the emergence of an international/global economic sphere, distinguishable from the State System.[8] This helped facilitate the classic 'liberal' division between international politics and economics, opening up a space for the expansion of international private (or non-state) economic exchange. The second path I take is an exploration of the two conventional justificatory schema for property which have dominated the issue for the last three centuries. I then discuss the recognition of intellectual property and how this is built upon these already established legitimisations of material property. These paths will be located within an overall discussion of the 'ontologies of property', though in one sense perhaps this is a misleading phrase.

Conventionally, an ontology refers to the nature and essence of things in themselves. And while in one sense property is not a thing but a socially constructed institution, as I will note below, one of the changes that idea of property underwent in the seventeenth century was to move from a rights based construction to one that was based on its alienability (its thing-ness): property understood independently of its particular 'owner'. Therefore, while an ontology

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[5] ibid.

[6] Polanyi,K The Great Transformation (Boston: Beacon Press, 1957).

[7] Reeve,A 'The Theory of Property. Beyond Private versus Common Property' Held,D (editor) Political Theory Today (Cambridge: Polity Press, 1991) p91 makes this point, though in a different context.

[8] Burch,K 'The "Properties" of the State System and Global Capitalism' Rosow,S.J., Inayatullah,N., & Rupert,M. (editors) The Global Economy as Political Space (Boulder: Lynne Rienner, 1994) pp37-59. An interesting parallel discussion can be found in Cutler,A.C. 'Global Capitalism and Liberal Myths: Dispute Settlement in Private Trade Relations' *Millennium: Journal of International Studies* Vol. 24 No.3 (Winter 1995) pp377 - 397, which takes a Habermasian perspective on the politics/economic issue as its starting point.

of an institution makes little sense, when that institution has the character of a 'thing' attributed to it, the recognition of contending ontologies will aid the identification of political economic tensions rooted in the contending justificatory schema.[9]

The importance of property's ontological shifts is not always (or even often) recognised. For instance, Waldron in what is otherwise an extensive and elaborate discussion of 'private property' sees no real need to introduce, or separately analyse the forms of *intangible* property, except to assure the reader that in reality these can be dealt with under the same schema as *material* property.[10] My contention is that *this is most certainly not the case*.[11] By its very nature intellectual property disturbs the conventional understanding of property. Intellectual property cannot unproblematically be brought into economic relations in the same manner as material based property due to its different character, elaborated below. It is in the interests of certain groups within the global political economy, however, to mask such disturbances. By attempting to ensure that certain intellectual property is understood in the same way as material property, and that similar 'common-sense' protection is afforded to these 'intellectual objects' as to material possessions, legitimisation is asserted rather than established. Indeed the contested nature of such arguments makes intellectual property both the site of structural power relations and a crucial issue for critical analysis.

Returning to Strange's conception of four structures of power, the rise in importance of intellectual property is bound up with shifts between the finance and production structures and the 'knowledge structure'. If the arguments I present in the rest of this study are plausible, then intellectual property rights will be the field in which emergent power relations and structural changes will manifest themselves, and thus are an important subject for critical analysis. In the next chapter I will utilise the notion of 'information capitalism' or the 'knowledge economy' to explore such a shift. Firstly, though, I need to establish the groundwork for this proposal through an exploration of the concept of property.

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[9] Palmer,T.G. 'Are Patents and Copyrights Morally Justified? The philosophy of property rights and ideal objects' *Harvard Journal of Law and Public Policy* Volume 13, No.3 (1990) pp818 supports a similar approach for legal studies.

[10] Waldron,J The Right to Private Property (Oxford: Clarendon Press, 1988). For his dismissive discussion of such distinctions, see pp33 - 37

[11] A position I share with James Boyle. See Boyle,J Shamans, Software and Spleens. Law and the Construction of the Information Society (Cambridge,Mass.: Harvard University Press, 1996)

'Property' divides the realm

Burch argues that "prior to 1700 no distinction between the state system and global capitalism existed", and that most global economic activity was organised through the workings of (or at the least licensed by) the state, or its territorial precursors. Accepting the broad thrust of this claim, in the main the actors in the international economy were the agents of mercantile states (and proto-states). Burch then suggests that it was only the development of two distinct concepts of property cumulating in an complete conceptual *division* of property in the Eighteenth century - into the 'real' and the 'mobile' - that enabled the territorial state system to be 'grounded' and the burgeoning global capitalist system to expand and grow.[12] For Burch the conceptual change in the understanding of property was instrumental in the emergence of the separation of state (or proto-state) actors from the global economy. This is to say that the Hegelian aspect of the dual-dialectic is the more important at this historical moment; a conceptual shift produced a significant change in political economic relations.

This conceptual change however was in itself a reaction to material changes: the creeping delinking of the idea of property and land. Property prior to the Seventeenth century had already started to become not just land but also other goods that could be exchanged in markets.[13] Once this was articulated through the slow but sure widening of non-local (it is problematic at this time to speak of inter*national*) trade then the conditions for the conceptual shift Burch posits were in place. (The materialist aspect of the dual-dialectic could be emphasised by moving the analysis back chronologically to the widening emergence of tradable surpluses). Trade was conducted over distance (non-locally or regionally) prior to Burch's chosen moment, but was not often undertaken completely separately from the institutions of social control (I avoid using the word 'state' here for reasons of historical perspicacity). Neither, was such trade a particularly important activity relative to local and regional trade. Prior to the Seventeenth century, though it was undoubtedly making some merchants very rich, in respect of total global socio-economic relations, it was of only marginal importance.[14] For instance, though for

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[12] Burch op.cit. p47ff

[13] ibid. p44, Donahue,C Jnr. 'The Future of the Concept of Property Predicted from its Past' and Grey,T.C. 'The Disintegration of Property' [both in] Pennock,J.R. & Chapman,J.W., (editors) NOMOS XXII: Property (New York: New York University Press, 1980) p31,32 and p71,72 respectively and Ryan,A 'Property' Ball,T., Farr,J., & Hanson,R.L. (editors) Political Innovation and Conceptual Change (Cambridge: Cambridge University Press, 1989) p317-319

[14] Braudel,F Civilisation and Capitalism: Volume II. The Wheels of Commerce (London: William Collins & Co. Ltd, 1982) p403-408 and *passim*

Britain textile exports prior to 1700 were significant, "the proportion of output exported in the rest of industry was very small".[15] And for less developed regions this was even more the case. There was some trade (spices especially, and also the importation of precious metals) but little that could be referred to as global capitalist relations.[16]

Central to Burch's account is the argument that emergent differences between real and mobile property (and their associated 'rights') enabled the construction of the duality of spaces within which both a state system and a separate nascent global capitalism could develop, articulated to each other but no longer occupying the *same space*. That is, global capitalism and the states system are constituted (or constructed) by their forms of property. Lefebvre has argued that the space social relations occupy is not neutral, it does not exist outside the conception given it by those social relations, and can only be understood as part of those social relations, not as pre-existing. While there are material underpinnings to the recognition of specific *spaces*, the recognition itself, and thus the social relations within these spaces, needs to be located in the concepts mobilised *within* these relations.[17] The role of power within the knowledge structure is to reform the agenda from which social actors recognise such relations, and therefore the space in which such relations are enjoined. Only when the subject of quasi-capitalistic market transactions (property) could be conceived as existing completely apart from the jurisdiction of the state could a rudimentary global capitalism (separate from the political system) develop more swiftly and widely.[18]

Mobile and real property

While the idea of 'property' laid the foundation for a political economic realm of social relations, the emergence of two different property types enabled the two systems to be separated from one another within this realm. This "split in property

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[15] Crafts,N.F.R. British Economic Growth during the Industrial Revolution (Oxford: Oxford University Press, 1986) p142-4.

[16] see Amin,S 'The Ancient World-Systems versus the Modern Capitalist World-System' Frank,A.G. and Gills,B.K. (editors) The World System. Five hundred years or five thousand? (London: Routledge, 1996). This is a defence of the broad position I am relating against the argument elsewhere in that volume, that 'capitalism' is much older and thus the threshold Burch has argued for is essentially chimerical.

[17] Lefebvre,H The Production of Space (Oxford: Blackwell Publishers, 1991) *passim*. While Lefebvre's argument is more nuanced than this, there is a clear parallel between his position and Burch's.

[18] see also Wood,E.M. 'The Separation of the Economic and the Political in Capitalism' *New Left Review* No.127 (May-June 1981) p66-95.

(rights) established the conceptual division between the state system (real, tangible property) and the capitalist system (mobile, intangible property)".[19] Before international capitalism could emerge as fully separate from the states system, the space for its operation needed to be established. There was also the *need* for such a space to be conceived of given the pressure from material relations for such a recognition to be included in the accepted conceptual universe. Trade *outside* the control of sovereign ruler or proto-state social organisation was taking place prior to the Seventeenth century but for its expansion to continue the space in which such relations were enjoined needed to be 'normalised', recognised conceptually as unproblematic.[20] This quasi-international trade was of no great magnitude before 1600, and its exponential growth only took place after the establishment of the separate legitimised space for a global economy.[21]

The political upheavals of the English Civil War, The Interregnum, and Restoration, encouraged political thinkers in Britain to engage with, adapt or even dispense with many traditional conceptions, not least those which constructed 'property'.[22] Interestingly political writers were already concerned that mobile property did little to anchor the interests of its holder to the polity and was thus divisive. 'Responsibility' for the effects of ownership could be avoided through distancing (by foreign ownership, or urban merchants owning feudally organised estates in the country, for instance), and thus the division between property owner and the effects of such ownership could be maintained to the advantage of the owner of particular property.[23] Burch does not fully explore this emergence of movable property, remaining silent on the appearance of conceptions of *intellectual* property around the same time; in 1624 the British government passed a Patent Law protecting intellectual property in inventions.[24]

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[19] Burch op.cit. p47

[20] see for instance Modelski,G & Thompson,W.R. Leading Sectors and World Powers: The Coevolution of Global Politics and Economics (Columbia,SC.: University of South Carolina, 1996) which contains extensive material on the emergence of a global economy in the first half of the millennium. See also Braudel,F Civilisation and Capitalism 15th-18th Century (3 Vols) (London: William Collins & Sons, 1981-1984), especially Volume 2 sections 2 and 3 and Volume 3 *passim* and for an earlier focus Hodges,R Dark Age Economics. The origins if towns and trade AD600-1000 (London: Gerald Duckworth & Co., 1982)

[21] A useful summary of the arguments over the economic data from the fourteenth century to the industrial revolution can be found in Modelski & Thompson op.cit. p70-74.

[22] See the extensive discussion off the intellectual ferment of the period in Hill,C The World Turned Upside Down. Radical Ideas during the English Revolution (London: Temple Smith, 1972) and the more focused discussion in Schlatter,R Private Property. The History of an Idea (London: George Allen & Unwin, 1951), especially chapter six 'The Seventeenth Century'.

[23] Reeve, The Theory of Property [1991] op.cit. p112

[24] Vaver,D 'Intellectual Property Today: Of Myths and Paradoxes' *Canadian Bar Review* Volume 69 (1990), Part 1, p 100. In a more recent piece Burch goes some way to addressing this lacuna,

This leads me to posit *two* types of movable property as emergent, one linked to material resources (credit, 'ownership' of foreign resources) and one linked to the products of the mind, potentially intangible with no *necessary* links to material property (copyright and patent). A further space was opened up, where exchange (for gain) of the products of the mind became possible, even if at this point it was not as comparatively important for the emergent *global* political economy.[25] This space would only be fully explored when information technologies began to make a major impact after the mid-Nineteenth Century, but it was conceptually available from the Seventeenth century. The history of international copyright and patent 'piracy' can trace its history back to this conceptual opening (not least of all as 'piracy' can only make sense in tandem with a theory of ownership).

Once the division between mobile and 'real' property was established an expansion of the 'ontology' of mobile property became possible, and through this a further (and accelerating) expansion of market exchange and financial services. Integral to this development was the recognition of a discernible *economic* realm, which formed the basis of liberal economic ideology.[26] This might be called the privatisation of economics, in that economics was *conceptually* divided off from the state and politics. Thus while the modern world "is as unified and organically whole as the feudal world... the modern mind conceives... separate realms of social activity".[27] It was the emerging and divergent conception(s) of 'property' that enabled this division between politics and economics to be legitimised. Notions of the desirability of international 'free trade' and the 'problem' of mercantilism can be seen against this back drop of an 'economics' that should in the ideal case be divided off from politics, and indeed *could* be.

The idea that real property constitutes the state system, while mobile property constitutes global capitalism, leads also to the converse recognition that "the shared features of real and mobile property as property contribute to the

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though he still under-emphasises the role of the questions that intellectual property raises for 'property' as a concept in an emerging global liberal economic system. See Burch,K 'Intellectual Property Rights and the Culture of Global Liberalism' *Science Communication* Volume 17, No.2 (December 1995) pp214-232.

[25] Farrands,C 'The Globalisation of Knowledge and the Politics of Global Intellectual Property: Power, Governance and Technology' Kofman,E. & Youngs,G. (editors) Globalisation: Theory & Practice (London: Pinter Publishers, 1996)

[26] Burch op.cit. p51 and Wood op.cit. p80-82

[27] Burch op.cit. p52 and also Wood op.cit. p89,92. This also is the subject matter of Latour,B We Have Never Been Modern (Translated by Catherine Porter) (Hemel Hempstead, Harvester Wheatsheaf, 1993), which suggests that the very idea of modernity is a denial of this unified whole.

wholeness and shared social reality of... the modern world".[28] The recognition of both spaces rootedness in conceptions of property (even if these have divergent ontologies) (re)establishes the interpenetration of these spaces, not their final separation. Property draws a line and problematises the line at the same time. Thus if it is possible to expand the idea of property to include another space for intellectual property, this is not only a critique of the similarity of intellectual and other property, but also embeds such considerations within an overall analysis of global political economy, that is coterminous with all three interpenetrated *spaces*.

To suggest this third space for intellectual property raises in addition the question of the division of philosophy from politics and economics. Certainly my discussion of the ontologies tied up with property's justification is a partial response to this issue (bringing a philosophical account of knowledge into a political economic account of intellectual property). But I also recognise that this is an area that could be explored further. While the question of how philosophy, politics and economics have been defined against each other is important, here I will only consider philosophical aspects of these spaces inasmuch as the impact the subject of (intellectual) property. While it is useful to disaggregate such spaces, underlying this division must be the clear understanding that they are also part of a single *spatial system*, the realm of the global political economy, and for this study, specifically its property relations.

Histories of 'Property'

While there are a number of useful discussions of the history of 'property' as a concept that needs justification for its attendant rights to be enjoyed,[29] there is considerably less concern with the question: what is recognised *as* property? If it was the developing division between real and mobile property that played a decisive role in the emergence and establishment of a global capitalist system, then does another division of property with its own ontology (that of intellectual products) reveal something about the emergence of a new (or modified) form of global capitalism? If, as Grey suggests, there has been a fragmentation, or

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[28] Burch op.cit.. p53

[29] Reeve, Property [1986] op.cit. or Ryan,A Property and Political Theory (Oxford: Basil Blackwell, 1984) are good places to start. (Ryan, Property [1989] op.cit. is a useful brief discussion of the ideas he sets out in his book.) But also see Becker,L Property Rights. Philosophic Foundations (London: Routledge & Kegan Paul, 1977), Macpherson,C.B. (editor) Property. Mainstream and Critical Positions (with and introductory and concluding essay) (Oxford: Basil Blackwell, 1978), or Waldron op.cit. all of which lay out the arguments clearly.

'disintegration' in the meaning of 'property', is this *caused* by the development of new technology and entrepreneurial methods as he suggests, or is the relationship between economy and property more interdependent?[30] Is the space opened up by notions of intellectual property one that is then recognised as 'exploitable' by new entrepreneurial activity, or does the will to exploit knowledge in a capitalistic system engender a new understanding of (intellectual) property? Or is it a combination of both movements as a dual-dialectical analysis would suggest? Before examining this issue in the next chapter, I need to discuss the conceptual history of 'property'.

The history of the justification of property can be read as a history of the form that property was *assumed* to take. And while here I will discuss a history of justificatory regimes, like Reeve I would acknowledge that 'the hypothetical history on which the story of legitimate property depends does not correspond to the hard facts of violence and usurpation which constitute our actual past".[31] I will however draw some parallels between the violent history of property (appropriation, enclosure) and the different (though similar) conflicts over intellectual property. First though, I will concentrate on the history of the justification of property, as it this history that discussions of intellectual property draw on. At the centre of such considerations is the line that is drawn between private property (however conceived) and that which is not private property (this may be either publicly owned, or not amenable to ownership at all), that which can be defined as 'common(s)'.

Within histories of property, only the projection forward to communism, or backwards to early pre-modernity conventionally establishes the claim that an understanding of property that sees a division between ownable and not-ownable is particular to current political debates.[32] Otherwise, while certainly modern, 'property' is seen as trans-political. But, I want to stress, there is a submerged link between the conception of property and its particular *western/Anglo-Saxon* conceptual history. The tendency in theories of property has been to focus on

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[30] Grey, The Disintegration of Property op.cit.. Following Munzer,S.R. A Theory of Property (Cambridge: Cambridge University Press, 1990) p31ff, while this is an interesting issue, Grey's arguments regarding the resultant marginalisation of 'property' as a concept in politics seem misguided.

[31] Reeve, The Theory of Property [1991] op.cit. p106

[32] This is the central argument of Marx on property, it is transient and will become meaningless with the advent of communism. See for instance, Marx,K Economic and Philosophic Manuscripts of 1844 (Moscow: Progress Publishers, 1974) p88ff and the discussion in Giddens,A Capitalism and Modern Social Theory (Cambridge: Cambridge University Press, 1971), p61ff especially.

individual ownership, and this is the way that Macpherson presents the paradigmic history.[33] But while the history of property in Anglo-Saxon capitalism *has* indeed taken his road of conceptual development, it is a post-hoc argument to see this as the self-evident path.[34] The modern conception of property may well be tied up with the development of possessive individualism as Macpherson argues, but it is not necessary for this then to be the *only* possible conception of property.

Neither does this preclude the issue of the changing recognition of what property rights can be applied to under the emergent and developing capitalist social relations; property's various ontologies. Again I would note that these developments are not 'natural' nor accidental (or without cause). Marx pointed out that the relations that flow from the recognition of property rights have quite distinct effects on the social relations of a society, and benefit some classes more than others.[35] The increasing importance of intellectual property is intimately linked with the emergence and development of 'information capitalism', or the 'knowledge economy' and its socio-economic power relations.[36]

The Seventeenth century turning point

Burch, is by no means the only writer to nominate the Seventeenth century as a period that led to a major disjuncture in the recognition of property (rights). In his discussion of the upheaval of political ideas during the Cromwellian period, Christopher Hill details the disruption to the then prevalent ideas surrounding property.[37] Underground proto-communism clashed with religiously derived ideas of sovereignty over real property, the land and its produce. While, in itself the ferment around these ideas was not the sufficient cause of the split between real and mobile property, the questioning of what could justify the ownership of property stimulated an engagement with the then prevalent and accepted notions of ownership. The roots of conceptual reformulation lie in this engagement with

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[33] Macpherson op.cit.
[34] Donahue, The Future of the Concept of Property Predicted from its Past op.cit. *passim*
[35] For instance see Marx,K & Engels,F The German Ideology (London: Lawrence & Wishart, 1965) pp81-88
[36] There has been an enormous debate about the possible emergence of a post-industrial 'information society'. Useful overviews of this debate can be found in Poster,M The Mode of Information. Poststructuralism & Social Context (Cambridge: Polity Press, 1990) chapter 1 pp21-43 and Webster,F Theories of Information Society (London: Routledge, 1995) *passim*. I will explore this debate in the next chapter.
[37] Hill op.cit. p92ff, p111ff & p267ff especially.

the dominant understandings of property. Once the justification of property was being discussed, it was but a short move to think about *what* might be owned.

There are two significant changes in the concept of property which arose during this period. First, 'property' began to be things, not rights (its ontological construction changed) and secondly there was a move to *only* conceiving of property as something that could be owned privately (that is, by someone or some organisation). The first change, to property as a thing rather than a right, according to Macpherson, *accompanied* the rise of a 'full capitalist market economy' and the 'replacement of old limited rights in land and other valuable things by virtually unlimited rights' which could be *attached* to 'things'.[38] Whereas Macpherson suggests these developments were caused by the emergence of a nascent capitalism, this is not necessarily the case. As Reeve notes "although capitalism undoubtedly relies upon secure possession and the free disposal of property, these developments are not unambiguously supportive of capitalism" and nor is the causal link clear.[39] But, as noted above, the availability of a new property-defined space certainly enhanced the developmental prospects for capitalism in this period.

Up until the seventeenth century property was a set of limited rights of ownership. An individual's ownership of land gave him (and usually it was 'him') certain limited rights to its use, and such rights were not often freely disposable or transferable. Property was not fully alienable! The other major component of the realm of property was the right to revenues from monopolies, tax-farming and other State (or proto-state) authorised activities. Thus prior to the English Civil War, the concept of 'property' was essentially concerned with the rights to benefit from certain things or relations (but not the things or relations in themselves).[40] Once ownership attached to things, rights flowed from the ownership of the thing, but *were not* property in themselves.

The second change revolved around the idea of private property. Previously there had been a recognition of both private *and* common property. However, during the Seventeenth century while private property remained, the recognition of common property "drops virtually out of sight" being treated "as a contradiction in

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[38] Macpherson op.cit. p7
[39] Reeve, Property [1986] op.cit. p50
[40] Macpherson op.cit. p7

terms".[41] After this period everything had to *belong* to *someone*, where that someone could also be the state, the local community in its role as a constituted body, or other institution. The conception that dropped out of 'sight' was 'property' that did not have some relationship of ownership to some body (human or organisation). This requirement for property always to have an owner has led to the question of the possibility of common property being treated as a *critique* of the legitimate existence of any sort of property.[42]

Despite this simplification of property's ontology to just things, in light of the multiplicity of different *actual* material constructions of property which could be posited, it is unlikely that a singular parsimonious theory of property is possible.[43] Indeed, the tenacity of such a position, that there is one theory of *all* property (*including* intellectual property), I suggest is a product of power in the knowledge structure. The advantage of this ontology of private property (and therefore its promotion as a legitimate conceptual construction) for the emergent capitalist market system was that it enabled its subject matter to be transferred (or alienated) and thus enter a system of exchange. Reeve suggests that perhaps the best way of thinking about such changes is to recognise them as an extension to the rights of *owners*. This was an extension of the right to protect an interest - the ability to recover its value from a despoiler - and an extension of the right of disposal (especially of land).[44] Thus returning to Burch's analysis, the extension of the rights of owners, and importantly the ability to transfer (or alienate) property, supported the emergence of the (global) capitalist sphere, separate from the international states system.

Therefore I am arguing that the changes in the conceptions proposed for property (rights) reveal the struggle not only over the emergent totality of the realm of property (that nothing could be property *and* exist outside a universe of individual ownership possibilities), but also suggests the mobilisation of political/legal power to establish such a realm by the owners of property. In the case of

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[41] ibid.. p9/10. Interestingly, the disappearance of a notion of a 'nullness', an empty or unowned physical space on land, was followed in this century with moves by States to enclose the remaining 'global commons' as valuable resources were discovered. In some cases (Antarctica) this also proved a spur for the development of international bodies that would control such property, though ownership was *pooled* among certain claimants and not left 'common'.
[42] Reeve, Theories of Property [1991] op.cit. p99. This critique was the basis of Proudhon's famous assertion that 'all property is theft'. However, as Stirner immediately noted, to recognise the concept of 'theft' is to recognise the prior validity of the notion of property. Marshall,P Demanding the Impossible. A History of Anarchism (London: Fontana Press, 1993) p239.
[43] Reeve , Theories of property [1991] op.cit. p112-114
[44] Reeve, Property [1986] op.cit. p50

intellectual property for instance, it was seldom the authors (for copyrights) or inventors (for patents) who were at the forefront of demands for protection. Rather, it was the stationers and manufacturers who stood to make their profits from their ownership (and thus the exclusive right to exploit such intellectual property), that were key supporters (and lobbyists) for the treatment of intellectual products in the same way as movable property.[45] The recognition and legitimisation of certain ontologies of 'property' is central to a concern with power in the global political economy, not least of all because such disputes are central to the rights to monetary reward and/or other benefits, from the economic exchange of alienated property.

Indeed Snare suggests that "most political argument over the institution of property is not over whether we shall have any private property at all but over what sorts of things shall be possible objects of private ownership".[46] Therefore it is the disputed 'ontology' *of* property that is the site of political conflict *not* as is often supposed its justification. Snare himself only considers *material* property as within his analytical jurisdiction with the 'rules' of property based on a material understanding of their subject. By not recognising the further question of intellectual property Snare severely limits the scope of his argument, but he is correct to note the seemingly conventional nature of the justification of property. However, justification has itself been open to contestation, resulting in different positions which may be appealed to.

The Legitimisation of Property

There are two different and essentially opposed positions on how property itself can be legitimised. These justifications and legitimisations form the background to my consideration of intellectual property and thus need to be explored here. The following elaboration does not make any claim to present fully *all* the nuance's that discussions of property have taken in the last few centuries. There are broadly two ways of justifying property (and thus its attendant rights) that can be presented within the modern development of the concept. To explore these positions I will use Ryan's taxonomy, referring to the positions as an

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[45] Saunders.D 'Purposes or Principle? Early Copyright and the Court of Chancery' *European Intellectual Property Review* (1993) No.12 *passim.*

[46] Snare,F 'The Concept of Property' *American Philosophical Quarterly* Volume 9, No.2 (April 1972) p205

'instrumental' perspective and a 'self developmental' perspective.[47] Though the distinction between these two perspectives may not be sharp, for my purposes they serve a useful role as they represent models which are utilised in discussions of intellectual property as accepted precedents. While actual political positions on the issue may be more nuanced, they usually appeal to one or other as the root justificatory position, which is then modified to suit the individual argument being presented. I am not arguing that mediated positions are necessarily more or less coherent, only that they usually seek legitimisation, or claim warrant, by invoking one or other philosophical tradition.

Firstly I should note that arguments for the legitimisation of property that rest on what might be termed 'first occupancy' are only of secondary importance. Questions of 'first occupancy' (or ownership) are responses to the 'common-sense' property enquiry: 'who had it first?' While being a plausible element of any discussion of *particular* property rights such an approach cannot form part of the overall justification of property. (However, for intellectual property rights temporality *has* played a major role in disputes.) Such considerations do not legitimise the ownership of property in general and need to be separated from such discussions. The acceptance of a notion of legitimate property against which a question of chronology is set bars them from a role in the justification of such property in the first place. The legitimacy of ownership is seen as unproblematic, it is accepted as *a priori* to the rights of 'first occupancy'. Thus when a regime of legitimisation has been settled upon, such temporal issues may be of major import, but only after such regimes have been settled can they assume any justificatory role. [48]

Instrumental justification

Those perspectives that might in general be grouped together as 'instrumentalist' draw on a tradition of conceptual development rooted in the work of John Locke. This is not altogether surprising given the ferment in thinking about property that took place during the first half of the Seventeenth century. It should also be noted

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[47] Ryan, Property & Political Theory op.cit. p5 and *passim* and Palmer op.cit. *passim*. For a more legal-economic discussion of this same division see Quaedvlieg,A.A. 'The Economic Analysis of Intellectual Property Law' Korthales Altes,W.F. *et al* (editors) Information Law Towards the 21st Century (Derventer: Kluwer, 1992) p390-393

[48] Becker op.cit. pp24-31. See Rose,C.M. 'Possession as the Origin of Property' Property and Persuasion: Essays on the History, Theory and Rhetoric of Ownership (Boulder: Westview Press, 1994) for an interesting and subtle discussion of first occupancy or possession as a 'text', a story that is told to justify ownership.

that while Locke founded his conception of property on the "labour of the first occupier", the key issue is not the temporal (as noted above), but the notion of 'labour'. Property is the reward for the conversion or 'improvement' of nature, taking place *within* a society of men into which the individual is born.[49] This notion includes an individual's use of one aspect of nature to improve another (say, a man using a horse to crop grass), and more importantly assumes that property is a social phenomenon by nature of its relation to other claims (which would have little relevance outside some idea of society). Ownership of property is held *against* other claimants: the deployment of labour establishes a particular individual's ownership.

However, this is not to suggest that Locke goes as far as Rousseau in suggesting that property depends on a constitutional foundation in the last analysis. For Locke, it is still the initial relation to Natural Law that is important, while for Rousseau it is only the recourse to a legal constitution that can enable recognition of legitimised property.[50] While Locke manages to maintain that there may be things that are *not owned* (that is, are still the property of God, existing in nature), through the utilisation of labour (and thus their improvement) these things may be brought into the realm of property.

In this mixing of the individual's labour and the naturally existing resource, what is 'added' by this interaction is a certain value.[51] This makes property not merely the product of a mixing of labour and nature but a result of the 'value' added by such an operation. Thus the labour theory of property is based on two central premises; the individual has property in his own exertion; and the reward for utilising this exertion to add value is ownership. Equally, the promise of ownership, of property, is what encourages an individual to labour in the first place - only by gaining ownership of the product of labour through property rights can human endeavour be encouraged. This position is termed 'instrumental' by Ryan as it is meant to encourage and facilitate profitable human activities.

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[49] Ryan, Property & Political Theory op.cit. p28/9. Locke's discussion of property can be found in Locke,J Two Treatises of Government (Edited with an introduction and notes by Peter Laslett), (Cambridge: Cambridge University Press, 1988) [Second treatise, chapter iv]. This of course is reflected in the claims of potential 'improvement' that underlay the enclosure of common lands during the two centuries preceding the early nineteenth century.

[50] Ryan, Property & Political Theory op.cit. p54/5

[51] Becker op.cit. p36

Locke does initially see some limit to the application of such a regime for property accumulation:

> As much as any one can make use of to any advantage of life before it spoils; so much he may by his labour fix a Property in. Whatever is beyond this, is more than his fair share, and belongs to others.[52]

This opens up all sort of issues: at what point does the property owner overstretch the needs and satisfactions that are represented by property?; what is understood by 'spoils'?; and crucially what is 'his fair share'? This normative element of Locke's position is very interesting when the arguments surrounding intellectual property rights will be considered. Under copyright for instance, the question of 'fair use' is centrally tied up with these issues. When does a copyright holder's interest in restraining all use of their intellectual property reflect a 'spoiling' of that resource?

Crucially Locke also believed that an important factor for the demise of such a limit on the enjoyment of property lay in the "*Invention of Money*".[53] With the commodification of property the moral (or Natural Law) limits of ownership were removed. As I noted above, it was these changes that encouraged the ferment round the notion of property in this period - the ability of owners to own from a distance more than they might need under Natural Law. Money enabled the 'over accumulation' of property. But as property reflected, in the last analysis, an application of labour (and its reward), for Locke over accumulated property was still legitimate. Indeed Macpherson argues that "Locke's astonishing achievement was to base the property right on natural right and natural law, and then to remove all the natural law limits from the property right".[54] By removing the moral limitation on the extent of property ownership, but retaining its justification based on the strictures of Natural Law, Locke opened up a more permissive realm of property ownership, founded on the exchange relation mediated by money.

But within Locke's argument that property is based on the effort of the individual (on labour) there were still tensions that remained unresolved. For instance, how can the contractor's work on the natural resources 'owned' by another be understood, if the labour exerted should produce ownership? On one level, wage labour would legitimate (at least for some) such a relation, but during Locke's life this was less clearly the case. Equally, there is the question of two different

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[52] Locke op.cit. p290 [The second treatise, section 31].
[53] ibid. p293 [The second treatise, section 36, 37, 47 and 48].
[54] Macpherson, C.B. The Political Theory of Possessive Individualism *Hobbes to Locke* (Oxford: Clarendon Press, 1962) p199

properties - that which describes the ownership of one's own efforts, and that which describes the things that are the subject of such exertions. But here, I want to stress the notion that labour's application is rewarded by the achievement of property (and its rights) in the subject of such application, not least as this is a position that is widely recognised today.[55] For the instrumental position, property is the result of an effort that has been exerted. Ownership accrues to the expenditure of effort, in whatever manner that effort may be defined, and effort is encouraged through the prospective rewards to be gained. There is much room for debate and dispute here, as for instance in the cross-generational transfer of such accrued benefits through inheritance. Thus, though such a justification may establish an overall principle of property, there is still the need to develop adequate grounds for particular claims for property rights.

Self-developmental justification

The question of how the ownership of one's own efforts can be conceptualised leads me to the second of Ryan's two broad categories or perspectives - the 'self-developmental'. In much the same way that the instrumentalist perspective traces its roots back to Locke, the self-developmental perspective draws on the work of Hegel.[56] Hegel argued that the legitimacy of property was intimately tied to the existence of the free individual, and the recognition of that free individual by others. Property was the way the free individual was identified, "since the respect others show to his property by not trespassing on it reflects their acceptance of him as a person".[57] The individual has a will to control and master nature, and this is expressed through the ownership of the fruits of such control, which reflect the individual's personality. For Hegel, it is this ownership that protects the individual from the 'unreasonable' rights and interests of others in society, and the burden of intervention in their life by the state, which is to say, freedom is established through property.

However, "civil society, for Hegel, is essentially the market and its legal framework" and thus property is not absolute, in the sense that it can be used

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[55] Ryan, Property & Political Theory op.cit. discusses the problems and critiques in far more detail and far more eloquently than space allows for here. See also Becker, op.cit. p36ff

[56] Ryan, Property & Political Theory op.cit. p118ff and see [Hegel,G.W.F.] Hegel's Philosophy of Right (Translated with notes by T.M.Knox) (London: Oxford University Press, 1967) p40ff [Abstract Right, subsection I *Property*]

[57] Avineri,S Hegel's Theory of the Modern State (Cambridge: Cambridge University Press, 1972) p136

without limit, but is legally constrained by the laws of the society in which it is owned.[58] As Avineri points out, only Hegel's division between individual moral life and a wider ethical universe enables him to at once support the system of private property and recognise that its denial of property to the poor (which would seem to rob them of the means to develop individuality) is "one of the most vexing problems facing modern society". By separating out the family from contractual social relations Hegel is able to open up a space where individuals might be able to establish personality even if they are propertyless.[59]

What is crucial for the self-developmental perspective in general is that property is seen as the expression of the 'will' or intent of the individual - *we make things ours through our control of them, through the reflection of our intent, our will.* Thus rather than basing the acquisition of property (rights) on the effort that is put into the adding of value, the self-developmental perspective, suggests that the mingling of self and nature produces a further expression of the self which is the property of the self (as are other expressions of the self). The important question is possession, rather than the actual application of labour (though this is by no means excluded). In the hands of Marx, however, this conception of property becomes the mechanism for *removing* property from the individual through work (*alienation*), rather than the reflection of the self.

As Ryan points out "Marx's strictures on property entail that Hegel's positive claims for private property, work and the market are all of them the reverse of the truth".[60] Property denies the individual's self through the operation of a system that supports and produces alienation. For Marx, where Hegel was mistaken was in his concentration on work as individualised mental activity, rather than recognising the actuality of the physical work in socio-economic relations. Under capitalism, the creative worker cannot enjoy the fruits of his production due to the actions of the division of labour (only working on part of the final production process) and alienation of his labour that is required if he is to garner the limited monetary reward that represents the exchange value of his labour. This reward, however is required by the worker to socially reproduce his labour, and thus continue to materially exist (stay alive). Through its commodification, labour (the worker) is robbed of its (his/her) self-developmental potential (no act of creation produces a finished article reflecting Hegel's 'self', controlled by its creator). The

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[58] Ryan, Property & Political Theory op.cit. p134
[59] Avineri op.cit. p137 and p135-141
[60] Ryan, Property & Political Theory op.cit. p161

worker is alienated both from the product of labour and the productive activity itself.[61]

The question of whether an expression of the self is alienable, or even possible, then becomes a crucial question for notions of property. If it is acceptable that there is something of the self invested in its interaction with that which 'will' seeks to change (or mingle with), then should the expression of that 'will' always belong to the sovereign individual (in perpetuity)? But if such alienation can be said to take place can the idea the sovereign individual still stand? This investment of self might better be described as the act of creation, where such an act involves materials already extant. This is the conceptualisation of work (and through it property) that both divides and links the two perspectives that I have outlined. Property is linked in some way to human endeavour in both perspectives, but they are divided about what this endeavour might produce. Broadly speaking, effort and its reward are contrasted to creativity and the subsequent development of self.[62] In the discussions of the justification of intellectual property (rights) these two perspectives lie behind the political positions adopted by various actors and interests, sometimes explicitly and sometimes only implicitly.

Recognising Active and Passive Property

While the justifications and philosophies of property have continued to shift and change between these positions, it is their expanding underlying ontological construction - what is recognised as being within the realm of things understood as *private* property and what is not? - that concerns me here. Once there was a potential field of private property that could be owned and most importantly transferred (to which different theories of justification could be applied), the development with which I am most concerned is the widening catchment of potential 'items' *for* ownership. The line over which this shifting notion of property has moved can be conceived as one that divides active and passive aspects of property.[63] While there may be property that is 'active' or 'passive', neither group is abstract or fixed, they are historically specific (and socially

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[61] ibid. p162-165. See Marx & Engels op.cit. p83-85 and McLellan,D Marx's Grundrisse (St.Albans: Paladin, 1973) especially section 5 p81ff and section 15 p115ff

[62] This argument is developed more fully by Ryan, Property & Political Theory op.cit. *passim*

[63] Minogue,K.R. 'The Concept of Property and its Contemporary Significance' Pennock,J.R. & Chapman,J.W. Property (NOMOS XXII) (New York: New York University Press, 1980) p13/14. (Direct quotations in the following paragraph are all from this source.)

constituted), which is to say I am arguing they are the result of power distributions in the structure of knowledge and its attendant politics.

Active property can be defined as anything that the individual's "will can use to produce an effect in the world and include[s] everything from productive capital to personal characteristics". Active property will produce a measurable change in the world (an 'improvement') and in this sense may be close to what the 'self developmental' perspective would understand as 'will' or 'intended action'. Passive properties "are simply attributes or possessions not of a will, but of a person". This would include such notions as identity, appearance, and ideas (which have yet to be acted on), and other elements of the self. This distinction, then, is "not one between actual things in the world, but merely between different human attitudes, or uses of things". It is at root the difference between property that has been used in some way and property that awaits use, what might be called *potential property*. Passive property is akin to the use of the word property when I suggest a certain thing has certain *properties* - it is heavy, it is poisonous, it glows in the dark.

Importantly, there is little in the world that cannot *become* active property, if the technology exists to utilise its *properties*.[64] If I include within such a statement the realm of intellectual property (and this may be supported by those who intend to stress the 'property-ness' of intellectual property) then as technology becomes able to use aspects of knowledge for capitalistic intervention in the world, more knowledge becomes active (in the terms of the World Trade Organisation: 'trade related' and thus open for appropriation). Recalling the wide reading of knowledge I developed, and the role for knowledge in the dual-dialectic, there is little knowledge in the world which potentially may have no effect on the material environment. Under capitalism this might be reformulated to conclude that there is little knowledge that is potentially unable to be treated as a commodity. Whereas conceptions of knowledge that concentrate on 'objective' knowledge (i.e. information) recognise the penetration of capital into only one aspect of the realm of knowledge, utilising this study's widened domain of knowledge, other areas of potential penetration are revealed. Thus, for instance, if the technologies exist to

[64] ibid. p14.

make an individual's perceptions *active* then they will be (potentially) subsumed within the regime of intellectual property rights.[65]

On the other hand this also highlights the importance of arguments regarding the inability to divide off knowledge from its progenitor. As Arendt points out "the body becomes indeed the quintessence of all property because it is the only thing one could not share even if one wanted to".[66] This, it seems to me, also follows for the subjects of the mind, in one sense they can never be disposed of - once I have had a thought it is not possible to unthink it, even if that thought's expression in some form might have been bought from me. No alienation of such property can ever be complete. Unlike the body ideas *can* be shared, but like the body they cannot be divided from the individual who has generated them. Though the products of the fourth field of ('objective') knowledge might be fully shared and thus exchanged, it is less clear that those of the first and second fields (knowledge that is 'enjoyed' internally to the self) could be. And certainly the lack of sharing of the third field (other individual's internality) causes problems with the lack of recognition of other's intent in recognisable actions.

The positive sharing of such knowledge can have very significant effects upon material relations (as is recognised in the increasing interest in the issue of trust within IPE/GPE and the business strategy literature emanating from business schools). The *passive* properties of the self, when made *active* can have an impact on the material world, but they also never loose their internal passivity. As such they cannot be fully alienable. If this is the case the notion of the commodification of knowledge seems to be obscuring a development that goes against liberalism's privileging of the possessive individual. When technology reaches into the self to commodify these passive properties, how does the individual retain a meaningful possession?

From Property to Intellectual Property

Once property has been deemed active, it is possible to secure rights to it (to appropriate it) and then to utilise it for profitable enterprise. Active property has an impact on the world of social relations and thus is available for 'exploitation'

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[65] That this issue has reached the popular consciousness is suggested by Kathryn Bigelow's recent movie *Strange Days* which revolves around the stealing of people's perceptions/experiences by technology and their subsequent resale.

[66] Arendt,H The Human Condition (Chicago: University of Chicago Press, 1959) p112

by market actors. This leads me to argue that intellectual property rights (IPRs) are a tool for bringing 'ideas' across this line in the realm of property. It may not be an exaggeration to suggest that the appropriation of knowledge in this manner is "analogous to the enclosure of common land in England in the eighteenth century".[67] This process of 'enclosure' explicitly does not recognise (or accept) that knowledge can be used without depleting its intrinsic value: IPRs are defined *against* the notion of (economically) freely available knowledge. While for some 'owners' of secrets the value of that secret is compromised when such knowledge is generally available, the general utility is likely to be higher once this knowledge is shared.[68] But to allocate property rights in knowledge "makes ideas artificially scarce and their use less frequent - and, from a social point of view, less valuable".[69] However, the construction of scarcity in knowledge is one of the chief aims of knowledge entrepreneurs. Only when a commodity is scarce can it be accorded commodity status, allowing it to be utilised within economic exchange relations and most importantly command a price. Unlike material property, ideas or knowledge are potentially reproducible at no marginal cost, and thus are not 'naturally' scarce in the way material 'things' are.

Intellectual activities have always had an impact on social existence, and in that sense have always been potentially active property. Knowledge in the second field (knowledge of one's actions) acting on the knowledge of the fourth field ('objective reality') is reasonably unproblematic in that the interaction between these two fields has always been available for ownership. Such interactions have often been codified as skills or learnable techniques. These have been disseminated through education or training, but have always been recognised as economically valuable, and essentially the property of the person who is able to utilise those skills. Part of the operation of new technologies has been to 'make' knowledge active property (and thus ownable) before it has been transformed from potential active property to *actual* active property, and in some cases where previously such a transformation might have not been possible.

Even in the area of personal skills the intervention of property law is not unknown. Recently in certain American jurisdictions there has been a move to

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[67] Farrands, The Globalisation of Knowledge op.cit.

[68] This is the central claim of much of the literature on Internet copyright issues. Perhaps the most famous intervention in this debate arguing this position is Barlow,J.P. 'The Economy of Ideas. A framework for rethinking patents and copyrights in the Digital Age' (available at WIRED on-line through Questel-Orbit [1993] and many other sites). Vaver op.cit. is also based on this position.

[69] ibid. p126

limit the employability of workers who have acquired knowledge (of processes, of skills or of 'fixes') during their employment, and wish to take a new job with a company in the same sector (a competitor of their original employer). Though without their explicit intent, it is argued they may disclose the intellectual property resources of their previous employer to their new employer - what has been termed 'inevitable disclosure'.[70] This may make these individuals unemployable in the sector where they have developed skills, and thus impact on their earning ability, by the questioning of the ownership of their 'own' abilities.

Is the space opened up by notions of intellectual property one that is then recognised as 'exploitable' by new entrepreneurial activity, or does the will to exploit knowledge in a capitalistic system engender a new understanding of (intellectual) property? Technologies have appeared and been developed in the last fifty years which have enabled the capturing of the economic 'value' of knowledge(s) previously not able to be commodified. If the argument I put forward for the dual-dialectic is acceptable, then this requires the analysis not to only posit this technological causality but additionally a conceptual/ideational account as its twin.

What was understood by 'property' prior to the Seventeenth century is somewhat different to its conception after this watershed, and the same applies to intellectual property. Whereas, generally, prior to 1600 the bulk of intellectual property (mostly included under the rubric of copyright) was governed by the dispersal and granting of privileges of reproduction by the state (or proto-state), with the Statute of Queen Anne in 1709, British law started to recognise intellectual creations as property over which certain rights could be claimed by owners.[71]

As I noted above, one of the key motivations behind the construction of IPR regimes was the (idealised) need of authors and inventors (but in actual fact more often the stationers and/or manufacturers) to protect the knowledge tied up in the commodity or process from unlicensed reproduction. The interests of the economic exploiters of IPRs was to ground the philosophical justification in an economic argument regarding the efficient use of scarce resources, which is to say in some sort of modified labour desert argument, drawing its line of development

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[70] See Di Fronzo,P.W. 'A Little Knowledge is a Dangerous Thing' and Spanner,R.A. 'Beyond Secrets' *Intellectual Property Recorder* 1996. [Both available at the *Recorder*'s WWW site.]
[71] Ploman,E.W. and Hamilton,L.C. Copyright. Intellectual property in the information age (London: Routledge & Kegan Paul, 1980) p12 and p17, and the detailed discussion of the act in Saunders, Purposes or Principle op.cit.

from the Lockean or instrumentalist perspective. The self development aspect of the justification of property, which would not allow a full alienability was not nearly as attractive, not least of all as it would require a continuing right to limit disclosure on behalf of the originator, which compromises the rights of the *new* owner of their intellectual property.[72] The development of an expanding industry in copyrightable products was predicated on the construction of scarcity (and thus monetary value) that a regime of property in knowledge products made possible. Without control over the reproduction of these products the accumulation necessary for the rapid expansion of the publishing industry would not have been possible.

Thus the argument that is at the centre of modern justifications for IPRs is concerned with the economic incentives needed for producers of knowledge to conduct their production. Following the Lockean tradition, the producer of the knowledge product (intellectual property) needs to be guaranteed the reward from its exploitation to ensure that such work is carried out. And without a system to transfer intellectual property and IPRs, they cannot be passed to those who would value them most (where this is taken to mean economically value). The notion of individual ownership (as in all areas of law) includes, significantly, the companies who either employ the knowledge worker, or who buy the rights to exploit the idea. In the case of the sole inventor, or author, the IPR regime allows their original rights may be alienated for a reward (payment of a fee, or if employed, as part of the contracted work relationship). Where this work is undertaken by an employee the creator is usually legally defined as the company (or employer), allowing this legal entity to enjoy the same rights as the individual creator.[73] These rights are transferable, residing in the intellectual property concerned and not with the author/inventor. Thus ideas have become things. And once ideas are commodities the justification of property discussed above can be appealed to.

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[72] Hettinger,E.C. 'Justifying Intellectual Property' *Philosophy and Public Affairs* Volume 18, No.1 (Winter 1989) p45-47. On the Continent the notion of the moral right (within copyright) was inalienable, as opposed to the *copy*right which was, went some way to bridging this gap, at least for artistic creations. And more recently in disputes over the colouring of old black and white films, for instance, something akin to a moral right has been asserted in North American law though through the mechanism of 'fair use'.

[73] Vaver op.cit. p104

Of copyrights and patents

Rose has argued that in the field of property law there has been an oscillation over the last two centuries between what she defines as 'crystal' and 'mud' legality.[74] These shifts are between hard or settled laws, those that are 'crystal clear' in their application, and the more muddy, pragmatic judgements that arise when difficult problems are being dealt with by the judiciary. These shifts in American property law (which is Rose's subject) describe the movement from laws which start out simple and clear, but are then hedged about with precedent, exception and modification until new clear laws are formulated in certain areas (and certain specific instances of types of property ownership). The re-crystallisation of laws may legally clarify specific issues that have become reasonably settled or attempt to deal with issues which urgently require settlement. In the case of the law of real (land) property this movement has "resurrected the idea that the ownership of land involves societal responsibilities and duties as well as individual rights".[75] By recognising the responsibilities that may be attached to particular ownership in particular circumstances (and that may therefore compromise the rights allocated to that ownership), the law becomes in Rose's terms more muddy, where it has not produced new legislation.

Laws governing patents and copyrights are likely to follow a similar path as the developments in real (land) property law, not least of all as it is this history that is appealed to for justificatory schema.[76] Currently there is still a concentration on the rights of the owner of intellectual property, and much less consideration of the social responsibilities of such ownership (which is to say the freedom of dissemination to all possible beneficiaries). This may be less the case for patents, which once registered have an automatic disclosure mechanism by virtue of having been lodged at a Public Records Office to establish their 'patentability'. The historical development of patent flows from the recognition that the rights of ownership in innovations require some dilution by political authority to ensure that certain social needs are fulfilled. At the centre of the notion of the patent is an explicit bargain between owner and state over ownership and disclosure. The state by underwriting the 'legitimate' ownership of certain ideas, allows the owner to benefit from them for a limited time before returning the idea to the public realm.

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[74] Rose, 'Crystals and Mud in Property Law' Property and Persuasion op.cit.
[75] Cribbet op.cit. p40
[76] Locke himself attempted to include the nascent intellectual property into his deliberations over the natural right of property. See Ploman & Hamilton op.cit. p17

They are returned to the free public realm when the patent expires, as prior to this they have been socially available but the reward payable is institutionalised by the state. It should be noted however this is not a claim that *what* is patentable is an uncontested issue.

Conventionally the allocation of IPRs to patent or copyright regimes has been on the basis of the dichotomy between idea and expression. However, as new ways of exploiting (and developing) knowledge have been discovered, or conceived, and technologies have been developed to take advantage of these new possibilities, so the distinction between the exploitation of ideas and expressions has become more difficult to maintain.[77] The accepted notions of the author as copyright holder (whose ideas are expressed in a signature manner, which is copyrighted) and the inventor as patent holder (whose invention, which once invented or discovered is manifestly duplicable for use) are now less than robust. Indeed, crucially, I am arguing that as knowledge itself is increasingly recognised as the raw material on which further knowledge is built, the distinction between idea and expression has been eroded.

Until recently anything subject to intellectual property law had to be made material in some manner to obtain protection. For copyright, the protection was extended to the *expression* of a idea (or set of ideas), not the ideas themselves. The novel is protected (broadly speaking) from duplication of the specific pattern of words used to establish that plot. However the idea of the plot itself, the sequence of events, the dénouement and so on, if expressed differently (in a different manner, with differed patterns of words) attract their own copyright and do not infringe (or compromise) the first. This has been hedged around, and in Rose's terms has become more muddy, but paradigmatically flows from the recognition of a text as having an author. For patents, the particular idea needs to fulfil certain criteria: once an idea, which has been laid out in a patent document has been found to be; *new*, in that it has not been patented before and is not already in the public domain; *not obvious*, in that it would not be common-sense to any accomplished practitioner in the field at that time and; *useful*, or *applicable*, which is to say that the idea is either an improvement to an existing process or machine, or a new process/machine which has a stated function, then this idea is patentable. However, such a distinction was never particularly sturdy, and for instance, in

[77] Franzosi,M & de Sanctis,G 'Moral Rights and New Technology: Are Copyright and Patents Converging?' *European Intellectual Property Review* (1995) No.2 p63-66 *passim*

software, where the process or idea is expressed as a text, this distinction has started to break down.[78]

The ideology of the 'author'

This breakdown has strengthened the knowledge capitalists' argument for the 'author' as the paradigmic intellectual creator, as if IPRs come to resemble copyright more than they do patents, then the justificatory systems being utilised dovetail well with other ascendant positions regarding the sanctity of the sovereign individual. Once again, as in the history of property, this has seen a diminution of the possibility of a public domain of knowledge.[79] As in that conceptual history the emerging replacement of previous understandings of intellectual property started during the Seventeenth and Eighteenth centuries, specifically for copyright with the rise of the romantic notions of individual creativity.[80] Given the need for patents to be lodged by a legally constituted individual, even if this is actually a company, a similar norm appears to operate for patentable ideas as well.[81] Thus, at the centre of all IPRs and their schemes of justification is the notion of the individual creative individual, the author, acting in solitude to produce a new piece of knowledge, a new work.

This leads me to the crucial question of how valid the author is as the idealised creator of intellectual property? Few if any ideas can trace their genesis to one lone creator. New knowledge is the result of the mobilisation of previous knowledge, with some 'creativity' added. The author and the creation itself are the result of the previous knowledge to which she/he has been party to.[82] However, despite this seeming difficulty the paradigm of the author as intellectual producer is still strongly held and defended by the entrepreneurs of the knowledge economy.[83] The contemporary creative act to produce the particular intellectual property concerned is conceived outside and separate from any history of knowledge endeavours of which it is part and draws sustenance from. The

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[78] ibid.
[79] Boyle op.cit. p158 and *passim*
[80] Geller,P.E. 'Must Copyright Be For Ever Caught Between Marketplace and Authorship Norms?' Sherman,B and Strowel,A (editors) Of Authors and Origins: Essays on Copyright Law (Oxford: Clarendon Press, 1994) p168-170
[81] Boyle op.cit. p206 *footnote 13*
[82] In literary theory this sort of argument brings about the death of the author. See Barthes,R 'Death of the Author' Image-Music-Text (Essays selected & Translated by Stephen Heath) (London: Fontana, 1977)
[83] Boyle op.cit. p175-176 and *passim*

identification of the authorship function is the root justification for IPRs, and the author's encouragement and motivation to continue production and do so efficiently is the extension on which much of the justification for IPRs rests. All of which sits well with the Lockean, instrumentalist, notion of the required reward represented by property rights.

It is difficult to pinpoint the moment of creation, which is to say that all knowledge, by virtue of the knowledge needed to have the insight, creativity (call it what you will) to add something to the overall body of knowledge, must be already largely extant. If the provision of the building blocks of knowledge involves no necessary diminution of utility to their previous users/owners when (re)used to create or invent, then it is difficult to see what rationale should be adopted for charging for inputs (as their marginal cost is nil, once an idea has been had there are no extra costs in rethinking it). Neither is it clear why protecting the output's creator, over and above previous creators who contributed earlier to the particular idea which a specific intellectual property is concerned with, is legitimate.

In the final analysis, neither of the dominant streams of justification of property has a sustainable rhetoric for intellectual property. However many others know our thoughts (which may have implication for our privacy) this does not detract from them as an expression of self. And as I noted above, IPR regimes do not generally recognise the inalienability that a self-development justification would require. Equally, is it ever possible to identify the part of the knowledge product or idea that is completely the labour of the IPR owning individual (who is enjoying labour's desert). Even if it was, what proportion of the overall knowledge embedded in the idea would it likely be?

What this reveals is that despite the conventional arguments regarding the justification of IPRs as stemming from one or other of the philosophical traditions I identified above, when such claims are examined more closely, their applicability to intellectual property is partial at best. But despite these problems which underlie the continuing ferment and debate about IPRs in the global political economy, a more pragmatic justification regime has been established to ensure that some legal/philosophical support can be garnered by the knowledge industries, even where problems with historical property justifications have emerged.

This lack of a sustainable 'property' rhetoric has resulted in IPRs being defended on the basis of their support for the maximisation of economic utility, which is itself not a particularly solid foundation. The chief way that such a position has been developed is through the liberal view of the value of economic modelling in the governance of society's allocation of resources. By assuming that the market is the best method of allocation (in *all* circumstances) IPRs can be justified. And to make this assumption is to argue that to introduce the market into the products of the mind, an artificial scarcity must be constructed.[84] In itself the argument that the market is the most efficient allocator of resources requires a certain world-view to be adopted, one which is neither natural or self-evident. But once such an assumption *has* been made, a certain agenda of choices for dealing with knowledge economics in the global political economy is established.

As I have suggested the ethical arguments which are used to justify IPRs (the Lockean and Hegelian streams discussed above) are broadly contradictory, and given the requirement for the individual creator they are less than convincing where creation is an ongoing, social activity. This has led to the increasingly common use of consequentialist arguments (based on economic models of utility maximisation). However, only the view that intellectual property itself is plausible allows the arguments for efficiency/utility to support specific IPR regimes. But this is a circular argument: if knowledge is understood as property then it is best to utilise market mechanisms to ensure it is efficiently used; and to ensure knowledge is efficiently used it is necessary to utilise market mechanisms which means knowledge needs to be brought under a property regime. Thus, given the lack of an independent justification in such an argument, IPRs have to be taken on faith as the best way to organise knowledge's use.

The operation of the knowledge structure acts to reduce the tensions between these positions and obscure the circularity of this third justification.[85] There may be disagreements but only between the three streams I have discussed, leaving the boundaries of discussion broadly in place. It is hard to find any discussion of IPRs which do not allude in one way or another to the positions that I have mapped out

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[84] Palmer op.cit. p864/5

[85] Nance,D.A. 'Owning Ideas' (Foreword to special number) *Harvard Journal of Law and Public Policy* Volume 13, No.3 pp757-773 *passim* which argues that there is a limited field of alternatives within the debate, but does not understand this as part of a knowledge structure in the sense that it is meant here.

in this chapter. Indeed:

> The advocates of intellectual property laws prefer to speak about property, and the opponents prefer the word monopoly. Even if the word monopoly were justified, the adherents of intellectual property rights argue... that such rights are created in furtherance of competition on a higher level of economic activity, and not to impede competition.[86]

The economic utility argument is presented not as an argument from particular cases but from the need for overall efficiency in the economic market for knowledge. The argument concerning the monopoly rights accorded to IPRs still embeds their position within an overall argument about how markets *work* not whether they are appropriate. To argue about IPRs from outside these positions (outside the recognition of some sort of market for ideas) is to be marginalised in the arguments over intellectual property in the global political economy.

The Knowledge Structure (again)

As I discussed in previous chapters, a Strangian analysis identifies power structures, which through the ability to set (or inform) agendas, have a considerable effect on outcomes in the global political economy. The ontological construction of 'property' is one such agenda. If Burch's argument for the plurality of spaces constituting the global political economy is correct, then the recognition of intellectual property (and its rights) opens up another political space for power relations. With the supposed development of knowledge and/or information based capitalism, knowledge and/or information are themselves important fields of socio-economic relations where power relations will be evident and are therefore important to understand.

In chapter four I reformulated Strange's knowledge structure to include not only the conception of knowledge as information (and technology), but also beliefs and perspectives, and those *properties* that I have suggested might more normally be assumed to be passive property. Through the operation of the dual-dialectic the knowledge structure plays a major role in the setting of agendas for the other structures. The interaction between the notions of property and the politics of intellectual property are intimately linked to the way these agendas are set, when knowledge itself becomes the productive resource *and* the key to the capitalist process.

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[86] Quaedvlieg op.cit. p389

The notion of what intellectual property is (what comes within its remit) is not neutral or fixed, but is the function of the needs of capitalism to exploit new resources (those that are made available by new technologies). Despite a tradition of such arguments within the economic literature around intellectual property, there is little firm support to suggest that intellectual property protection aids the 'production' and dissemination of ideas and knowledge.[87] The refutation lies in the assertion that innovation and new ideas have produced human progress across history with little requirement for IPR regimes of any sort. Indeed, as I argued when exploring the dual-dialectic, the role of ideas has been downplayed due to the concentration on a materially traced history, especially when the traces of ideas are less easily available (in the period before wide-spread literacy, for instance).

It seems to me that the way to understand the role of IPR protection, and its part in technological developments is by appreciating its rootedness in the capitalist organisation of productive endeavour. This is to say that the economic justification of the role of IPRs is a mask for the needs of certain groups (or classes) in the global political economy. Braverman suggested that the relationship between capital and labour is one that is centred around control.[88] I would add the control over what can and cannot be conceived of as property, and its availability to socio-economic actors to the control of the productive process.

Thus the role of control needs to be widened to include not just the way elements of the productive process are governed by the logic (and agents) of capitalist social relations, but also how 'new' elements are brought into this purview. This control is not just the control of the productive process that Braverman was concerned with, but the control of the definition (and recognition) of such property to which these processes are applied. It is the ability of power working through the 'knowledge structure' to condition and shape the agendas from which outcomes result in the global political economy. It is the ability to establish what will be considered intellectual property and when.

Braverman, interestingly, also identified the appropriation of productive skills that capitalism undertakes by developing machines that can (through scientific

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[87] see Vaver op.cit.. for a clear and extensive exposition of this argument. Also see Boyle op.cit. *passim* where such arguments are severely criticised as presenting a partial and disputable vision of the work of the intellect.

[88] Braverman,H Labour and Monopoly Capital. The Degradation of Work in the Twentieth Century (New York: Monthly Review Press, 1974).

analysis, and division of labour) perform the same work as individuals.[89] In the increasingly varied intellectual property regime, the knowledge structure has reached not only into the minds of employees but into the minds of others who come into contact with 'knowledge capitalism', to commodify what it can from their (our) internal self-conceptions and then claim (partial) ownership of these ideas. The balance of importance, in a general manner has been shifting from production towards knowledge.[90] As technologies have increasingly been able to utilise the thoughts both of their users and their clients (in the case of customer databases, for instance) the ownership of ideas (both in the sense of patterns of consumption, but also how symbols are interpreted) that might have previously been seen as unownable has become not only a contentious issue, but one around which significant global actors have organised substantial resources.

The problem with intellectual property

My argument is that, in the move towards a capitalism that is increasingly concerned with the products of knowledge and its application to other knowledge, the agenda of what 'knowledge' might be (and how it fits into market relations) is becoming of crucial importance. However, despite claims to the contrary, intellectual property cannot be conceptualised into these capitalistic relations in the same way that material property has. I have endeavoured above to briefly elaborate the contending notions of material property and its justification, and have suggested that these debates are not necessarily closed. But importantly the impact of such debates, and conceptualisations of the justification (and legitimisation) of property, has a major impact on the way intellectual property can be understood. Despite the potential for conflict, structural power in the global political economy has endeavoured to restrain debates over the nature of intellectual property. This has not been accidental, but flows from the need to commodify the productive relations in a 'knowledge economy'. This commodification has a parallel with the enclosure of the commons in the 'violent history' of (material/real) property.

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[89] While making some telling criticisms of Braverman's binary conception of the deskilling process - that labour is either craft based *or* de-skilled, allowing no mediated positions - Elger supports Braverman's argument concerning the centrality of the control issue in labour processes, and the dynamic he identifies. Elger,T 'Valorisation and 'Deskilling': A critique of Braverman' *Capital & Class* (Spring 1979) pp58 - 99.

[90] Strange's views on this shift can be found in Strange,S 'The Future of the American Empire', *Journal of International Affairs*, Vol.42, No.1, (Fall 1988) and Strange,S. 'Towards a Theory of Transnational Empire' Czempiel,E.O. and Rosenau,J.N. (eds.), Global Changes and Theoretical Challenges: Approaches to World Politics for the 1990s (Lexington: Lexington Books, 1989)

At least part of the tension in the politics of knowledge stems from the role that the knowledge structure has already played in the global political economy. When economists have assessed the role of information in the past it has been in the sense of 'perfect information' required for the price mechanism in a 'perfect market' to produce a price that reflected the exact conditions of supply and demand for the particular commodity being exchanged. However, when information-knowledge itself becomes the commodity, there is an immediate tension between the demand for perfect information (the notion of the public good) and the need to establish its scarcity (the notion of private information) if such knowledge is to command a price. With the advent of an increasingly central role for market relations which are concerned with knowledge as an exchangeable (and thus alienable) resource, lines of settlement have changed. Once knowledge becomes a major field of capitalistic exchange relations, the tension between the public and private role of knowledge becomes both subject to the agenda setting role of the knowledge structure itself, and may serve to reveal the continuing problems with the debate around property and ownership in the global political economy.

What I have wanted to stress in this chapter is that property's ontological constructions are both an historically crucial subject for investigation, and that they will have an increasing impact on the way the knowledge structure operates through the rise of knowledge, or information, capitalism. It is not my intention to shy away from the issue of a normative or ethical question regarding which ontological agenda is the most justified in light of certain criteria that are laid out in a nominated philosophical position. To my mind there are clear problems with the commodification of knowledge in the global political economy as the title and substance of this study attests. But equally there are issues of justice, motivation and resource allocation that need to be thought through carefully where knowledge is concerned. In the next chapter I explore some illustrations of IPR issues to attempt to tease out a way forward that will aid an understanding of the emergent knowledge economy, but which also recognises the problems of a blanket (and parsimonious) conception of IPRs.

Chapter six - On Intellectual Property (2)

Introduction

In the previous chapter I sought to establish the broad field in which discussion of intellectual property has been played out. Noting its multifaceted character, in this chapter I will illustrate what a Global Political Economy of intellectual property rights (a GPE of IPRs) needs to address. These issues are revealed through the debates on the division between private and public knowledge in a 'knowledge economy'. First I will discuss a possible definition of the emergent 'knowledge economy' or 'knowledge/information capitalism'. Against this backdrop I will then examine the way some debates over IPRs have been conducted in the global political economy, and the limitations of such debates. It is my contention that the knowledge structure, and the power therein, constructs limitations to the discourse that surrounds IPRs.

In the recent negotiations over the formation of the World Trade Organisation (WTO) and the inclusion of intellectual property into its remit, much that has been written is "cast in terms of calculations of the losses incurred by the Western information industries as a result of 'piracy' and 'theft'; but these calculations rarely attempt to get to grips with the conflict of definitions of what should count as 'property' in the first place".[1] The dominant discourse of intellectual property is accepted and its boundaries defined by the dominant actors.[2] But, what is of most interest is not what might be easily recognisable and acceptable as intellectual property, and what is not, but where that boundary might lie, and how movements across this line are justified, (which I should add is not to *necessarily* accept the underlying argument that there can *be* intellectual property in the first place).

In much the same way that a theory of art needs to be developed at the borders of art and *not*-art,[3] an account of intellectual property needs to be concerned with the question of intellectual property's varying ontologies and justifications, where they are most difficult to settle or come to agreement on. Samuelson has noted in respect to

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[1] Frow,J 'Information as Gift and Commodity' New Left Review No.219 (September/October 1996) p90

[2] On this subject see the Sell,S.K. 'The Agent-Structure Debate: Corporate Actors, Intellectual Property and the WTO' Paper delivered at the 38th Annual International Studies Association Convention, Toronto March 1997

[3] Burgin,V End of Art Theory (Basingstoke: Macmillan Education, 1986) especially the essay 'The Absence of Presence: Conceptualism and Postmodernisms' pp29-50

the legal debates over information law that:

> A world in which all information is its discoverer's property under all circumstances is unthinkable. Before we start labelling information as property, we need a coherent theory about when information should be treated as property, and when not. This is a task to which little thought has been given, but must be.[4]

If knowledge, its history, its development and its impact on socio-economic relations develops through the dual-dialectic, the arguments over the line of division separating intellectual *property* from public knowledge will prove a most fruitful subject for analysis. The importance of this site stems from the need for ideas to draw on a raw material, which historically has been the result of socialisation or at least socially available knowledge, and its utilisation. If the field of socially available knowledge is being 'enclosed' (if a knowledge scarcity is being constructed) then the boundary between public and private is not only shifting but will be illustrative of the political economic issues surrounding the knowledge economy. It may also suggest that some groups (or classes) are being restricted in their access to previously (at least potentially) freely available social knowledge.

A new knowledge economy?

In the last chapter I used the term the 'knowledge economy' and alluded to something called 'knowledge-' *or* 'information-capitalism'. Before continuing it seems apposite to briefly discuss how these terms are often used, whether they capture something new, and if they do, what this form of economy carries forward from its predecessors. As I have implied, with the advent of cheaper printing technologies last century, electronic communications in this, and increasingly speedy transfers of 'knowledge', the very question of whether 'knowledge' can be made 'property' has moved from being a conceptual issue alone, to being one that is riven with materiality and economic advantage.

Once value could be added through the utilisation of 'knowledge' in more than an incidental manner, the debate over IPRs took on an increased political economic importance. This is not limited to the advantage of information held, and utilised before it is publicly known or disseminated. Especially where copyrights (and some patents) are concerned it is the dissemination itself which generates income. This has led to claims for a new sort of economy predicated on such activities, dividing off a knowledge economy from its forerunners. In some emergent technologies the line

[4] Samuelson,P 'Is Information Property? (Legally Speaking)' *Communications of the Association for Computing Machinery* Volume 34 No.3 (March 1991) [Available at the ACM World Wide Web site]

between patent protection and copyright protection (historically quite different regimes, with different advantages) is becoming at least blurred and in many cases the subject of power and influence in itself.[5] Indeed, the ontological expansion of intellectual property is both informed by, and informs linked technological developments.

Poster's conception of the 'mode of information' captures the changes which have enabled a new and more widely drawn 'recognition' of property to challenge and question existing ontologies of intellectual property.[6] Poster suggests that not only should the way information is processed, stored and circulated be considered of central importance to the role of knowledge in socio-economic relations, but that it is also possible to "suggest that history may be periodised by variations in the structure" of the mode of information. By working with this typology (at least in the first instance) a claim can be made that the knowledge economy is novel. This includes a consideration of the technologies operating as well as the conceptions of 'knowledge' which have currency in political economic relations. Poster tentatively identifies these stages as "face-to-face, orally mediated exchange; written exchanges mediated by print; and electronically mediated exchange". While the first stage is "characterised by symbolic correspondences, and the second stage is characterised by the representation of signs, the third is characterised by informational simulations". These stages are not consecutive but coterminous, though starting at different times, one cannot but see earlier developments from the situation of the present. While each stage is historically later than the previous one, it does not replace it but rather is superimposed upon it.[7]

With the advent of new technologies throughout this century, not only has a new mode of information arrived (that of 'electronically mediated' exchange) but also the two previous modes have had their nature altered - face-to-face communication is no longer limited by proximity, and signs can be represented (and recognised) across vast distances. In addition "each method of preserving and transmitting information profoundly intervenes in the networks of relationships that constitute a society".[8] These interventions in socio-economic relations are changing these networks and the way they function. For many commentators such developments have brought about a new form of economic organisation: the information economy. The use of the term

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[5] Franzosi,M & de Sanctis,G 'Moral Rights and New Technology: Are Copyright and Patents Converging?' *European Intellectual Property Review* (1995) No.2, pp63-66 One area where this is most evident is the protection (or otherwise) of the results of bio-technological innovation.
[6] Poster,M The Mode of Information. Poststructuralism & Social Context (Cambridge: Polity Press, 1990)
[7] ibid. p6
[8] ibid. p7

itself followed an (in)famous report by Porat which attempted to define and 'measure' the seemingly emergent information economy of the mid-1970s.[9] Indeed Hepworth goes as far as to suggest that the "concept itself was coined by Porat", though it has been subject to considerable elaboration since then. Nonetheless, Porat's initial typology is useful as it enables a discussion of the duality of the information/knowledge economy.

Porat posited a primary information sector, which encompassed those companies where the information products were made available in established markets (or elsewhere, where a economic value could easily be computed). This narrow view of a knowledge sector does not establish an information society however. But by introducing a secondary information sector, which is embedded within other sectors (those parts of companies which manipulate knowledge and information, design, R&D, marketing, for instance), Porat was able to suggest that nearly half of America's GNP was accounted for by the information sector, and thus American was turning into a society organised on the basis of information.[10] Wielding vast quantities of statistics Porat's report became the touchstone for nearly every writer wishing to proclaim this new age.

Thus a knowledge economy is one in which value added stems primarily from the utilisation of knowledge in one form or another, rather than on the combination of material inputs. The most important input is some form of knowledge inasmuch as this is where the most significant value is added. The shift to knowledge as a highly valued definable input has produced a vast literature proclaiming a new post-Fordist, post-Capitalist, post-industrial knowledge and information economy, spearheading a new economic revolution.[11] The claim that the decline of manually skilled jobs and the heightened value put upon (in Robert Reich's famous phrase) 'symbolic analysts' has produced a division between the information or knowledge rich and poor is

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[9] Porat's mammoth nine volume work The Information Economy: Definition and Measurement, produced for the US Department of Commerce is discussed in Webster,F Theories of Information Society (London: Routledge, 1995), p10-16 and Hepworth,M.E. Geography of the Information Economy (London: Belhaven Press, 1989) p6/7.

[10] This brief account is drawn from Webster's discussion of Porat, Webster, op.cit. p11/12

[11] Usefully surveyed by Webster, ibid. who deals well with the main streams of the discussion (Jean Baudrillard; Daniel Bell; Manuel Castells; Anthony Giddens; Jürgen Habermas; David Harvey; Jean François Lyotard; Theodore Roszak; and Herbert Schiller, as well as the debates around post-Fordism and post-industrialism), but also see Gorz,A Farewell to the Working Class (London: Pluto Press, 1982) and Touraine,A The Post-Industrial Society (London: Wildwood House, 1974) neither of which figure in his survey. In the more populist literature Tofler,A The Third Wave (London: Collins, 1980) suggests that after the agrarian age and the industrial age, society is now entering its information age though this is seen perhaps more positively than either Gorz or Torraine who like Robert Reich are concerned about the knowledge-excluded.

increasingly commonplace.[12] But, despite the appeal of these analyses of the new age of knowledge capitalism, they raise two significant problems: the difficulty of establishing a robust definition; and the difficulty of establishing its periodisation.

The problem that Porat tried to navigate still exists. If the use of information and knowledge is limited to only Porat's primary information sector, then the knowledge industries can hardly be said to characterise the whole global political economy. In any case, many of these industries are essentially producer services rather than profitable industrial sectors with no link to the material economy (as some post-industrial commentators suggest). However, as Porat recognised, to limit the definition of the information economy in this way fails to recognise the vast about of information and knowledge manipulated in other sectors.

However, defining the knowledge economy to include Porat's secondary information sector then starts to become a definition of modern capitalism itself. All companies utilise some form of knowledge and informational resources, be it in the skills mobilised by their workforce, their own research (market and product) or in their manipulation of sales information for planning purposes (as well as many other areas in any company where information and knowledge impact on organisational success). And if knowledge is understood in this way - to be the aspect of the value-added of any product or service that is not strictly materially based - then all post-industrial-revolution capitalism has been made up of a constellation of knowledge industries (differing only in levels of knowledge utilised). This then presents the problem of how 'new' a knowledge economy might be.

Additionally, if the knowledge economy is defined by form, recognising new methods for utilising a widely defined area of knowledge (through branding, design, research, the utilisation of database resources, communications and so on), a new period of capitalism might be posited. But, recognising the relations between the holders of knowledge and the companies and other actors who profit from it, as well as the way such knowledge is deployed through links with material goods, the substance of the knowledge industries remains part of modern capitalist development. Thus, while being new, the knowledge industries are not novel. Indeed their labour relations remain remarkably familiar in substance (if not in form).

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[12] Reich,R.B. The Work of Nations. Preparing ourselves for 21st Century capitalism (London: Simon & Schuster, 1991) p177ff, and as noted in the discussion of Strange's work this is also a claim that she has made in regard to the importance of the knowledge structure.

The logic of the knowledge economy

Part of the 'logic' of capitalism is the move to disaggregate skills, enabling those that an be incorporated into machines to be separated off from the original skill-holders. This deskilling, is actually a transfer of skills - from labour to capital.[13] With the advent of more and more powerful software programmes, so called 'clever machines' and the promised utilisation of artificial intelligence technologies in the workplace, this appropriation by capital of individuals mental processes continues apace. Whereas, with earlier technologies the level of skill that could be encompassed within the machine was essentially mechanical, the move into Poster's 'third age' has enabled machines to mimic more intellectual (or critical and perceptual) human skills, in the service of productive capital. Or to put this another way, as Morris-Suziki observes in, 'information capitalism' symbolic knowledge is being divorced from its individual host and incorporated into the machines (and goods) which are used (and circulate) in the global economy.[14] But I stress, this is only new in form not in the substance of the socio-economic relations which it supports.

The relations between knowledge capital and the knowledge worker remains essentially the same as under 'modern' capitalism. This is to say that the company controls and deploys the knowledge outputs in a similar way to the products of its more materially oriented workers. Employment contracts routinely assign the intellectual property rights of workers' knowledge outputs to the employer, as they would for materialised production. Innovatory breakthroughs belong (in most instances) not to the knowledge workers but to their employers. Work practices may have changed, as have working conditions for the 'symbolic analysts' but the ownership of their outputs is still allocated through the capital/labour relation.

In the world of *smart cards*, *self-focusing cameras*, *car-making robots*, competition is based on innovation. Long before goods wear out, they are obsolescent, and hence the need to protect their intellectual property elements which otherwise might be easily transferable and thus reproducible by competitors. This has meant that "the centre of economic gravity shifts from the production of goods to the production of innovation - that is, of new knowledge for the making of goods".[15] Over the long term, continual innovation has become the crucial element in the profit equation. The key difference

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[13] Braverman,H Labour and Monopoly Capital. The Degradation of Work in the Twentieth Century (New York: Monthly Review Press, 1974) p236ff and *passim*
[14] Morris-Suzuki,T Beyond Computopia. Information, Automation and Democracy in Japan (London: Kegan Paul International, 1988) p70ff
[15] ibid. p76

between this "commodity production of innovation and the commodity production of physical objects... [is] in the production of knowledge the main raw material is knowledge itself".[16] But where does this knowledge come from?

Morris-Suziki contends that:

> Whereas the knowledge which comes out of this commercial production process is the private property of the corporation, fenced around with monopoly barriers which endow it with market value, the knowledge which goes in as raw material is mostly social knowledge, produced and owned jointly by society as a whole... Information capitalism, therefore, not only exploits the labour of those directly employed by corporations, but also depends... on the indirect exploitation of the labour of everyone involved in the maintenance, transmission and expansion of social knowledge... in the end, everybody.[17]

The fruits of this knowledge seldom can be kept in the private sector for ever, patent law only grants limited temporal monopolies, recognising that 'inventors' should have the right to exploit their innovation, and equally that knowledge is by its very nature a relatively 'public good'. Thus, innovations after some time in the private sector, flow back into the societal pool of ideas. However, the time period for which these innovations remain in the hands of the information capitalist is quite long enough to establish and maintain the technology gap on which the economic wealth of the developed states partly rest on.

Communication technologies have made the transfer of coded knowledge around the globe all but instantaneous, and as Poster and many others have suggested time and space in this sense have shrunk.[18] The knowledge economy is an emergent global phenomena - knowledge is recognised throughout the global political economy as a valuable resource. By deciding which aspects of knowledge will be incorporated into the knowledge economy (and perhaps as crucially) which will not, an agenda is already in place that is operating through socio-economic actors. Additionally, this agenda setting, being a dynamic process, is also concerned with the transformation of social to private knowledge and back again to support the needs of the knowledge capitalists. This agenda reflects the privileged construction of the knowledge producer, the ideology of the author, and not only involves what is used, but also the prevention of further public use when such knowledge has been appropriated.

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[16] ibid. p79
[17] ibid. p80/81
[18] For instance see Harvey,D The Condition of Postmodernity (Oxford: Basil Blackwell 1989)

The ability to identify what *is* knowledge and what is not is crucial to the operation of power. This would conversely also be crucial for large companies claiming that certain knowledge *is* in the public realm, even if its 'owners' differ. And it is here, at this nexus, that the role of intellectual property is most clearly evident. Backed by a regime that draws sustenance from the legal history surrounding property relations, the ability to establish certain 'knowledge' as intellectual property has distinct uses for the 'information capitalist' working in the 'knowledge economy'. The ability to deny certain 'knowledge' is intellectual property until it is recognised as being 'trade related' is vital to the enclosure of knowledge commons for the benefit of capital. However, it is also important not to construct a binary model of knowledge - either public or private owned by 'information capitalists' - as there may be other areas where the ability to retain knowledge, is not directly linked with intellectual property, but is within the remit of the politics of privacy and intrusion, and the politics of surveillance.[19]

The 'Intellectual' in Intellectual Property

Within the discipline of IPE/GPE, a not inconsiderable effort has been spent on exploring the role of information in global economic exchanges. This has been concerned both with the technical (infra)structures by which information circulates the globe, and with the control of such information.[20] If I am to conceive of knowledge widely, then I need to add to this account an additional awareness of the role knowledge plays in defining relations and in enabling the *use* of information. This is not to down play the importance of a GPE of Communications, which is intimately linked with the subject matter of this study. But rather than being concerned with the conduits (the infrastructure) of global information dissemination, here I am more concerned with the way such information is constructed as property, and is forced to conform to a certain model of property-ness. To utilise the information that circulates the global system, further knowledge(s) may be required, and these may have no 'informational' existence, but are increasingly controlled, nonetheless through the operation of intellectual *property* law.

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[19] I do not cover this important issue but recognise it as a vital subject for investigation - see for instance Foucault,M Discipline and Punish. The Birth of a Prison (London: Penguin Books, 1979 [reprinted 1991]), the discussion of Anthony Giddens in Webster op.cit. p52-73 which takes Giddens' account of surveillance as part of its organising scheme for examining his large body of writings, and on a more global scale Hewson,M 'Surveillance and the Global Political Economy' Comor,E.A The Global Political Economy of Communication (Houndmills: Macmillan Press, 1994) pp61-80.

[20] For instance see: Carnoy,M., Castells,M., Cohen, S.S. & Cardoso,F.H. The New Global Economy in the Information Age (University Park: Pennsylvania State University Press, 1993); Comor op.cit.; and Hepworth op.cit.

I want to return briefly to Minogue's notion of the difference between active and passive properties to illustrate this issue. As Minogue argues: "The history of human endeavour... is a history of progressive appropriation, and indeed also of the continuing invention of new things (such as copyrights) that might be appropriated".[21] In the political economy of intellectual property the invention of new things is part of the expansion of intellectual property' ontology. The line between what can be appropriated and what cannot is one that is continually being repositioned. New technologies that enable the appropriation of certain knowledge play a major role in these moves, but the conceptualisation of this capture must also be the forerunner of invention (in a dual-dialectical understanding of social change). As I have argued, this line dividing where appropriation is carried out and where it is not, is the line between active and passive property.

Conventionally active intellectual property has been defined on the basis of what can be included within the remit of patent or copyright laws. The conventional way that legal systems conceive of the genesis of this knowledge is through the ideology of the 'author'.[22] Those products of intellectual endeavour to whom some form of authorial function can be assigned are recognised as intellectual property, while those that cannot, are not. This is not to say that *an author* needs to be located, merely the existence of the function, even if this is located in a complex organisation. This construction of the 'author' as privileged producer suggests a paradox. There is a tension between the need to alienate the product to enable exchange, while at the same time retaining some sort of right to profit from the alienated intellectual property's use or deployment thus stopping short of total alienability. This privileging of the author presents a particular view of what knowledge can be, a view of intellectual property that is embedded within the liberal notion of the individual as prime social actor (crucially, developing knowledge separable from his or her antecedents).

This view of knowledge production places the individual agent at the centre of the debate and de-emphasises the possibility that socialisation or a social pool of knowledge might play an important role in the development of particular intellectual properties. This fulfils a dual role - firstly it suggests that all that can be recognised as intellectual property can be owned. This reflects the disappearance of the notion of *commonly* held property as a viable and usable concept for the politics of property in the seventeenth century. Secondly, it usefully masks the origin of the knowledge that

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[21] Minogue,K.R. 'The Concept of Property and its Contemporary Significance' Pennock,J.R. & Chapman,J.W. Property (NOMOS XXII) (New York: New York University Press, 1980) p12

[22] This is the central point of Boyle,J Shamans, Software and Spleens. Law and the Construction of the Information Society (Cambridge,Mass.: Harvard University Press, 1996).

is used as raw material for new intellectual property, which as Morris-Suzuki stresses, is the basis of the profitability of 'information capitalism'.[23] The social production of knowledge that must lie behind any particular knowledge produced by the individual is therefore hidden. Such an ideology seeks to establish the genesis of knowledge with the individual and disclaim the prior knowledge needed to create new knowledge. It denies the *necessary* raw materials new intellectual property must be founded within.

One alternative method of conceptualising the nature of intellectual property (drawing on ideas appearing in the discussions of IPRs in cyberspace) is to consider it as a relationship. This is a claim that the substance of intellectual property cannot be described by the usual material based concepts that have grounded the arguments about property. This point is crucially linked to the pre-Seventeenth century conceptions of property which do not see it as a thing but as a right to enjoy the benefit of its relationship in certain circumstances - circumstances that were hedged around with limits (both conventional and legal). Barlow argues that the relationship within which knowledge appears can determine its value, that different relationships may accord different values to the same information, and that within some relations certain knowledge may have no value whatsoever. The relationship in which an idea is revealed, discovered, or related is crucial - the context of knowledge, as I have argued in the first chapter will condition its acceptability as 'knowledge' at all.[24] And while this may mean that some knowledge that is 'objectively true' has little worth as intellectual property, perhaps more importantly many ideas (and/or their expression) may be very valuable in certain relationships without being 'objectively' true, and are thus accorded property-ness, are perceived as economically valuable and protection from 'theft' is sought.

This leads me to suggest that the expansion of intellectual property as a designation of the subjects of economic exchange relations can only be understood within the relations into which such property is put. The expansion of the ontology of intellectual property can be understood as capital's recognition of the wider aspects of knowledge, and its bid to enclose such knowledge, ensuring that in its constructed scarcity it can be the subject of profitable economic exchange. But this expansion of ownership in the knowledge economy leads to the question of the logic of ownership of knowledge and how it is often related to the justification of (material) property ownership.

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[23] Morris-Suzuki, op.cit. p80ff and *passim*

[24] Barlow,J.P. 'The Economy of Ideas. A framework for rethinking patents and copyrights in the Digital Age' available at WIRED on-line through Questel-Orbit (which is suitably available on the internet and widely reproduced at various sites)

The 'Property-ness' of Intellectual Property?

At the root of all other questions in a political economy of intellectual property is the question whether the products of the intellect can be considered property at all. In the last chapter I discussed some justifications for the position that they can, but it remains in some respects an unanswerable question - it is an ideological choice to treat knowledge this way. The role of the knowledge structure is central to ensuring that knowledge can be *conventionally* subjected to the rigour of property relations. To argue that this characterisation of knowledge is not self-evident (or 'natural') is to suggest that the knowledge structure plays an important role in the political economy of IPRs. But only if there is a disjuncture between the arguments that might be applied to IPRs and those that are actually mobilised in the disputes in the global political economy can a role for the knowledge structure be established. As I aim to show in the illustrations which follow this section, where the political economy of intellectual property is discussed, there is an available array of justificatory schemes which can be appealed to. The knowledge structure, however, delimits discussions to the different justificatory regimes and traditions that I have discussed without accepting that there may be a further alternative, which is that there is *no* overall justification for intellectual property.

This alternative, that there can be no property in knowledge, is based on the stark and simple assertion that knowledge does not conform to an understanding of property that is acceptable. One way of understanding the pragmatic nature of the economic justification of intellectual property is to suggest that it recognises this claim as essentially valid. However, pragmatically economic justifications suggest if the social utility of knowledge creation is to be maximised, then an understanding of knowledge premised on its construction as property will be useful for a market governed society. Indeed the underlying pragmatic nature of intellectual property law is emphasised by the differences in durations of protection both nationally and internationally for different classes of intellectual property and across jurisdictions for the same class.[25] This makes the economic justification of intellectual property both the most vulnerable and the most subtly rigorous. It is vulnerable as in any particular case the argument that intellectual property *does not* maximise social utility might be possible. It has great rigor because it appeals to a dominant and broadly accepted claim about the efficiency of the market as a method of efficient distribution, and economic

[25] Nance,D.A. 'Owning Ideas' (Foreword to special number) *Harvard Journal of Law and Public Policy* Volume 13, No.3 p758/759. I will return to the issue of temporality of rights in the illustrations and in the final chapter.

motivation. Thus while on a case by case basis critics may successfully argue against intellectual property, where that property is 'trade related' or economically defined as 'value added', then there is a vast body of established work to appeal to for the usefulness and applicability of property relations undertaken within market exchange.

However, the arguments against any sort of intellectual property are not as easily disposed of as might be assumed by the domination of a property discourse. Perhaps the central criticism of intellectual property *qua* property is the question of its 'non-exclusivity'. As Hettinger asks: "Why should one person have the exclusive right to possess and use something which all people could possess and use concurrently?".[26] To establish the historical continuity of such a position, Barlow utilises a passage from Thomas Jefferson to make the same point:

> If nature has made any one thing less susceptible than all others of exclusive property, it is the action of the thinking power called an idea, which an individual may exclusively possess as long as he keeps it to himself; but the moment it is divulged, it forces itself into the possession of everyone, and the receiver cannot dispossess himself of it.[27]

Unlike material property, more than one individual can enjoy 'ownership' without any diminution of previous (or concurrent) 'owner's' holdings. Centred on the crucial difference between material and ideational existence, this criticism points to the difference between property and intellectual property, and therefore the gulf of conception that justificatory schema have to bridge.

The other major line of criticism might best be described as the 'non-labour desert' argument. Though Locke's labour desert justification has a good common-sense feel, in intellectual property this is not particularly robust. Again, Hettinger sets this out well:

> Given the vital dependence of a person's thoughts on the ideas of those who came before her, intellectual products are fundamentally social products. Thus even if one assumes that the value of these products is entirely the result of human labour, this value is not entirely attributable to *any particular labourer*... [and so] this market value should be shared by all those whose ideas contributed to the origin of the product. The fact that

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[26] Hettinger,E.C. 'Justifying Intellectual Property' *Philosophy and Public Affairs* Volume 18, No.1 (Winter 1989) p35. See also Martin,B 'Against Intellectual Property' [available from the author at Department of Science & Technology Studies, University of Wollongong, New South Wales NSW2522, Australia, email: b.martin@uow.edu.au.] and Vaver,D 'Intellectual Property Today: Of Myths and Paradoxes' *Canadian Bar Review* Volume 69, Part 1 (1990) p126. I have left aside Hettinger's discussion of privacy, but as with surveillance issues I would recognise this as an important additional subject for analysis.

[27] Barlow, op.cit.

> most of these contributors are no longer present to receive their fair share is not a reason to give the entire market value to the last contributor.[28]

If knowledge is a vast accretion of incremental additions, which socially it must be, then why should the person or act that adds the last marginal addition receive a vastly disproportionate reward? In a knowledge product, the language it is expressed in, the underlying discoveries of previous centuries, the contextual knowledge that guided the 'discovery' are all as much part of the product (and thus should see their 'originators' logically reward) as the most recent knowledge worker.[29]

It may also be the case that one person's enjoyment of property in an intellectual item can obstruct someone else's use of that same intellectual item (the same knowledge) to achieve desert for their own labour: "while property in tangible objects limits actions only with respect to particular goods, property in ideal objects restricts an entire range of actions unlimited by place and time" and thus goes directly against the notion of liberty at the centre of Locke's arguments *for* property rights.[30] This may also question certain aspects of the economic justification of IPRs, given that they should encourage productive activities likely to enlarge social utility.

However even one of intellectual property's most eminent critics from the developing world, can only argue that there must be a line drawn *between* public and private intellectual property. The possibility that there might be *no justification* for intellectual property is left to one side. Martin Khor's position accepts that some knowledge should be privately owned, and then makes a moral argument based on where the line between public and private should be drawn. Interestingly he also includes an implicit statement regarding the justification of property on the basis of the economically efficient allocation of resources through 'free trade':

> The benefits given to an individual or company for the invention must be balanced by the public good or to the public's right to benefit from technological innovation or knowledge.
> Without such a counter-balance, the intellectual property privileges granted to the inventor would become purely monopoly rights to collect rentier income. In effect they constitute a form of protectionism, the protection of the inventors benefits, which curbs the diffusion of technology or knowledge and thus prevents technological development.[31]

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[28] Hettinger, op.cit. p38
[29] Martin, op.cit.
[30] Palmer,T.G. 'Are Patents and Copyrights Morally Justified? The philosophy of property rights and ideal objects' *Harvard Journal of Law and Public Policy* Volume 13, No.3 (1990) p830, p833/834
[31] Khor,M 'Intellectual Property: Tightening TNC Monopoly on Technology' Third World Network Features No.667/90 [Syndicated 1990]

The clear omission of the possibility of free access to information-knowledge cedes a certain legitimacy to some level of IPR protection. This underlines the importance I have attached to the arguments regarding what is and what is not intellectual property. If intellectual property rights are a socially accorded privilege (they are the norm against which exceptions are judged), then this actually fits well with the economic justification of intellectual property - these rights are accorded to ensure the continued production of intellectual property except in special circumstances.[32]

The major criticism of the economic justification of intellectual property is the counter-factual claim that more social utility would be generally achieved with no IPR protection. However while this might be possible to establish on a case by case basis it is less appealing as a general argument, given the dominant ideology of the market. This is to say IPRs can be defended if they serve a social utility - which leaves the economic justification of IPRs essentially untouched with the proviso that in certain cases such protection may not bring about the desired social results - market failure. But where there is market failure, it might be argued, states can step in and for instance fund 'basic' science research. That this has often been the case emphasises both the pragmatic nature of the economic justification and its robustness through leaving a possibility for exceptions to its coverage.

Thus, whatever the arguments that might be established to suggest that intellectual property cannot be justified, there is in the 'real' global political economy an acceptance that some sort of property in knowledge *can* be justified. Indeed it might be said that the view that there should be some reward system for the developers of knowledge "has achieved broad consensus in the industrial countries, wherein reside the bulk of IP consumers and the overwhelming majority of IP producers".[33] This acceptance I would argue is the result of the knowledge structure's ability to rule certain issues off the agenda for those who wish to be seen as presenting 'acceptable' arguments. I will now turn to some of the debates as they have taken place in the global political economy to illustrate their limited nature, and the reduction of existing alternatives. By doing so I aim to suggest that the knowledge structure does play a role, and in that sense can be said to analytically 'exist'.

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[32] Hettinger, op.cit. p40, p47-49

[33] Maskus,K 'Normative Concerns in the International Protection of Intellectual Property Rights' , *World Economy* Volume 13, September (1990) p387

Public, Private and Reproduced Knowledge (1)
The Case of Drugs

The international pharmaceutical industry is an area which is emblematic of the public/private issue in the realm of intellectual property. Demands for the punishment of intellectual 'piracy' have continually come up against assertions of public good in the IPR protection accorded to drugs in developing states. Some have balked at recognising the intellectual property of transnational drug companies when the cost has been perceived as being the health and safety of their 'citizens'.[34] If the legislated time before expiry of a patent is an indication of the public value given to knowledge, then it is interesting to note that developing states have "traditionally offered shorter periods of protection for patents than have developed countries".[35] Therefore even where there is an IPR regime that approximates to developed state models, the protection offered may be considerably shorter than in developed states, suggesting that the public availability of knowledge is valued more highly. This enables the knowledge to be returned to the pool of social knowledge more quickly, and be disseminated. This argument is not limited to the division between developed and under-developed states. Generic drug manufacturers in America and other developed states are seeking to challenge the right of major drugs companies to exploit their patented medicines for extended terms. Allied with consumer pressure for cheaper drugs (and from state welfare/health programmes), challenges against certain widely used drugs, still under patent protection have been mounted.[36]

The major drug companies claim that without intellectual property protection, they will be unable to profit from their expensively researched innovations and will be unable to continue to develop the new drugs that the world needs. This is a straight forward labour desert argument. This is somewhat compromised in America at least by the "tax dollars spent on biomedical research funded by the national Institutes of Health" resulting in the awarding to "private pharmaceutical firms exclusive rights to commercialise what amounts to hundreds of millions of free research".[37] While these companies should receive a reward for their labour in developing the commodity form

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[34] Chaudhry,P.E. & Walsh,M.G. 'Intellectual property rights. Changing Levels of Protection Under GATT, NAFTA and the EU' *Columbia Journal of World Business* Volume 30 No.2 (Summer 1995) pp80-92 argues that this will be a major site of IPR disputes in the future.

[35] Gould,D.M. & Gruben,W.C. 'The role of intellectual property rights in economic growth' *Journal of Development Economics* Volume 48, No.2 (1996) p325 fn.1.

[36] 'Drugs giant fights off patent threat' *The Observer - Business section* 05.05.96 p3 and 'Glaxo: Coping with the unwelcome news' *The Economist* 26.04.97 p87

[37] Chaudhry & Walsh op.cit. p89. See also 'Of Strategies, Subsidies and Spillovers' *The Economist* 18.03.95 p112, which suggests that the benefits of many research and development subsidies flow not only predominantly to the private sector, but often to foreign companies.

of such knowledge, the knowledge itself has often been produced socially (or at least through the mediated form of the state's use of tax receipts) and is not in the 'state of nature' (or the result of an autonomous effort) that a Lockean justification requires. And given the investment in biotechnology research by pharmaceutical MNCs in India, a state infamously without sectoral IPR protection in place, this argument itself may be more rhetorical than adhered to.[38] These Lockean arguments are concerned to support the expansion of the rights to reward for the property's owners, and less with the encouragement of innovation. More persuasively it can be seen as part of intellectual property's use to enclose knowledge already innovated (as it were) and available in the public realm.

Perhaps the best known example of this sort is the neem tree in India.[39] At the centre of this dispute is the patenting in the United States of various 'traditional' processes for exploiting the product of the neem tree. Traditionally in rural India the neem tree and its derivatives have been used medicinally, as toiletries, as contraception and various other social roles such as timber, food and as fuel. A number of American (and Japanese) multinationals have taken out patents, though not in India, on some of these uses and the chemical descriptions of the oil and derivative neem products that are part of these processes.

One company W.R.Grace & Co. has gone as far as establishing processing plants in India and is seeking to expand its market share based on neem derived products and derivatives. Through its control of US patents for these processes the company has attempted to limit other market actors on the grounds of IPR infringement. The question around which resistance to this particular instance, and more widely against the incorporation of IPRs into the World Trade Organisation, is whether the company has actually innovated in any way or has in fact merely westernised traditional methods. (The only *clear* innovation here seems may be one of legal precedent.) Interestingly another Indian policy is appearing: the Defence Institute of Physiology and Allied Sciences has developed Neem based contraceptives for production that are expected to appeal to a wide Indian market. The Institute has transferred the technology (and intellectual property) to two domestic drug companies to scale up for

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[38] Kumar,N 'Intellectual Property Protection, Market Orientation and Location of Overseas R&D Activities by Multinational Enterprises' *World Development* Volume 24, No.4 p685

[39] For a useful concise account (on which this discussion is based) see Shiva,V. & Holla-Bhar,R 'Intellectual Piracy and the Neem Tree' *The Ecologist* Volume 23 No.6 November/December 1993 p223 - p227. This account is subsequently updated as part of Shiva,V 'Agricultural Biodiversity, Intellectual Property Rights and Farmers' Rights' *Economic and Political Weekly* (22nd June, 1996) pp 1621-1631

sale.[40] Given the original research that this product is based on, this side steps any claims of patent infringement from non-Indian drugs companies. Such a strategy may be a possible foretaste of an Indian compromise on the issue of their accession to the intellectual property aspects of the WTO.[41]

Currently though, resistance is still being mobilised widely among traditional users and local manufacturers who recognise a threat to their traditional knowledge base in such patent protection. Resistance on this issue is not limited to Indian farmers however. A coalition of over 200 aid groups have been lobbying the US Patents and Trademarks Office to withdraw W.R.Grace's neem trees derivative patents.[42] If there was any doubt on the ability of IPRs to construct a scarcity in resources, the fact that "Grace [is] prepared to pay up to $300 per tonne of neem seeds" means that "what used to be a free resource has now become a highly priced one", causing Indian farmers considerable problems and pushing them towards a eventual reliance on Grace's 're-engineered' neem seed.[43] This and other connected issues have not been settled but what is of interest is even the possibility that multinational pharmaceutical companies can seek to establish intellectual property in knowledge which has a wide spread public and social currency.

There is also evidence to suggest that in those states where an intellectual property regime is in place, drugs can be up to ten times as expensive as states which allow patent infringement by generic drug producers. All sorts of issues might be alluded to regarding the effective barring of sufferers in the developing world from medicines available in the developed world's welfare states. The issue of disparities of wealth leads even such a bastion of economic liberalism as *The Economist* to admit that:

> Even if medicines do not become dearer, TRIPS will still cost poor countries money: an estimated $5 billion a year is expected to flow to American pharmaceutical companies alone. New investment and extra innovation is unlikely to be worth that much - especially to countries which already have drug industries of their own.[44]

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[40] Jayaraman,K.S. 'Neem unsheaths contraceptive potential' *Nature* Volume 377 (14th September 1995) p95

[41] India had still not fully implemented its commitments under the TRIPs section of the WTO, see: 'India's toothbrush war - Patent protection' *The Economist* 23.11.96; Jayaraman,K.S. 'India faces US trade action over failure to amend patent law' *Nature* Volume 383 (24th October 1996) p656; and Jayaraman,K.S. 'Panel asked to rule on US-Indian patent row' *Nature* Volume 384 (5th December 1996) p392. (TRIPs is Trade Related Intellectual Property)

[42] Dickson,D & Jayaraman,K.S. 'Aid groups back challenge to neem patents' *Nature* Volume 377 (14th September 1995) p95

[43] ibid.

[44] 'Intellectual property... is theft' *The Economist* 22.01.94 and more generally on the inequality of benefit from an international IPR regime see Maskus op.cit. p407/408 and *passim*. Interestingly, eight months later when developing states were still mounting extensive resistance to the TRIPs agreement

And this presumes that the innovations are external to the developing world - this may well not be the case, as the Neem tree example amply demonstrates. Where DNA derived products are using DNA strands 'discovered' in the developing states, this may represent a two fold enclosure, both of traditional medicines/processes and of actual bio-chemical raw materials.[45] This enclosure of public knowledge resources by IPRs in the field of medicine (and the connected field of bio-technology) has been one of the crucial sites of resistance to patenting in developing states. The material contradiction between the attempt to patent and produce a scarcity in the field of knowledge chosen and the established free flow of such knowledge through traditional practices and processes has fed into the debate regarding intellectual property in this area. But, interestingly, once again, it is not intellectual property itself which is critiqued just its ontological extension.

Public, Private and Reproduced Knowledge (2)
The Case of Scientific Publication

In the scientific 'community' there is another intellectual property issue which is of interest: the move away from the free dissemination of knowledge based entirely on the publication of findings in peer reviewed journals, towards a more mediated distribution. Merton, during a discussion of hierarchy and its construction among scientists, argues that the former process (the 'Matthew effect') whereby advances, and the reputation for making them, adhere to those more well known in the field, has been enhanced by the intervention of a formalised (though crucially extra-legal) intellectual property mechanism based on citation and referencing.[46] Essentially, this ensures that those who have already established an element of reputation, and are then part of a team (or less formalised group) of less renown who make a further breakthrough, receive a disproportionate increase in their reputation relative to their centrality to the advance.[47] While this may be demonstrable, where Merton's argument is of interest for this study is in his discussion of the shift in the understanding of the intellectual property which is established in these breakthroughs.

The Economist decided to be less pessimistic about even the short term costs to the developing world, and more optimistic about the benefits of technology transfer in the wake of a TRIPs agreement, see 'Trade Tripwires' *The Economist* 27.08.94

[45] 'Whose gene is it anyway?' *The Independent on Sunday* 19.11.96

[46] Merton,R.K. 'The Matthew Effect in Science, II. Cumulative Advantage and the Symbolism of Intellectual Property' *Isis* Volume 79, December (1988) pp606-623

[47] This is a parallel to Bourdieu's notion of 'cultural capital' which can be reinvested to enhance the reputation of the original holder. See Bourdieu,P & Passerson,J-C Reproduction in Education, Society and Culture (London: Sage Publications, 1977) especially pp73ff and Bourdieu,P Distinction (London: Routledge, 1989).

Firstly Merton distinguishes various coinage of reputation in science, ranging from the pinnacle of an era named after an individual (Newtonian, Freudian...) through prizes (Nobel, society medals) down to citation. This is built on the foundation of the open system of publication and free use and communication of scientific ideas, which Merton typifies as a norm of 'communism'. And as he then points out, within the "commons of science it is structurally the case that the give and the take both work to enlarge the common resource of accessible knowledge".[48] The principle mechanism for the retention of intellectual property in such a system is the clear citation of other's work and the damage to reputation that can be exacted in light of the discovery of plagiarism. Thus a symbolic system is (re)produced which recognises that advances in scientific knowledge are the result of (to paraphrase Newton) standing on the shoulders of the giants that went before.[49] Thus, for Merton the "sole property right of scientists in their discoveries has long resided in peer recognition of it and in derivative collegial esteem". This is an intellectual property valuing system that is *not* based on a set of marketised property relations (but retains considerable self-developmental aspects when its structures are adhered to within the social grouping). However, he also recognises that the encroachment of 'entrepreneurial science' will undermine this historical intellectual property settlement.[50]

This encroachment stands at the centre of intellectual property disputes within the scientific community. The market organisation of knowledge distribution (and valorisation) is intended to ensure that knowledge flows to those who would value it most economically and thus ensure that society derives the maximum benefit. This argument is usually deployed against the notion of a centralised distribution point for knowledge (such as the state), rather than against the organisation of science discussed at length by Merton.[51] But previously in the scientific community there *were* non-market institutions which were able to monitor and valorise intellectual properties outside market relations.[52] However, the knowledge structure's intervention

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[48] Merton, op.cit. p620. Silverstein suggests this period of relative free circulation of scientific knowledge only dates from the early part of the twentieth century - he suggests that from the seventeenth century to then, discoveries were most often made by scientists funded by companies who patented discoveries for their own use and control, Silverstein,D 'Patents, Science & Innovation: Historical linkages and implications for global technological competitiveness' *Rutgers Computer and Technology Law Journal* Volume 17, No.2 (1991) pp261-319

[49] The original "aphorism that Newton made his own in that famous letter to Hooke [is]: 'If I have seen further, it is by standing on y^{e} shoulders of Giants'.[fn.del.]" Merton, op.cit. p621.

[50] ibid p623

[51] O'Neill, J 'Property in Science and the Market' *The Monist* Volume 73, October (1990) p602/603

[52] See also Frow, Information as Gift and Commodity, op.cit. p100, where the author alludes to a similar argument made by E.P.Thompson regarding the pre-enclosure social institutions that enabled groups to avoid Hardin's 'tragedy of the commons'.

though the introduction of market allocation removes this as a 'plausible' alternative, except, once again as an exception in certain circumstances.

O'Neill discusses these issues and while accepting that ideas *can* be made to function like property (that they can be treated as commodities), argues that the introduction of markets into the scientific 'knowledge industry' undermines 'good practice' and thus will undermine the open communication on which scientific discovery is based.[53] In summary his argument is that the market is an inappropriate mechanism for dealing with the intellectual property of science as,

> the market encourages egoism not primarily because it encourages an individual to be self-interested - it would be unrealistic not to expect individuals to act for the greater part in a self-interested manner - but rather because it defines an individual's interests in a particularly narrow fashion, most notably in terms of certain material goods.[54]

Which is to argue that the over-riding self-interest of scientist and those interested in scientific discovery should be the free flow of the knowledge that is the raw material of further work, rather than control and profit from specific knowledge items. However, this seems to me to have allowed the knowledge structure to have settled the role of ideas as commodities, an idea that O'Neill despite his scepticism of the market seems unable to resist.

In his acceptance of ideas as property, O'Neill argues against two objections for the commodification of ideas. Firstly, he suggests that the problem of alienation does not obtain if property is seen as a set of rights and not a thing to be transferred. Thus, though he accepts that ideas themselves cannot be alienated (they cannot be unthought) the rights which they entail can be transferred, as property is a notion of rights not of thing-ness.[55] Now, as I have already discussed, the movement in property law has been *from* a rights based notion to a thing based one, and O'Neill's reliance on a sixteenth century case study as the foundation of his argument makes for a particular (historically specific) reading of property.[56] But even as he accepts this notion of intellectual property, he relegates the central discussion of what might be included within such a notion of property - the question of what can and should be patented and what cannot and should not - to a footnote.[57]

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[53] O'Neill op.cit. p610. This is a position closely echoed by scientists themselves, see for instance Macilwain,C 'Researchers resist copyright laws that could endanger data access' *Nature* Volume 383 (24th October 1996) p653

[54] O'Neill op.cit. p615

[55] ibid. p609

[56] The case study can be found at ibid. pp604-608

[57] see ibid. footnote 26 p609 (text at p618/619)

Interestingly Silverstein argues that there should be a distinction between commercial processes based on scientific discoveries and those discoveries themselves. This should be established not for the maintenance of O'Neill's 'good practice', but because the patenting of discoveries has slowed innovations in the developed states, having a considerable effect on technological competitiveness.[58] While this may usefully attempt to make the line between public and private knowledge more concrete, it accepts that only the market failure in innovation justifies this limitation of intellectual property, which once again reveals the subtlety of the economic justification in its ability to compromise with critics while retaining its logic. That said, Silverstein's argument is not that robust - relying on a form of 'trade-relatedness' has not proved to be a useful way to maintain public knowledge, as I will discuss below. Here it will suffice to note that any knowledge *can* become 'trade-related' and thus Silverstein's line is hardly as fixed as he might wish it to be for his arrangement to ensure the free flow of innovatory knowledge.

Both O'Neill and Silverstein implicitly accept that a falsely constructed scarcity, established through the acceptance of a knowledge item as a unitary thing whose rights can be alienated, allows the unproblematic commodification of knowledge. But O'Neill wishes to have a thing based knowledge when constructing its marketability, its scarcity, and a rights based notion when the knowledge is exchanged in a market by the transfer of its IPRs. He concludes that there "is nothing then that is peculiar to theories and information in themselves that makes them inappropriate items for the market".[59] What is interesting here that he cedes this as a site of resistance, and rather chooses to mount his criticism of the market on the basis that it undermines the conventional practices of science. Looking at this from the other direction Silverstein similarly argues only for the relief from a particular market failure. This suggests firstly, the arguments that the knowledge structure supports regarding the marketability of knowledge have been internalised as essentially unproblematic, and secondly that it has produced a position where scientific knowledge should be treated differently under the rubric of exceptionalism. The second claim I have already dealt with in the first chapter, and would note here that the supposed difference between knowledges that is being erected in this argument does not really hold. The first issue,

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[58] Silverstein op.cit. p302ff

[59] O'Neill op.cit. p609. While not explicitly making the parallel between the notion of the 'market of ideas' and the construction of a market for exchange, other authors have made this leap without necessarily realising that the two uses of the world market might be different. This may lie behind O'Neill's argument but it is not clearly so. For a discussion of the confusion between the two sorts of markets see Martin, op.cit.

that of the arguments for the acceptance of the commodification of knowledge, are the subject of this and the previous chapter.

To mount a defence of open communication in science on these grounds is to fail to recognise the penetration of economics into all areas of knowledge production. The capitalist process narrows the valuing of information in exactly the way O'Neill fears, but it does this through the coding of knowledge as a commodity, and to accept this logic is to fail in the argument against its project of 'enclosure'. O'Neill's resistance is effectively neutered by the narrowing of the agenda undertaken in the knowledge structure. Silverstein's position, as I noted above, is part of the pragmatic economic justification of intellectual property, and as such is not a critique of IPRs, but rather merely a compromise on the basis of a particular market failure.

The scientific community may well be a site of contradiction and contestation to the establishment of IPRs as the only manner in which knowledge can be conceived of in the global political economy,[60] but neither of these arguments make an impact on the agenda already set. Rather it is the arguments from the developing countries which have material contradictions to appeal to who will make the running in this argument (as in the resistance around the Neem tree processing detailed above). In the developed world, the knowledge structure has already to a large extent closed off possible sites of dual-dialectic resistance based on the philosophical arguments regarding the notion of knowledge. Indeed, the knowledge structure may have already started to limit debates among policy makers in the developing states who hope to join the WTO.[61]

Public, Private and Reproduced Knowledge (3)
The Case of Entertainment

The debates around intellectual property in the pharmaceutical industry have parallels in the concern over this issue in the global entertainment industry. If this industry, with its dependence on knowledge-derived value added, is the paradigmic industry of the next century (and certainly some believe it to be so[62]), then the debates regarding

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[60] And it can be no coincidence that two recent special issues of *Science Communication* were dedicated to the subject of IPRs (Volume 17 No.s 2 and 3, December 1995 and March 1996 respectively).

[61] see Sell, The Agent-Structure Debate, op.cit. *passim*

[62] For instance see Lash,S. & Urry,J. Economies of Signs & Space (London: Sage Publications, 1994) chapter 5 *passim*

its intellectual property may prove instructive for the future of IPRs in the global political economy.

Indeed, the problems that have arisen in the market for music, books and films are increasingly being echoed in other industries dependent on similar technologies, and similar forms of knowledge based value-addition - data processing, software development, and other 'third wave' industries whose key defining characterisation is symbolic analysis and knowledge manipulation rather than materialised production.[63] The disputes and tensions in this sector are likely to be replicated as more industries adopt similar strategies for adding value to their products.

One interesting, and instructive, case is the Elvis Presley estate's post mortem activities on behalf of its intellectual property - Elvis Presley as image and social artefact.[64] The 'policing' of this property through the American courts has attempted to ensure that the commercial rewards for the public reproduction of the image of Elvis are (re)captured by his estate. During the legal disputes which followed the 'King's' untimely demise the estate came near to the loss of control of his image (*qua* property). Wall relates the operation of intellectual property law, to bring a certain knowledge product back from the public realm (which it had entered prior to death, through 'bad management'), and then the law's use in the reinvention of that product to make its protection more robust.[65] This has been achieved through a number of different legal instruments including the law of 'passing off'. Once an image of Elvis had been defined as an intellectual property of the estate, competing images could be (re)defined as products trying to 'pass themselves off' as the legitimate intellectual property. What is of interest here is the ability of those wishing to trade and profit from the post-mortem Elvis (his estate), to (re)establish legal provenance. They were able to rescue (or 're-propertise') his image allowing it to become tradable (based on its scarcity) at the monopoly price which could be secured for licences to use the image. This is to say that the image was returned from the public realm to the private realm where its trade-relatedness was (re)established.

Using a dual dialectic analysis, there is a need to recognise the material conditions that underlie such a (re)enclosure of the Presley intellectual property. Presley's career

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[63] On the rise of the 'symbolic analyst' see Reich, op.cit. and on the notion of a third wave of economic revolution (the information revolution) see in the first instance Tofler op.cit., and more recently Lash & Urry op.cit.

[64] Wall,D 'Reconstructing the Soul of Elvis: The Social Development and Legal Maintenance of Elvis Presley as Intellectual Property' *International Journal of the Sociology of the Law* Volume 24, No.2 (June 1996) pp117-143

[65] ibid. p132-137

coincided with the massive expansion of the music industry: Presley' sales eventually topped one billion units, which puts him among the biggest selling artists of all time, if not *the* biggest seller.[66] This expansion was predicated on the availability in the fifties of a cheap technology of mass-reproduction allayed with the post-war American social conditions of a newly (economically) enfranchised youth culture looking for its own 'identity'. And though not a concern of this study, a dual dialectic analysis would want to establish the rise of rhythm and blues as a music of the excluded (the urban black working class), the contradiction to the then current popular styles that this represented, and the adoption (and eventual co-option) of these counter-cultural styles by mainstream popular culture. Against these developments the underlying economic worth of the image of Elvis becomes clearer and only with this understanding can the motivation of the Presley estate be accounted for. This particular property strategy within popular culture and its artefacts has been unusual, but with the more recent 'branding' of Michael Jackson, is becoming more feasible.[67] The proliferation of 'authorised' merchandise may be symptomatic of a move in this direction with performers (and their management) attempting to establish the value of their intellectual property (in their image or logo, for instance).

In industries based on the marketing of easily reproducible expression (and here the music industry is the example *par excellence*, but with software available on CD-ROM, this is increasingly also true in the computer sector), 'piracy' has emerged as a major issue. When CDs cost around 50p to manufacture, the value added does not rest in the material object but the information which is carried (which is also broadly true for videos, posters, T-shirts and books). If this information is easily duplicated then retaining ownership of the value-added (to enable its economic exchange as a commodity) becomes increasingly difficult. The reproduction of intellectual property at home by individuals has been a problem which has been exacerbated by new technologies. Avenell and Thompson go as far as to suggest that the sector of capital that develops and manufacturers the technologies enabling such actions are 'parasitic capitalists', surviving in direct tension with the intellectual property producing capital

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[66] Elliot,M Rockonomics. The money behind the music (London: Omnibus Press, 1989) p64, and *passim* for a useful account of the economics of the pop music business. Two other useful sources are Chapple,S & Garofalo,R Rock 'n' Roll is here to pay (Chicago: Nelson-Hall, 1977) which is excellent on the early rise of the industry and Chambers,I Urban Rhythms (Basingstoke: Macmillan Education, 1985) which sets the industry in the context of the rise of commodified popular culture. On Elvis see also the discussions in Viera,J.D. 'Images as Property' Gross,L., Katz,J.S. & Ruby,J. (editors) Image Ethics: The moral rights of subjects in photographs, film and television (New York: Oxford University Press) p150-152, p158-159 and Gaines,J.M. Contested Culture: The image, the voice and the law (London: BFI Publishing, 1992) p203-205

[67] Lash & Urry op.cit. p137.

- the knowledge producing sector.[68] The 'parasitic' product is able to violate the commodity relationship established in the first instance by the intellectual property producer. This contradiction in the commodity relationship between competing capitals is (potentially) resolved through the action of the state in the legal field of intellectual property. However, this does not necessarily disturb the underlying ideology of property in knowledge products, even where the 'parasitic capitalists' are allowed to continue sales of their technology. The state is merely concerned to re-establish the economic rewards that should flow to the knowledge entrepreneurs, and nominate which knowledge entrepreneurs will be privileged in which dispute.

While having the potential to confound the allocation of rewards to IPRs, these disputes are couched in legal terms that explicitly are aimed at re-establishing the legitimacy of intellectual property. Thus, on one side property-ness is asserted, allowing the product to be alienated from the producer and thus sold, while on the other hand limitations on the property's subsequent use (as a subject for privatised reproduction) is also asserted, and thus the lack of final alienability from the producer.[69] Within this paradox lies both the problem for the industry and opportunity of intellectual property for the pirate. The opportunity lies in the popular suspicion of the entertainment industry - few purchasers of pirated CDs or cassettes see this as theft and certainly not when such copying is conducted at home. One music industry source has suggested that 'three times as much music is privately copied as is legally sold", though of course few if any recipients of copies would pay the full price of the contents of their 'bootlegged' recording.[70] Indeed the representation of piracy as theft is an attempt to establish (or at least seek to establish) a particular reading or intellectual property in this sector.

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[68] Avernell,S and Thompson,H 'Commodity Relations and the Forces of Production: The theft and defence of intellectual property' *Journal of Interdisciplinary Economics* Volume 5, No.1 (1994) pp23-35 *passim.* This notion of the parasitic capitalist might, with some caution be extended to the generic drug manufacturers, though in one sense they are only dependent on the 'legitimate' producers for the original research and development, not for the *necessary* continued supply of (re)producable knowledge.

[69] Frow,J 'Timeshift: technologies of reproduction and intellectual property' *Economy and Society* Volume 23, No.3 (August 1994) 291-304 discusses this in regard in light of the disputes over the mass technology of the video recorder, and the rearguard action against videos fought by the American TV networks.

[70] 'Intellectual Property. The property of the mind' *The Economist* 27.07.96 p69. The figures come from a spokesman at Polygram. See also Millar,S 'Alarm as music piracy reaches record level' *The Guardian* 08.03.1997, p3. For the emerging 'threat' of the Internet to the music industry see Hayes,D 'A smash hit for the song thieves' *The Independent on Sunday* - Business Section 27.04.1997 p6

Intellectual property theft and the 'piracy' epidemic

Within the entertainment industry (and the drugs industry) the piracy of knowledge products has reached "epidemic proportions".[71] To suggest that there is theft is to underline and further reinforce the notion of intellectual property as property. Something can only be stolen if it is already owned. The problem for the entertainment industries has been that its consumers do not see the (re)production of copies as theft, but rather as the fair use of a commodity which they now *own*, and can therefore do with as they wish. As I have stressed, this problem is rooted in the construction of intellectual property as *both* alienable property and as a rights based in-alienable property. Indeed, Litman draws an interesting distinction between the myth of the author, as someone who should benefit from their intellectual labours, generally accepted by consumers, and the limits on use which formal copyright law puts on the use of the copyrighted product. She suggests that intellectual property law fails to resolve the needs of the "copyright myth" with the perception of the purchasing relation by consumers, and this lies at the root of copyright law's popular illegitimacy in this area.[72] The continued rhetoric of theft can be seen as the ongoing attempt through the knowledge structure to establish the legitimacy of the copyright law over its myth.

In the music industry the myth of the author is well established: even in groups, those who write the songs the groups performs are accorded status and rewards well in excess of merely performing members.[73] This ideology of the author as paradigmic knowledge producer ties together the three illustrative examples I have discussed above. Though the author is sometimes a legally constituted individual (such as a company) the domination of this characterisation of knowledge production is overwhelming. And this depiction of the author, as I have argued, is one that is strangely atemporal - the author is conceived as producing knowledge outside the history and development of the previous knowledge in which the creative process *must* be embedded. The author does not (at least in the legal characterisation of the

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[71] Harvey,D.P. 'Efforts under GATT, WIPO and other Multinational Organisations against Trade Mark Counterfeiting' *European Intellectual Property Review* 1993, No.12 p446. The author also refers to a "swelling tide" of counterfeit goods in the text.

[72] Litman,J 'Copyright as Myth' *University of Pittsburgh Law Review* No.53 (1991) pp235-249 *passim*. See also: 'Curbing the copyright copy-cats' *The Guardian* 23.11.96 which discusses the problem of journalists ignoring the copyrights of their colleagues, as well as the possibilities of piracy of materials available on the internet; and 'No copying, now, please' *The Guardian Higher Education section* 12.11.96 which notes the problem of academics and students infringing copyrights with the help of the photocopier, *and not seeing this as a theft of sorts.*

[73] Gilbert,P 'The drummer from Lush killed himself last year...' *The Guardian* section 2, 07.04.1997 p10/11

process) depend on previous knowledge(s) but rather produces a particular intellectual property outside the social development of knowledge. Once again this highlights the paradoxical nature of IPRs.

Intellectual Property Rights, unlike real/material property rights are delineated by time, (with the partial exception of leaseholds, which are in any case dependent on underlying freeholds). IPRs are not recognised in perpetuity, rather they are (arbitrarily) limited to a particular duration. On one level this immediately recognises the atemporality of the legalised definition of authorship. But if Stalk is correct and time is the "next source of competitive advantage" for companies, then the timed protection of IPRs has a different analytical significance.[74] If time is only recognised by IPRs once the production of intellectual property has taken place, then IPRs have become an increasingly important defence against the time based erosion of company's competitive advantage. Thus, if time is becoming faster, one way to reintroduce a slower temporality (as a barrier to competitors) is for the company to establish intellectual property as a major element of the marketable product or service. This then allows a rhetoric of theft to be utilised as a first line of deterrence against economic threats, even though these may be more structural than agent driven.

This 'theft' of intellectual property through its unlicensed reproduction for profit, takes place throughout the global political economy. However, while international negotiators do not dispute the possibility of a justified intellectual property, they differ quite extensively on the methods for enforcement and who this enforcement will benefit. This division is most often formulated as between the North and the South, between the developed and developing world.[75] Those who control the majority of protected intellectual property will be likely to have a different perspective from those who would like access to such knowledge and do not enjoy the requisite financial means. It is this differing perspective that informs differing views of piracy and theft in intellectual property.

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[74] Stalk,G 'Time - The Next Source of Competitive Advantage' *Harvard Business Review* Volume 66, No.4 (July-August, 1988) pp41-51. See also Harvey, Condition of Postmodernity op.cit. and Giddens,A The Consequences of Modernity (Cambridge: Polity Press, 1990)

[75] see for instance: Harvey, Efforts under GATT, op.cit. 447/448; Maskus op.cit. *passim*; Chin,J.C. & Grossman,G.M. 'Intellectual Property Rights and North-South Trade' Jones,R.W. & Kreuger,A.O. (editors) The Political Economy of International Trade (Oxford: Basil Blackwell, 1990) [available as National Bureau of Economic Research (NBER) Reprint No.1490]; and Primo Braga,C.A. 'The Economics of Intellectual Property Rights and the GATT: A View From the South' *Vanderbilt Journal of Transnational Law* Volume 22 (1989) pp243-264.

Firstly it should not be forgotten that the first patent laws (those that appeared in European states after the seventeenth century) did not protect the intellectual property of non-nationals, in much the same way that many developing states do not now. At "first patents legitimised the theft of intellectual property from other countries. Under English law, the rights of the actual inventor, if the person was not from England, were not protected".[76] This tendency is less pronounced than it was previously, but many of the disputes concerning bio-diversity patents still revolve around such issues. Thus to seek protection in one market, the intellectual property has to be registered (in the appropriate manner) *in that market*. Of course, even if protection is formally given, without strict enforcement this may have little effect. For instance, despite China's repeated undertakings to close factories producing pirated CDs, which reportedly account for the vast majority of all CD sales in their domestic market, the production continues according to Western observers.[77]

However, with the arbitrary nature of the time that copyrights exist for under national regimes, even where there is no enforcement problem there may still be international tension over the problem of 'theft'. Japanese copyright protection, which is considerably shorter than that of America, has led to the Japanese government and legal authorities coming under pressure to change their rules, by the representatives of knowledge producers in other states. Currently, much copyrighted material is returning to the public domain for unlicensed exploitation in Japan, when its foreign copyright owners would expect continued protection if Japanese law worked with the same length of protection accorded in their domestic legislation. This, perhaps unsurprisingly has led to accusations of theft. And every year that this 'problem' remains unresolved, more major copyrighted artists will be available outside copyright in the Japanese market.[78]

The use of the rhetoric of theft, then, is mobilised even where legally speaking no such 'theft' has taken place, as in the Japanese example. This is instructive, in that it reveals the notion of theft to be not necessarily a technical term but a key rhetorical device in the knowledge structure. This throws the debates back onto the justifications of property which are mobilised under the two different traditions I have identified - the labour-desert and the self-developmental - and does not attempt to rely on

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[76] Marlin-Bennett,R 'International Intellectual Property Rights in a Web of Social Relations' *Science Communication* Volume 17, No.2 (December 1995) p121 The history of intellectual property law in America is not dissimilar.

[77] 'Retribution for reproduction' *The Economist* 18.05.96, and Millar op.cit.

[78] 'West tries to silence Japan's 'bootleg' tunes' *The Guardian* 10.02.96. This then leads to a 'problem' of parallel importing in the original copyright holder's markets, which is an issue space does not allow me to explore.

economic justification. This switch, back to a moral justificatory system rather than the economic, pragmatic justification, is linked to the recent debates regarding the international incorporation of IPRs in the WTO treaties governing world trade flows. During these discussions, some observers and developing states' negotiators have come to believe that an agreement on harmonising intellectual property protection is not necessarily just the co-ordination of legal instruments, but may be a strategy by the 'information-rich' to enclose the intellectual commons currently available to the 'information-poor'.

'Trade-Related Intellectual Property' and the WTO

The line between pubic and private in the realm of knowledge is often presented in international institutional economic diplomacy as the distinction between trade related intellectual property (rights) (TRIPs) and a residual category, presumably non-trade related intellectual property. The advantage of this term is that it makes explicit the central concern of the managers of the nascent international IPR regime - the need to legislate for a commodity form of knowledge. This notion of trade-relatedness brings knowledge across the line from passive to active property, and from public/social to private. There is a moment when something that has previously been in the public domain is re-coded as trade related and thus amenable to the 'protection' afforded other *trade-related* (intellectual) property. This moment is when the (intellectual) property passes from passive to active.

The international negotiations around TRIPs present the notion of trade related as a common-sense one, but the line represented by TRIPs/nonTRIPs is essentially the line between public and private knowledge and therefore is the subject of constant reconstruction through the dual dialectic - the reformulation of concepts of tradable knowledge working in conjunction with changes of the material technology that can utilise it. Whether TRIPs is a better or different term to intellectual property is doubtful,[79] but what it *does* do is underline the economic aspect of the arguments being utilised to justify IPRs. To assert the trade-relatedness of intellectual property is to make a claim for it to be legitimately included within the regime which governs world trade - the new WTO. But, there is quite possibly something else at stake in the strengthening of the world's IPR protection regime through its articulation to the WTO.

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[79] Purdue,D 'Hegemonic Trips: World Trade, Intellectual Property and Biodiversity' *Environmental Politics* Volume 4, No.1 (Spring 1995) p96/97 and Subramanian,A 'TRIPs and the paradigm of the GATT' *World Economy* Volume 13, No.4 (1990) p509

Dhar and Rao, in a detailed discussion of patents, suggest that one way of establishing and maintaining technological supremacy in any market has been through the control of the process patents at the centre of that industry.[80] Despite its origin in the state's wish to ensure that technological advances entered the public realm (were disclosed), Dhar and Rao follow Joan Robinson in arguing that there is a 'paradox of patent': it actually limits the prompt dissemination of new advances. With the speeding up of innovation and thus the shortening of the period in which the patentee can effectively recover monopoly rents from patented processes in developed markets before competing innovations appear, a disjuncture has opened up, and it is this that causes the technology gap to be reinforced by patents. New technologies only (re)enter the public realm long after a developing state's industry might be able to profitably utilise them in world trade.[81] Patent licenses may be applied for, but these can be expensive and negotiations can be protracted, so while disclosure is legally encouraged, it may be severely limited. Through a close reading of the TRIPs agreement Dhar and Rao suggest that accession to this agreement will make the technology gap more rigid. Contrary to many claims made on its behalf, far from freeing the flow of new technology to developing states it will limit and control it, ensuring that the technology gap is enforced.[82]

If this analysis is correct then those companies who control major intellectual property resources, and who wish to retain their technological lead stand to benefit greatly vis-à-vis their developing world (potential) competitors. And it comes as no surprise that the pressure on the American government to work towards an agreement to include TRIPs in the WTO's treaties came from the high technology, entertainment and luxury goods sectors. All seek to establish some sort of competitive advantage based on the control of aspects of intellectual property.[83] The implications of this position suggest that by making intellectual property 'trade-related' once it has been captured by a technology, and then returning to the site of its capture to exploit its trade-

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[80] Dhar,B & Rao,C.N. 'Trade Relatedness of Intellectual Property Rights' *Science Communication* Volume 17, No.3 (March 1996) *passim*

[81] ibid. p310/311 for their use of Robinson's arguments. On the time issue see also Steidlmeier,P & Falbe,C 'International Disputes over Intellectual Property' *Review of Social Economy* Volume 52, No.3 p356/357.

[82] Dhar & Rao op.cit. p316-321

[83] For the role of industry organisations behind shifts in American negotiating positions in world trade agreements, Sell,S.K. 'The Origins of a Trade-Based Approach to Intellectual Property Protection' *Science Communication* Volume 17, No.2 (December 1995) pp163-185 and Sell,S.K. 'Intellectual property protection and antitrust in the developing world: crisis, coercion, and choice' *International Organisation* Volume 49 No.2 (Spring 1995) pp315-349 and most recently Sell, The Agent-Structure Debate op.cit.

relatedness, industry leaders are able to enclose knowledge resources that had not been conceived of as property in their original location.
With 'bio-prospecting', 'newly discovered' bio-resources, which may only be able to become trade-related in certain markets (with certain technologies), through the TRIPs agreement are enclosed and removed from the public realm, even in the original sites of 'discovery'.[84] (In the entertainment industry, the copyrighting of 'world music' recordings might be seen as a parallel movement.) Thus, despite the seemingly clear cut rhetoric of theft under which the TRIPs negotiations have been presented, the issue is far more complex and subject to the constrictions of the agenda set in the knowledge structure.

The TRIPs agreement under the WTO is the first step towards producing a singular globalised conception of the protection of intellectual property. It has included the developing states in a universalising discourse of the marketisation and/or commodification of knowledge, and has introduced them to the rules of the knowledge economy.[85] However, differences in national economies and their levels of development make it unlikely that the same protection afforded to intellectual property argued for by the developed states will benefit all WTO signatories.[86] And as noted this has been recognised in the pharmaceutical sector already by a number of commentators.

Despite the TRIPs agreement, there remains a considerable disjuncture between the views of developing states and developed states concerning the role of IPR protection.[87] This division is over the private and public benefits from the development of particular knowledge - or between 'private appropriation' and 'social redistribution'. One problem for developed countries trying to establish the more rigid and wide-spread protection of intellectual property that their knowledge entrepreneurs seek, is that when European countries were at a similar stage of development governmental views of IPR protection for non-nationals were not dissimilar to developing states today.[88] However, introducing knowledge into an economy with no payments to intellectual property owners in another country, is exactly the

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[84] Examples of the reaction to this realisation: 'Bioprosepcting: Another Wave of Colonialism' *Pacific New Bulletin* (May 1995); How Free is 'Free Trade' - The Ecologist Volume 22 No.4 July/August 1992; Shiva,V 'Why we should say 'no' to GATT-TRIPs' Third World Resurgence No.39 November 1993; Shiva & Holla-Bhar op.cit. ; and 'Whose gene is it anyway?' *The Independent on Sunday* 19.11.96 This is one issue where IPR-grounded 'enclosure' has met considerable public resistance.
[85] Purdue, op.cit. p102/103
[86] Primo Brage op.cit. p251-258
[87] de Almeida, P.R. 'The political economy of intellectual property protection' *International Journal of Technology Management* Volume 10, No.2/3 (1995) p215/216
[88] ibid. p216; Marlin-Bennett op.cit. p21

developmental strategy which is coded as theft or piracy under the agenda set in the knowledge structure, and supported in the negotiations which have led to the TRIPs agreement.

Reichman has captured the paradox at the centre of this political economy of IPRs in international negotiations rather well:

> On the one hand, the industrialised countries that subscribe to free-market principles at home want to impose a highly regulated market for intellectual goods on the rest of the world, one in which authors and inventors may "reap where they have sown". On the other hand, the developing countries that restrict free competition at home envision an... unregulated world market for intellectual goods, one in which "competition is the lifeblood of commerce".[89]

And, a major cause of this paradox, is that when the developed world's negotiators think of intellectual property they are using one definition (one that given the history of property thinking, seems acceptable), while those in the developing (or under-developed) world only see the enclosure of what should be freely available, public knowledge resources. And with the attempts to globalise the particular political economic settlement of economic liberalism, with its particular view of the question of property relations, the field of contestation becomes not just the material relations of knowledge economics but the ideational construction of such relations.

This leads me to suggest that while the knowledge structure has produced a discourse centred on the paradigm of property and theft, where the private rights of the intellectual property owner are given paramount importance, there is a developmental issue, a global public realm issue, on which these arguments impact. In ensuring that a settlement is concluded that privileges the private over the public, and establishes a mechanism for appropriating more of the public realm through the mechanism of trade-relatedness, new 'enclosures' are being undertaken. The rights of those in a position to exploit easily the public/social knowledge available in the developing states, under the TRIPs agreement have seen their interests, their benefit, enhanced at the cost of the continued social availability (or at least its potential availability) of such knowledge in the pubic realm. Thus, the global knowledge commons are being circumscribed, not by the technology that makes such appropriation possible, but crucially by the legal construction of knowledge as ownable. It is not the material advance of technology that is causing this enclosure (though it is a contributory

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[89] Reichamn,J.N. Implications of the Draft TRIPS Agreement for Developing Countries as Competitors in an Integrated World Market (UNCTAD Discussion Paper No.73) (Geneva: UNCTAD, 1993) p2

condition), but rather the construction of a scarcity in intellectual property with the explicit intention of rewarding the legally constituted owners of such property.

The Knowledge Structure and IPRs

The operation of the knowledge structure through its influence over the political agenda of disputes does its best to obscure and render unrecognisable the paradox at the centre of intellectual property. Though incomplete and open to contestation, the recognition of the legitimacy of intellectual property is grounded in the presentation of the sovereign individual and the linked ideology of the author as paradigmic intellectual producer. Where this representation does not reinforce the interests of the knowledge property owner (and prospective 'exploiter') then the more pragmatic economic justification is relied on, and the issues around intellectual property are portrayed as being subsumed within the overall argument for the creation of markets as the most efficient mechanism for maximisation of social utility and distribution of scarce resources. The paradox (between public and private knowledge) which is at the centre of any discussion of intellectual property is then reproduced at the level of the international relations in the global political economy of IPRs.

One of the central concerns in this chapter has been to illustrate how disputes and discussion over intellectual property are concerned in the main with what should be considered intellectual property and how the rewards for its production should be allocated. On the other hand, what is seldom questioned is the very notion of the existence of something called intellectual property. Most (if not all) participants accept that there is some group of intellectual items that should be coded as intellectual *property* there is just little agreement on the boundaries of inside and outside this group. Thus, the justifications are accepted (despite their problematic applicability) leaving contestation and resistance to be forged only on the basis of the particular shape of the field of intellectual property itself.

Though, as I have accepted, the notion of an ontology of intellectual property has a certain 'falseness' due to the social institutional nature of (intellectual) property, what this term does stress is the nature of arguments over IPRs. Intellectual items are treated as things and then their 'qualities' are assessed to see whether they are truly intellectual property - thus at one and the same time, ontologies of intellectual property are constantly shifting as new intellectual property is recognised (or conceived of), but it is established that there must be something that *is* intellectual property. The knowledge structure has successfully introduced a property discourse

into the consideration of knowledge, even if its acceptance is incomplete across the potential field of intellectual property. When I discussed the justification of property, I noted that there were two broad traditions that could be drawn on to justify material property - the instrumentalist and self-developmental strands - and as the above examples have illustrated, in the political economy intellectual property appeals are made to both streams, often simultaneously. The paradox of intellectual property is revealed through its over-determined justification. This often leads to the paradox being subsumed beneath a rationalistic argument regarding the economic case - the 'pragmatic' need to support innovation and development in knowledge.

If a Strangian analysis is adopted, then the analytical question that needs to be constantly asked is 'Cui bono?', who benefits from the structured agenda that persists and is elaborated within the global political economy of intellectual property rights. As I have illustrated, the overwhelming weight of discourse revolves around the presumption that ideas can be owned in a parallel way to property (where property covers both real and mobile property in Burch's taxonomy), and the group (or class) who benefit directly from such an argument are those who *own* the knowledge being coded as property, *and* importantly the technology to exploit it. Crucially these groups are the current 'owners' not the social owners of socialised knowledge, not the public 'owners' of (say) language or other intellectual resources in the public domain.

As I noted in my discussion of power, whether or not these 'owners' intend the structural outcome in an immediate sense, the limitation of the agenda reveals the operation of power in the knowledge structure. Certainly some industry groups in the TRIPs negotiations followed a very clear strategy of promoting and legitimising a particular reading of intellectual property.[90] But the limitation of the disputes over the nature and applicability of IPRs predate the WTO and the Uruguay Round. Structural power (in the Strangian sense) over knowledge had already ensured that any debates that were to be had regarding intellectual property would take place within an agenda that accepted the legitimate existence of *some form* of intellectual property in the first place. The central claim - that there is legitimate intellectual property that should be 'protected' - was already accepted on both sides of any disagreement.

[90] see Sell's work cited above, note 83.

Chapter seven - A new GPE of IPRs

Introduction

In the first four chapters of this study I developed the foundations that support a Global Political Economy (GPE) which seeks to recognise and accord significance to structural power. I then turned my attention to the more specific issue of intellectual property rights (IPRs) as a particularly interesting issue for an investigation that recognises power in, what I have (following Strange) termed, the knowledge structure. I suggested that an investigation concerned with constructing a GPE of IPRs needs to be concerned with the politics of the representation of knowledge: who gets to decide, and therefore to structure, the debates in which IPRs are discussed. To uncritically accept the notion and justification of IPRs that has been constructed in the last three hundred years is to fail to recognise that this political settlement is not 'natural' but subject to the same political pressures, economic pressures and bargains between actors as any other. A GPE of IPRs needs to reveal the methods (and beneficiaries) of the agenda setting which preceded the TRIPs negotiations even being proposed, not just the negotiations themselves, though these may well reveal other interesting political economic issues for analysis.

When I originally began to investigate IPRs, I was intending to conclude this study with an argument that there was no real justification for property rights in knowledge, and therefore IPRs were essentially illegitimate, an imperialist plot perhaps (?). Undoubtedly, new technologies have changed the terrain over which the arguments about intellectual property range, but the traditional justifications - either labour desert or self-developmental - can not be dismissed easily, especially when the *individual* is the prospective owner. Though partial and contested such justificatory schema are embedded within a whole network of understandings, assumptions and conceptions about how a modern global political economy might be (or is) constructed. Thus, the recognition of agenda setting on this issue pushes an analysis (through a concern with the dual dialectic and structural power) to examine much wider concerns regarding the way the whole global political economy is structured and how the history of power in the other structures (security, production and finance) has solidified certain modes of practice. However, it is still difficult to defend the settlements over IPRs that pervade the discussion of TRIPs under the auspices of the World Trade Organisation (WTO).

The Global Trade in Intellectual Property

The recognition of a wide range of intellectual property as commercially exploitable resources is expanding.[1] In much the same way that companies have previously searched the material world for new geographical markets, and, new resources to exploit, there is an expansionary dynamic in the field delimited by the notion of intellectual property. Within analyses of capitalist relations this need to develop new products (from existing materials) is a reasonable common-place.[2] While material goods will continue to be traded globally, an increasing proportion of global trade will take place in the sectors which have at their heart the justification of intellectual property as a conceptual construction of the items to be exchanged. However as I have noted in the previous chapter this is not to claim that the emerging knowledge economy is necessarily a qualitative different form of capitalism.

This global knowledge economy is not 'governed' by free-trade. Indeed following Polanyi, there is no such thing as 'free-trade' in any meaningful sense, as economic exchange takes place in a dynamic context of social institutions. The social institution upon which the emerging global knowledge economy is built is *intellectual property.* Without this third space of property, one that parallels real and mobile property there could be no extensive (and expanding) knowledge economy. However, as I have discussed this foundation is by no means uncontested. This leads me to argue (utilising the dual dialectical notion of change) that there are two parts to the construction of the global knowledge economy.

On one side there is the development of technologies and processes which have enabled the utilisation of previously passive intellectual property (and therefore engineered its conversion into active property). While this technological history is vitally important, to accord it too much weight is to introduce a technological determinism, as many writers on the emerging knowledge economy have done. But as important is the conceptual justification of intellectual property relations together with their policing and enforcement. Before concluding I want to briefly revisit two conceptual issues which have an impact on the global political economy of IPRs - the enduring ideology of the author and the question of temporality of rights.

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[1] In books such as Nonaka,I & Takeuchi,H The Knowledge-Creating Company (New York: Oxford University Press, 1995) knowledge is expounded as the new capturable and exploitable resource companies must take advantage of. For a useful history of such thinking in management literature see Micklethwait,J & Wooldridge,A The Witchdoctors (London: Heinemann, 1996) Chapter 6 pp134-158.

[2] See for instance Heilbroner,R.L. The Nature and Logic of Capitalism (New York: W.W.Norton, 1985) p60 and p118 or Packard's classic discussion under the rubric of 'commercialisation' in Packard,V The Waste Makers (London: Longmans, 1961) pp215-231 and *passim.*

The enduring notion of the author

One major site of contestation in the dominant reading of intellectual property is the appropriateness of the ideology of the author as paradigmatic knowledge producer which I discussed in more detail in the previous chapter. James Boyle's deconstruction of intellectual property rights,[3] though essentially concerned with the construction of the law of intellectual property in the United States, informed some of the arguments I made regarding the problems of intellectual property.

Boyle argues that where it is seen as plausible to claim some sort of authorial function has been fulfilled (and this is not the same as a 'creative' function), then the fruits of this endeavour can usually (at least under American law) be 'protected' from unlicensed reproduction as intellectual property. Arguments for the author as a paradigmatic producer are presented through the broad traditions of the legitimisation of property based as it is on the labour of the individual. The key issue that Boyle is troubled by is the encroachment of this paradigm into areas where its suitability is suspect, and where the fruits of such a characterisation do not flow to any author at all, but to collective economic actors (such as companies) who cannot be seen in a meaningful sense as individuals requiring protection, despite their legal anthropomorphisation.

Importantly for a GPE of IPRs, given the argument regarding America's continuing structural power (which was the underlying spur to Strange's conceptualisation of power in the first place); that such an ideology of authorial function dominates US legal treatments of IPRs will have an impact on negotiations within the global political economy that are concerned with the legalised construction of intellectual property. Like the issue of time based protection, this question of the constitution of the authorial function may be an area where the contradictions which produce change in the dual-dialectic are emerging, and as such may hold promise as a site where a possible reformulation of IPRs could take place.

In Rose's terms, as the 'clear' legal construction of the author is 'muddied' by precedent and interpretation, which may recognise the inappropriateness of such a construction of the knowledge producer in certain areas, a more appropriate position may emerge. However, this is not to diminish or discount the considerable socio-economic forces arrayed in support of the continuation of the authorial ideology.

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[3] Boyle,J Shamans, Software and Spleens. Law and the Construction of the Information Society (Cambridge,Mass.: Harvard University Press, 1996)

Indeed, in some areas, such as computer programmes, despite the academic interest in hybrids, the law 'on the ground' has if anything strengthened the position of the legally constituted author. Notwithstanding the opinions regarding the free flow of information often paraded in internet discussion groups and elsewhere, the multinational software companies (such as Microsoft and Oracle) remain wedded to the notion of protecting the 'author' through IPRs.

The issue of time

Intellectual Property Rights protection has always been time-limited in a manner that real (or material) property law does not recognise as ownership (except in the case of leaseholds - though these are of course supported by a master freehold). Allowing that the arguments regarding the shrinking of time and space have some validity, the technological shifts which have enabled the emergence of a real-time global knowledge economy have had considerable impact on arguments regarding the protection of intellectual property.

When knowledge's geographical spread was less than instantaneous, and when the speed of innovations was less relentless than its appears to have become, the limiting of IPR protection for considerable periods did not raise the issues that it now does. The enforced monopoly rights of the owner of intellectual property may now last longer than the currency of such property's value in the developed world. If states are to develop economically through the adoption (and adaptation) of technology (and other knowledge based economic factors/inputs), then the delaying of such transfer longer than might be (possibly) justified by the currency of such approaches (or their contribution to competitiveness) will, as I noted in the previous chapter, entrench the technological gap between developed and under-developed states. And if protection periods remain the same (or in fact become longer, as they have in certain areas of the TRIPs negotiations) then this technological gap will be expanded relatively, if the speed of innovation in the developed states continues to quicken.

But, the question of the limited period of protection for intellectual property opens up another site of contestation. One of the differences between property as it became in the post-seventeenth century thing-based conception, (where common-ownership was disavowed), and intellectual property as it is conceived of in the modern world, is the contingent nature of intellectual property's ontological construction(s). All intellectual property is constructed, at some point, legally, and as such intellectual property which has attracted legal protection eventually returns to the public realm. This may happen

at a different rate for differently constructed intellectual property, and at a different rate in different state legislations, but in the end it always happens. Its transfer from one owner to another does not forestall this process.[4] Thus unlike real property, intellectual property lacks permanence.

Thus, a second possible site for emerging contradiction, is the period claimed for protection under the rubric of economic efficiency and the opposing claims that a certain period over-protects the intellectual property concerned and thus promotes inefficiency not efficiency in the national or global political economy. (Indeed as I noted with Japanese copyrights in the previous chapter these sorts of disputes are already emergent.) Such arguments would call for detailed work on the claimed efficiencies predicated on an acceptance of a broad economic justificatory system. But even so investigation into how 'efficiencies' are conceived of within the economic models used and the need, perhaps, to model knowledge differently could be a useful project. The identifiable social costs of the protection, either due to higher charges or the products flowing from the particular intellectual property, or from its unavailability to those who may have a reasonable (or socially valued) demand for it would also need to be brought into the account. This sort of project could help reformulate IPRs in a more 'just' manner. It would also involve an investigation unafraid of normative concerns and the need to construct an alternative ethics to that of unalloyed market advantage. This, it seems to me, is not an unreasonable demand for a critical GPE of IPRs.

International IPR negotiations

One of the key issues that has prompted the pressure to establish a global agreement on TRIPs within the WTO has been the need to not only have an agreement on protection, but to have a method by which those states who are seen to be continuing non-enforcement could be brought into line. One of the tensions that has been to the fore in such negotiations has been this aspect of duration of protection. With the WTO's cross-sectoral enforcement mechanism, the developed states can bring pressure to bear not in the sectors where they have little leverage (where IPR 'piracy'

[4] Unless changes to the property have been made, which is an interesting issue. Thus edited editions of public realm works may attract new protection in that particular edition, even if the work can still be reproduced from the publicly available older, or original version(s). This issue of the renewal of copyright in this manner would be an interesting subject for investigation but does not compromise the argument I wish to make here.

is taking place), but in areas where they may be able to 'punish' infringers by limiting or halting their access to vital services or goods.[5]

The new WTO sanction has given states' negotiators (and the companies who they represent) who wish to enhance IPR protection a method to try and ensure enforcement is carried out in developing state markets. For the intellectual property owners, no enforcement means no protection, and without protection the 'thefts' will continue. But merely enforcing national rules is not the whole problem for these 'owners'. Where periods of protection are divergent (or more specifically, where they are shorter in developing states than in developed ones) windows of legal 'theft' open. Thus a major issue in the TRIPs negotiations was the harmonisation of periods of protection. And in the main this has meant the ratcheting up of time periods (their extension) in developing states to match the periods of protection in knowledge owners' own developed home markets.[6]

International negotiations have come up against the tension between constructing a scarcity to ensure market values - intellectual property - and the requirement that construction be established legally, within the expressed notion of free trade, which sees *constrictions* on the free exchange of property in markets as sub-optimal. There is a contradiction between protecting the rights of an intellectual property which is not fully alienated from its producer, and the professed requirement for free trade to dissolve limitations on the transfer of property. However, this tension does not often get expressed, and when it does the rhetoric of theft, and the moral rights of 'authors' are brought to bear on the critics. In examining the global political economy of intellectual property rights the role of the knowledge structure is revealed.

Normative concerns

Though I have criticised O'Neill among others for conceding too much ground to the dominant knowledge structural settlement on such issues, I am prompted to suggest the way forward for a critical GPE of IPRs may be incremental. It may be more appropriate to look at possible changes to the existing regimes and the rolling back of the conventionalised understanding of intellectual property, to reflect different ways

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[5] Worthy,J 'Intellectual Property Protection after GATT' *European Intellectual Property Review* 1994, No.5 pp195-198 *passim* and Reichamn,J.N. Implications of the Draft TRIPS Agreement for Developing Countries as Competitors in an Integrated World Market (UNCTAD Discussion Paper No.73) (Geneva: UNCTAD, 1993) p42-44

[6] Steidlmeier,P & Falbe,C 'International Disputes over Intellectual Property' *Review of Social Economy* Volume 52, No.3 p345-348

of valuing intellectual endeavour. In this study I have concentrated on revealing the problems with the justificatory schema, as it is these problems power in the knowledge structure attempts to obscure. But this is not meant to suggest that the current schema are completely nonsensical. Indeed part of the continuing appeal has always been that at a certain level (that of the *actual* author, not the legally constituted mythic author) they seem to have produced broadly acceptable social outcomes.

Avoiding a 'problem solving' rhetoric and through the highlighting of the particular (and ideological) construction of intellectual property, a critical GPE of IPRs needs to establish a new political synthesis to move beyond the current problematic IPR settlement. In one sense, at least, I am formally ambivalent about the outcome of such a (re)construction: it is unclear to me exactly what sort of settlement might be more helpful to developing states, their populations and the excluded 'information poor' throughout the global political economy. However, the current situation is not acceptable. While I am not able to suggest the optimal justificatory settlement (if such a position even exists), I am certain that the direction in which such a putative justification might lie is not in the enhanced general legal protection of intellectual property. Focused and limited rights which include the recognition of responsibilities of intellectual property 'owners' relative to the social good should be possible and would be preferable, if 'knowledge commons' are to be accorded a positive protection.

By identifying problems with the current settlement, but also noting that some sort of property regime in knowledge may be defensible to serve the interests of the 'information poor', I am not alone. Introducing two special editions of the journal *Science Communication* which dealt with intellectual property, Marlin-Bennett makes the following observation:

> absolute approaches [to intellectual property] - such as that intellectual property rights must be strengthened at all costs or, alternatively, that intellectual property rights are essentially evil and counterproductive for developing countries - are simply not fruitful. Instead, [what is needed is] reasoned debate on different aspects of intellectual property rights and duties, powers, privileges and liabilities, identifying benefits and harms and ways of promoting benefits and limiting harms. Constructive international dialogue will recognise the multiple players in this evolving policy area and will address these real concerns.[7]

However while one might agree with the sentiment of these suggestions, given the arguments that I have made in this study, an analysis that does not factor in the

[7] Marlin-Bennett,R 'International Intellectual Property Rights in a Web of Social Relations' *Science Communication* Volume 17, No.2 (December 1995) p132

structural power over knowledge construction would come to the issue 'too late'. Only by recognising these debates as being constituted within a particular settlement of the agenda of IPRs can 'dialogue' over the use of property concepts in knowledge begin to approach some sort of just settlement. This would of course also necessitate some reconceptualisation of justice in the distribution of and access to knowledge - a project which this study has not even attempted to embark upon.[8]

Possibilities for future research

A new GPE of IPRs will need to establish an agenda for investigation of intellectual property that reflects the ethical and normative considerations that a concern with its contending ontologies brings to centre stage. The construction of the idea of intellectual property is a site of power relations and structural interactions, it cannot be regarded as a neutral element in such investigations. A major role for a GPE of IPRs is to establish the history of the bargains in constructing the structural agenda, not merely of the TRIPs agreement's political economy, but of IPRs' widespread socio-economic uses, and appropriations of knowledge. To understand the nature and character of the political economy of IPRs one needs to reach back into the history of the gradual changes in the conception of intellectual property since before the seventeenth century and the interactions of such conceptions with emergent technologies. Again space and time constraints have precluded such an investigation but would be the next move from the foundations which I have laid in this study.[9]

Finally, if one was to adopt the GPE of IPRs that I have been constructing and exploring in this study, what sort of empirical work might be undertaken? It seems to me that the over-riding concern would be to examine the belief systems of *all* groups who are involved in the political economy of intellectual property. This approach should not limit itself to those negotiating on behalf of certain groups, in whichever forum further disagreements about TRIPs and the legal constitution of intellectual property should arise. Rather, an analysis needs to understand the roots of the conceptions of intellectual property that are being mobilised within the global political

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[8] Cees Hamelink has laboured hard on this issue, for instance see Hammerlink,C.J. 'Communications in the Third World. The Challenge of Civil Society' Korthales Altes,W.F. *et al* (editors) Information Law Towards the 21st Century (Deventer: Kluwer, 1996) pp153-159 for a brief résumé of his work. See also: Melody,W.H. 'The Information Society: Implications for Economic Institutions and Market Theory' Comor,E.A (editor) The Global Political Economy of Communication (Houndmills: Macmillan Press, 1994), and various chapters from Mosco,V & Wasko,J The Political Economy of Information (Madison: University of Wisconsin Press, 1988)

[9] I am currently discussing with Susan Sell and Renée Marlin-Bennett a jointly authored international history of intellectual property rights which would reflect the intersection of our three areas of interest in this regard.

economy and understand their particular impact on the competing actors in the knowledge economy. An investigation must look back to how negotiating positions have been justified and how this conceptual history has emerged.

I am suggesting an investigation to discover how the knowledge structure has enabled a very specific set of arguments regarding the construction of intellectual property to become the 'common sense' of the secondary structure in which the power relations of knowledge economics are undertaken. The key reason for doing this is not so much to suggest a complete dismissal of certain justificatory systems for IPRs but rather to reveal their contingent and socially constructed character. By doing so, the possibility of different constructions of the agenda is made possible. This investigation needs to go much further and deeper than just those of policy makers and industrial leaders as the knowledge structure impacts on all levels of the global political economy.

In the end, a critical political economy, should not aim to merely describe the world, but to change it. If the dominant settlement of IPRs can be disturbed and made more transparent in its unequal division of the spoils of knowledge, then there is a need to decide whose interests should be served. And while I have no fully formed answer to this question I end this study with a thought which might be taken up by a future investigation of IPRs:

> Perhaps the key contradiction from which change will flow in the political economy of IPRs is that between the individualised justification within the labour-desert and self-developmental justificatory schema, and the control of IPRs by corporations and other profit maximising collective institutions. The contradiction between the 'copyright myth' and the law, may need to be dissolved not in favour of the collective actors but in favour of the knowledge producing individual, if a more satisfactory intellectual property regime is to be constructed. But in light of the collective nature of knowledge production, additionally such protection from 'theft' as might be offered would need to be limited both in time and extent. This would suggest that one key element of research would be the construction of a new way of dealing with knowledge, which recognises that knowledge can only be produced at a certain cost (or with a certain allocation of resources) yet can not be separated from the freely available raw material of which its bulk is made.

What would the shape of this new intellectual item look like? That I would hope will be the outcome of the deliberations in a critical GPE of IPRs.

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