

## **A 'Lasting Transformation' of Capitalist Surplus: From Food Stocks to Feedstocks**

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### **Abstract**

In this article I link surplus food with the politics of capitalist production and consumption in order to shed some useful light on the strange case of food not being food once it has been discarded but not thrown away. I develop an analysis of waste policy as a dimension of capitalist surplus management (after Sweezy, 1962) by reconfiguring Claus Offe's (1984) essay on the state and social policy and construe waste policy as effecting a 'lasting transformation' of non-accumulating capital into accumulating capital. My intention is to provide a sketch of the labyrinthine semantic and political structures that are emerging around waste, in general, and waste food, in particular. I show that transforming waste food into capitalist surplus is a multi-layered and multi-stranded endeavour that is embedded in larger political, economic and cultural arrangements and cosmologies. The article explores the transformation of waste into surplus by exploring, first, waste as an imaginary construct; second, the strange case of discarded food not being discarded (and not being food, either); third, the convoluted cosmology of European waste policy; and, fourth, aspects of political sociology which help to reveal the status of waste as a source of capital accumulation. I conclude by proposing a sociological account of food waste that situates the critique of excess not in the ignorant, sordid voraciousness of individual citizens but in the structures and institutions of capitalist accumulation.

### **Introduction**

In this article I consider some aspects of waste policy and the conflicting and contradictory political processes that these exhibit. Specifically, I read waste policy as a dimension of capitalist surplus management (after Sweezy, 1962) by reconfiguring Claus Offe's (1984) essay on the state and social policy. I do not suggest that this neo-Marxist outlook exhausts the sociology of waste (or of waste policy) or subsumes within it the various dimensions of the ethnography of waste food (Evans, 2011; 2012), the activist critique of food waste (Stuart, 2009) or all aspects of sustainable food planning and analysis (See Viljoen & Wiskerke, 2012). Instead, I suggest that linking surplus food with the politics of capitalist production and consumption sheds some useful light on the strange case of food not being food once it has been discarded but not thrown away. To this end I begin with some comments on the imagination of waste before illustrating the ambivalent quality of discarded/not discarded food/not food by reference to two criminal cases brought against (perhaps unintentional) freegans. I then go on to outline the intricate web of semantic and political strands that underpin these strange circumstances by exploring key elements of European waste policy. The final section of the article presents a means of construing that policy as effecting a 'lasting transformation' of

non-accumulating capital into accumulating capital. The central question underpinning the article is: what does it mean to 'discard food'? The focus of the article is not on the dispersion of meanings or household practices around different social groups but on the political and institutional arrangements that, with increasing vigour, are rearticulating waste food as a sustainable resource and redefining the meaning of both 'discard' and 'food' in the process.

### **Imagining Waste**

Researching waste of any description is always a journey: a convoluted, multi-directional and always fascinating expedition into twistedly dense worlds of definition, classification, meaning and, above all, imagination. The world of waste is a world in which imagination has to run riot in order to stand any chance at all of keeping pace with the bizarre reality of policy and practice. Sometimes what seems, at first sight, entirely commonsensical, turns out to be unfathomably obscure and sometimes what, at first sight, appears to be deeply arcane turns out to be one-dimensionally mundane. This condition is as true of the relationships between food and waste as it is of the relationships between any other substance and waste. To present a sociological account of any kind of waste is to expose an intricate network of social forces and social actions entangling citizens, governments and industries, policies, inventions and profits. To put it another way, it is to pen a portrait of an imagined common life: scenes from a sociological drama of individual lives intertwined with institutions, technologies and practices so that any imagination of waste immediately calls up characteristics of contemporaneous social life.

The reason for this circumstance, partly, is that waste is everywhere. In every nook and cranny of every colonized or yet-to-be colonized landscape and seascape of planet Earth persists the debris of the modern socio-economic order. From the littered trail defining the route to the world's largest peak to the swirling and churning morass that reveals the contours of the Northern Pacific Gyre<sup>1</sup>; from the deteriorating detritus that lines coat pockets to the food-filled skips secreted out of consumer sight behind gleamingly clean supermarkets; from sewage pipes that channel hidden excrement beneath urban highways and rural byways to the lorries and vans that transport the detritus along them: the wastes of modernity seem to stack up to a scathing indictment of profligacy and disdain. All those goods, all those resources, all that energy abandoned, misused, misapplied in a technologically advanced global order with the capacity, in theory at least, to nurture the environment instead of exploiting it, to steward resources carefully instead of destroying them callously. What does it all *mean*?

To view the world of waste through this kind of lens is to focus on the mismatch between the potential and actual, on the measurable distance between the world as it should be and the world as it is: the ethical constant that is waste and the lessons it reveals about how people interact with the world around us. It is a lens that has magnified the moral universe of many and diverse scholars – from Dorothy Sayers's (1948) diatribe against Keynesian economics to Vance Packard's (1967) lamentation on compulsive consumption; from Zygmunt Bauman's (2000; 2004) castigation of consumerist logic to John Scanlan's (2005: 129) excoriation of ignorant and absent-minded consumers. Without disputing that that waste may exhibit ethical dilemmas, a key problem with this imaginary lens is that it quickly and inevitably morphs into a critique of modern individuals: it becomes a 'we are all to blame' (Tammemagi, 1999, 17; Pearce, 2008) outlook – an outlook which is but a short distance from Chancellor George Osborne's suggestion that 'we are all in this together'<sup>2</sup>

– as the depiction of social order and the reflection on personal action are fused into a single screenplay. It is as if, in this fusion, waste were nothing other than a dead weight dragging society to the depths of depravity and dragging blinded, ignorant, voracious individuals along with it. One consequence of chasing the ethical constant is that there is a tendency to subordinate sociology to moral philosophy: sociological accounts of waste become merely aptly illustrative of the ‘existential vacancy’ (Ferrell, 2006: 162) into which contemporary citizens have slipped – either unwittingly but spontaneously or under the influence of a dominant ideology of voracious consumption – whilst the state and political economy largely disappear from view. The sociology of the flâneur comes to substitute for sociologies of accumulation strategies and state-capital dependencies; for analyses of the institutional and sectoral realignments that demarcate the rights, roles and arrangements surrounding waste.

I have no general disagreement with an ethical approach to the critique of waste but I suggest that important sociological issues can get side-lined when waste is viewed from the ethical high ground. For, the sociological question I want to put is not: is there a lot of waste? Instead, it is: what are the means of dispersion and reconfiguration, what are the policies, procedures and practices that co-ordinate, or not, the channels and networks that place and displace different wastes in different regional and sectoral locations not as a single signifier of moral indignation but as materially realised social forms? How is one thing transformed into another through the social process of wasting? To grasp this realisation sociologically, I suggest, necessitates a series of engagements with cultures, politics and economies as well as practices, values and beliefs. A sociological approach to waste, as I have argued elsewhere (O’Brien, 1999a; 2007), requires an understanding of the social frameworks through which wasting transpires. This is because there is no such thing as ‘waste’ as a singular entity or phenomenon – any more than there is such a thing as ‘waste policy’ as a singular entity or phenomenon. Instead, there are complex, intricate and contradictory manoeuvres and strategies that define, establish and regulate channels for the flows of material values. Waste exhibits social, political and economic vitality: any and all waste is a fundamental component of social organisation that references political and economic interests, establishes (and disrupts) social relations and inspires technological development and bureaucratic regulation. The world of waste is not simply a world marked by abandoned, under-used and callously ejected leftovers – it is not a world emptied or devoid of meaning and value. It is a highly structured and tightly specified world of actions and relationships to which questions of meaning and value are central.

In what follows, I return to an analytical theme I developed in a previous paper (O’Brien, 1999b) on political strategies for co-ordinating some of the channels and networks that render waste flows available for capitalist exploitation. Here, my focus is on the transformation of waste food into tradable and exploitable commodities – into a *material* capitalist surplus that can be reconstituted to yield surplus *value* – and the political and social scaffolding that is required to define the pathways and permissions, barriers and exclusions that facilitate that transformation. However, as will soon become apparent, those pathways, permissions, barriers and exclusions are embedded elements of larger political, economic and cultural arrangements and cosmologies: transforming waste food into capitalist surplus is a multi-layered and multi-stranded endeavour that is stitched together through laws, institutions, regulations, subsidies, technologies and markets as well as definitions, plans and discourses.

## Let Them Heat Cake

On the 22<sup>nd</sup> March 2010 Steven De Geynst (dubbed the ‘muffin man’ in the media), was apprehended taking two bags of muffins from a waste container outside a store in Rupelmonde, Belgium. When confronted by staff he allegedly became aggressive and when confronted by the police he allegedly tried to resist arrest. For taking two bags of muffins out of a waste container in these circumstances De Geynst was charged with violent robbery and sent for trial in Dendermonde in April 2011. The Judge rejected his defense that the goods belonged to no-one because they had been placed in a waste disposal container and were therefore clearly unwanted by the store in question – as *Flanders Today* put it: ‘His lawyer asked the court last week to consider the question of how goods can be stolen when their owner has clearly given them up’ – and sentenced him to six months ‘adjourned’ imprisonment. In February 2012, however, he was acquitted by the Court of Appeal in Ghent on the grounds that no crime had been committed. This was not because the Court of Appeal supported his original defense. Rather, he was acquitted because for several years he had been taking food from the waste container without let or hindrance and had therefore operated with at least the tacit permission of the store which was the rightful owner of its contents, in spite of having discarded them into a waste receptacle.<sup>3</sup>

On the 29<sup>th</sup> January 2011, Sacha Hall, from Chelmsford, England, carried several bags of food across the roofs of adjoining buildings and deposited them, via a window, in her flat. Amongst other things, the bags contained wrapped and unopened pies, cooked ham and potato waffles. These items, already bagged, had been passed to her by one of several men who were rooting through cages containing large quantities of chilled food stored behind a Tesco Express store in the Great Baddow district of Chelmsford. Sacha Hall did not, apparently, enter the cages herself, nor did she bag up the items that she took across the roof. She was charged with stealing by finding and with handling stolen goods and appeared at Chelmsford Magistrate’s Court but opted for trial by jury at Crown Court (she was dubbed ‘The Waffle One’ by some protesters at her court appearance). In May 2011, at the Crown Court, the charge of stealing by finding was left to lie on file and no further action was taken but, in June 2011, she was sentenced to twelve months conditional discharge for handling stolen goods. The maximum sentence to which Sacha Hall might have been subjected was seven years in prison.<sup>4</sup>

In both of these cases, the contents of the waste container outside the store in Rupelmonde and the contents of the cages outside the store in Chelmsford had clearly and unequivocally been discarded. None of the participants in either of these incidents disputed that the left-over food items were discards from the stores: in the Rupelmonde case, the muffins were simply noted to be past their best-before date and in the Chelmsford case the store claimed that a power outage had necessitated the removal of stock from the shelves to the cages prior to disposal for health and safety reasons. There are several arguments that might account for the actions against Geynst and Hall – including health and safety issues and the visibility of branded goods circulating at no cost through a sub-freeganic economy, for example – but none of these deflect from the fact that the food items had been blatantly discarded. Neither Geynst nor Hall was charged with breaches of health and safety regulations or with brand-infringement or maligning the reputation of the stores. They were charged with the theft of discarded items. This fact alone indicates, empirically, that discarded items have not been abandoned; they are not free of relations of private property or rules

of ownership. Items that have been discarded have categorically *not* been thrown away and they are *not* unwanted.

If these discarded items have not been thrown away and are not unwanted then what value underpins their retention? In fact, the kinds of items taken by Geynst and Hall were, to all intents and purposes, actually valueless in economic terms until relatively recently. Before 2008 the overwhelming majority of supermarket food waste was dumped in landfill. Since then, however, the major supermarkets have investigated and entered into partnerships with waste management firms to transform surplus food into other commodities – energy, heat and by-products of energy generation such as biofertiliser. This technological response to waste food involves sending leftovers to biowaste-to-energy plants or, more popularly, to anaerobic digestion facilities. In the former, surplus food is burned together with other organic wastes (crop residues, garden wastes, forestry residues, for example) to generate a number of products – notably energy that can be fed into the National Grid or used locally and heat. Anaerobic digestion facilities expose organic wastes to micro-organisms in the absence of oxygen in a temperature range, normally, between 32C and 45C. The process produces a ‘biogas’ (typically 60% methane, 40% carbon dioxide) and a solid digestate that can be used as a fertiliser.<sup>5</sup> The emergence of these energy-product solutions to surplus food can be explained partly by technological developments in the waste management sector, partly by subsidies for ‘renewable’ energy projects and partly by increases in the landfill tax since 1996. In fact, these solutions have the direct support of the UK Government which, in its 2011 Waste Policy Review, made specific mention of the ‘value’ of this recently valueless substance:

Food waste that does arise is recognised as a valuable resource, and is processed to produce renewable energy and a biofertiliser so that nutrients are returned to the soil (DEFRA 2011, 58)

On a wider scale, these energy-product responses to organic waste are part of an emerging suite of technologies – including waste-to-energy plants dealing with municipal waste and methane capture from landfill – that have been redefining waste for some time as a renewable energy resource. Whereas early Twentieth Century concern about waste centred heavily on the loss and recuperation of physical commodities (see, for example, Talbot, 1919), early Twenty-First Century policy is dominated by the loss and recuperation of energy: the energy problem is slowly supplanting the commodities problem as the official value of waste’s recuperation. It might be noted in passing, here, that it is not only pre-consumed surplus food that is being brought with the orbit of an energy-generation outlook: post-consumption food, i.e., sewage, is also being turned into an energy source using variations on the same technologies described above. In fact, one aspiring company dedicated to supplying power through sewage treatment technologies is called Cake Energy – for whom sewage sludge ‘is possibly the most sustainable energy resource on earth’.<sup>6</sup>

From the Muffin Man to sewage cake, the value of ‘food’ at all stages of its pre- and post-consumption cycle is being realigned and reconstructed as an energy resource, primarily, that brings along with it other environmental and economic benefits. Stealing food from supermarket bins or cages, then, is akin to helping yourself to the contents of a coal pile: what is being taken is not in itself a finished object and nor, incidentally, is it food; it is a raw material to be used in the generation of other commodities. In this sense, surplus food is like the products of extractive industries: it has travelled along the conveyor belt of food supply and consumption chains and been

tipped onto an organic mountain ready for use in energy-generation. But for all of this to be possible, a radically new concept of 'discard' must be in place; to discard something can no longer mean to get rid of it, shed it or abandon it. Instead, to 'discard' must now mean 'use for another purpose' or, at least, pass on to another *sanctioned* user. My intention, here, is not simply to point to the variety of networks through which different kinds of waste substances are inventively channeled. I have addressed some of these channelings in previous work (O'Brien, 1999a; 1999b; 2007) and these questions have been imaginatively and more thoroughly taken up by Nicky Gregson and colleagues (see Gregson, 2007; Gregson et al 2007). My interest here is how food items that have been actually, effectively and uncontestedly discarded *in law* can, simultaneously, be food items that have not been discarded *in fact*. The question is, then: under what semantic and political regime of definitions, values, permissions and sanctions does this contradiction persist?

### **A Taxonomy of Tripe<sup>7</sup>**

There is, in the European Union (EU) Waste Framework Directive, a wondrous and wholly spectral definition of waste, viz, that waste is:

Any substance or object in the categories set out in Annex 1 which the holder discards intends or is required to discard (Directive 2006/12/EC)

In other words: a waste substance or object is any substance or object contained in a list of waste substances and objects (although, as we shall see, it is even more wondrous than this)! The list provided in Annex 1 refers to the *European Waste Catalogue* (EWC)<sup>8</sup> and, in spite of the fact that the original decision establishing the catalogue (Decision 94/3/EC) has been updated on several occasions, the EWC remains the definitive list of substances and objects to which reference is made whenever a query about the nature of waste arises in EU legal and industrial sectors. It comprises, unsurprisingly for a document generated in committees of the European Union, an entirely regulatory array – most of the contents of the list refer to materials but some refer to industrial sectors or processes. The purpose of the list is not, explicitly anyway, to philosophise on the ontology or epistemology of waste (even though it does in fact do this). Its purpose is administrative – to apportion substances to more or less well-defined channels of bureaucratic oversight. Its twenty 'Chapters' cover mining and quarrying, agriculture, metal treatment, animal and health care, construction and demolition, households and municipalities and waste treatment facilities, amongst many others. The contents of the chapters sum to over seven hundred items the most commonly recurring of which is 'wastes not otherwise specified'. This category – as well as having a Chapter entirely to itself, Chapter sixteen: 'Wastes not otherwise specified in the list', comprising forty-one items – recurs seventy times, including two mentions in Chapter sixteen itself, so that 'wastes not otherwise specified' are listed twice in a Chapter entitled 'wastes not otherwise specified'. I cannot help but be reminded of Jorge Luis Borges' essay on 'The Analytical Language of John Wilkins'. Here, Borges tells of 'a certain Chinese Encyclopaedia,' the *Celestial Emporium of Benevolent Knowledge*, which divides animals into: 'those that belong to the Emperor, embalmed ones, those that are trained, suckling pigs, mermaids, fabulous ones, stray dogs, those included in the present classification, those that tremble as if they were mad, innumerable ones, those drawn with a very fine camelhair brush, others, those that have just broken a flower vase, those that from a long way off look like flies'. Borges writes of Wilkins's analytical language and the purported Chinese Encyclopaedia that 'it is clear that there is no classification of the Universe not being arbitrary and

full of conjectures'.<sup>9</sup> The conjectural quality of the EWC appears to open up its semantic universe to a wide range of potential interpretations – indeed, conjecture and arbitrariness is effectively its defining character – but, in fact, its conjectures perform more closures than openings and its arbitrariness both limits and expands the universe of meanings through which waste substances travel.

On top of the ambivalence exhibited by the European Waste catalogue can be added the fact that even if a material is listed in the catalogue it is not necessarily a waste since it is the circumstances, not the material itself, that determine whether or not the said material is to be treated as waste. If the catalogue looks anything but straightforward the interpretation of the policy is even more convoluted, partly because the policy is pegged around case law developed through the European Court of Justice. The European Commission issued a communication (COM (2007) 59 final. 21.2.2007)<sup>10</sup> in an effort to facilitate common interpretation of the definition of waste set out in the Waste Framework Directive and its list of waste materials. Here, the Commission declares that:

... ECJ [The European Court of Justice] has set out a three part test that a production residue must meet in order to be considered as a by-product. The court stated that where the further use of the material was not a mere possibility but a certainty, without any further processing prior to reuse and as part of a continuing process of production, then the material would not be a waste." (S3.3 p.7)

The 'test' is, in fact, cumulative: in order for a substance to be a 'by-product' of a production (or 'pre-consumption') process, and not a waste, all three parts of the test must be passed. Naturally, there are further discussions on the meaning of 'certainty' of further use, 'further reprocessing' and 'continuing process' and these discussions have a particular resonance because of a number of challenges made by member states to the EU definition of waste. The most important of these resulted in an action against the Italian Republic in 2005<sup>11</sup>. The point to which I want to draw attention, here, is that even when a three stage test of the essence of non-waste is established, that test itself depends upon further clarifications of terms and those clarifications, in turn, require further clarifications. The final meaning of waste is endlessly deferred in cycles of interpretation of when a waste is not a waste that never settle on any given characteristic, intention, desire or treatment but always contextually determine who will control the material, what its treatment pathway shall be and how that material and that pathway will be regulated. Instead of a material definition of waste, then, the European Commission establishes a processual definition (in spite of the fact that the EWC is very largely a list of materials) that construes waste as an endlessly-deferred chain of channellings, procedures and protocols. However tightly specified and however contextually sensitive these deferrals are they remain always in a state of partial suspension since '[if] it subsequently turns out that the waste can in fact serve a useful purpose, then the material will lose its waste status when it is ready for use as a recovered product' (ibid, S3.3.1 p.7). So, the endless deferral points to the conclusion that any substance or material that fails any or all of the three tests and is, therefore, to be regarded as a waste may actually not be waste after all since it will cease to be waste if and when it becomes a 'recovered product'. On the other hand, any material or substance that passes all of the three tests and is, therefore a by-product and not a waste is, even so, actually a waste if its holder intentionally discards it. In consequence, the

communication states, 'the definition of waste essentially turns on the notion of discard' (ibid, S3.1, p.6)<sup>12</sup>.

But this array of judgments, too, is fundamentally ambivalent since it requires another layer of decisions and policy frameworks in order to ensure that the 'products' and the 'not-products' are sufficiently distinguished and, in particular, to identify waste as part of a stream of products and not simply as a stream of use- or exchange-values. After all, waste substances of very many kinds can be (and are) put to all sorts of different uses and may be exchanged one for another without any guidance from the European Commission or rulings from the European Court of Justice. In fact, as contradictory to ordinary usage as it may appear to be, in European policy waste substances are not waste in any common understanding of that term, they are 'goods'. This definition of waste was confirmed in *Commission of the European Communities v Kingdom of Belgium* (The 'Walloon Case'. Case C-2/90, 1992, para. 23, 28)<sup>13</sup> in which it was directed that waste is 'to be regarded as "goods" the movement of which, in accordance with Article 30 of the Treaty [of Rome]<sup>14</sup>, must in principle not be prevented'. In this case, materials that fail any or all parts of the three-part test and are, consequently, wastes and not products or by-products, nonetheless remain goods. If waste is to be considered goods then it follows that waste is to be treated primarily as an economic, rather than an environmental issue and, indeed, this is precisely the view offered in DEFRA's (2010) draft guidance on the legal definition of waste and its application – which also refers to the Walloon Case mentioned above. Yet, even here, the clarity offered remains opaque. Given that 'waste' is actually to be treated as 'goods' then why would anyone want to discard it? To give an example, why is it that when someone 'purchases scrap metal with the intention of re-processing it into steel' that purchaser is still 'taken to have the intention to discard that material even though they may regard it as a valuable secondary raw material' (DEFRA, 2010, 66)?

To even begin an answer to this question it first needs to be noted that whereas the European Waste Catalogue, with its seven hundred plus entries and its ambivalence over unspecified substances, lays out an almost messianic material register of waste elements, the interpretation and application of that catalogue orbits around other concepts and practices altogether. The materials in the list do not in any way restrict or solidify the substantial question of what waste comprises. Rather, they make inroads into the conceptual and practical field of waste and provide avenues of sanctioned exploitation, authorised earnings and certified yields. In recognition of the simultaneous semantic limitation and expansion, the ECJ ruled in its dispute with the Italian Republic over food scraps and food waste (*European Commission v Italian Republic* Case C-195/05):

It should be pointed out at the outset that the list of categories of waste set out in Annex I to the Directive, as well as the disposal and recovery operations listed in Annexes II A and II B thereto, show that there is no type of residue or other substance resulting from the production process which is in principle excluded from the concept of waste (para 45)

There is 'no type of residue or other substance resulting from the production process which is in principle excluded from the concept of waste'. This bears repetition because it is crucial: the injunction applies to anything at all that is produced during a production process. It applies as much to what a producer intends to produce as to what a producer does not intend to produce. To give an example, Tristram Stuart (2009, 48) writes, in what can only be described as a dumbfounded style, that suppliers of ready-meals and/or sandwiches to giant supermarkets can discard over half of all



that they produce and that surplus levels of around ten per cent are considered normal. The reason for this is that many supermarkets pre-order these goods a week or so in advance based on sales predictions and then change their minds about what and how much of what they are prepared to take just twenty four hours before the due delivery date. The producer certainly intended to produce a given quantity of ready-meals and/or sandwiches but now the purchaser no longer wants some portion of them. The restrictive contracts between supplier and supermarket are such that the pallet-loads of unwanted items cannot be sold elsewhere or donated to charities and end up either in landfill or, increasingly as noted above, in biowaste and anaerobic digestion facilities which turn them into energy, heat, biofertiliser and biogas. Clearly, in this case, the supplier intended to produce these items and intended to do so under a contract with a purchaser. However, since at the pre-consumption stage these intended items are no longer wanted they shift into the category 'waste' as items that the supplier is required to 'discard'.

Waste, it transpires, is not a by-product, not a residue and not a good. At the same time it is a by-product, a residue and a good. It is that which is not produced intentionally and that which is produced intentionally. In principle, according to the highest Court in the European Union, it is non-exclusive; there is nothing that the category of waste does not address; it covers not only every thing but also every relationship with and process in the material world: it is everywhere not only in its material form but also in its legal, political and economic forms. To discard waste, then, is emphatically not to abandon it, divest oneself of it or even throw it away; it is to *situate* it in the channels, protocols and procedures of waste management; to place it positively in a politically regulated regime that orchestrates who can profit from it and what can happen to it. In this context, how aptly titled is John Young's (1991) *Discarding the Throwaway Society!* Young could not have foreseen that his proposal would come to be taken literally but in exactly the opposite semantic framework that he intended. Rather than attacking the procedures and practices that he felt were the cause of waste, contemporary policy simply construes the discarding as a link in the chain of surplus management.

So far, I have developed an analysis that began with the imagination of waste, considered the strange case of discarded food not being discarded at all (and not being food, either), explored aspects of the convoluted cosmology of European waste policy and the contradictory semantic consequences of that convolution. Now, I turn my attention to the theoretical, rather than administrative, question of how surplus materials are constituted as 'surplus' and how waste policy itself is intimately involved in the management of capitalist excess.

### **A 'Lasting Transformation'**

In a ground-breaking work, first published in 1942, the American economist Paul Sweezy outlined a theory of capitalist development rooted in the process of underconsumption (Sweezy, 1962). In this theory, Sweezy mined Marx for clues to solve the riddle of capitalism's continued world dominance despite its 'periodic crises and occasional lapses into stagnation' (ibid, 217). According to Sweezy, the chronic condition of capitalism is a tendency always towards stagnation because there is a contradiction between production capacity and consumption capacity or, as Sweezy (ibid, 175) puts it, production is continually expanded 'without any reference to the consumption which alone can give it meaning'. This situation arises according to Sweezy because, citing Marx:

The last cause of all real crises always remains the poverty of and restricted consumption of the masses as compared to the tendency of capitalist production to develop the productive forces in such a way that only the absolute power of consumption of the entire society would be their limit. (Capital III; cited in Sweezy, 1962, 177)<sup>15</sup>

In consequence, capitalist societies are permanently scarred in one of two ways: either by a crisis of excess – where there are simply too many goods on the market and the restricted consumption of the masses prevents their sale – or because the productive forces themselves are left to stagnate in order to offset precisely this crisis of underconsumption. In both cases there results a realization crisis: either commodities have been produced but the masses' failure to consume them results in a direct loss of surplus value; or the productive forces are under-utilized and, consequently, fail to generate the commodities that would realize surplus value were they consumed. In this sense, Sweezy follows Marx's understanding of 'waste' as a failure in the efficient use of the productive forces, resulting in a persistent latent or actual surplus of capital.

Later, in *Monopoly Capital* (Baran & Sweezy, 1970), the question of wastefulness takes on a much more central role. The book's focus remains true to Sweezy's original work — the description and explanation of a specific phase of capitalism characterised by monopoly. It expands on Sweezy's attempt at a systematic analysis of surplus management, devoting several chapters to the forces that counteract the underconsumption problem. However, much more attention is devoted to an account of why the surplus of capitalism is generated and how it is absorbed in order to stave off the threat of stagnation. In typically straightforward style Baran and Sweezy describe the 'topsy-turvy, and fetishistic' (Baran & Sweezy, 1970, 326) appearance of monopoly capitalism from the individual's point of view in the following terms:

The self-contradictory character of monopoly capitalism — its chronic inability to absorb as much surplus as it is capable of producing — impresses itself on the ordinary citizen in a characteristic way. To him, the economic problem appears to be the opposite of what the textbooks say it is: not how best to utilize scarce resources but how to dispose of the products of super-abundant resources. (ibid, 114).

It may seem counter-intuitive to construe waste as a consequence of under-consumption when the prevailing outlooks on the contemporary scene almost invariably refer to the overconsumption of the earth's resources. No less an authority than Fred Pearce uses a *New Scientist* column to state baldly that 'overconsumption is the real problem' whilst a Friends of the Earth report surveys resource-use and waste-production to clarify precisely that overconsumption leads inexorably to environmental degradation<sup>16</sup>. Meanwhile, Richard Tucker's (2000) assessment of America's exploitation of the tropics encapsulates the overall perspective neatly in its portentous title *Insatiable Appetite*. Certainly, from the standpoint of the individual citizen, gazing upon the piles of waste generated not only domestically but industrially, the problem does not seem to be one of failing to acquire enough goods but its precise opposite: acquiring too many goods and having to get rid of them. But rapacious overconsumption and the structure of underconsumption are not at all *economically* contradictory. They only appear that way, as Baran and Sweezy note, from the standpoint of the particular instance – here, the standpoint of the 'ordinary citizen'. From the standpoint of the economy as a whole, they are counterweights to capitalism's tipping point – the 'grotesque form of absurd contradiction' that is the 'social form of wealth as a thing external to [the

social production of wealth]’ (Marx, 1977b: 574). The simultaneous empirical reality of underconsumption and overconsumption is a phenomenon observed not only by Baran and Sweezy, but also, characteristically more gnomically, by Bataille (1988: 39) when he writes that:

As a rule, *particular* existence always risks succumbing for lack of resources. It contrasts with *general* existence whose resources are in excess and for which death has no meaning. From the *particular* point of view, the problems are posed *in the first instance* by a deficiency of resources. They are posed *in the first instance* by an excess of resources if one starts from the *general* point of view.

Bataille and Baran and Sweezy are, of course, intellectual worlds away from each other yet both observe that societies are sliced into contradictory polarities by scarcity/restriction and surplus/excess.<sup>17</sup> In Bataille’s exposition ‘excess’ is a fundamental condition of life originating from the fact that solar energy is given ‘without any return’ and exemplifies the ‘seething energy’ that constantly exceeds the possibility of its total consumption (Bataille, 1988: 28, 31). In Sweezy’s (and Baran and Sweezy’s) account, the ‘surplus’ is a socially-generated glut of commodities (including services) whose deleterious consequences are the result of the anarchic misapplication of the forces of production under capitalism. Bataille, in fact, explicitly denies that his work is a contribution to debates about ‘crises of overproduction’ (1988: 13) and the political reflections that comprise the final two chapters of *The Accursed Share* veer between Stalinist realpolitik (on the brutality of Soviet collectivisation practices) and Hegelian idealism (on ‘consciousness of the ultimate end of wealth’). Sweezy, on the other hand, construes the overproduction/underconsumption couplet to exhibit the contours of political rule, of the social regimentation of the material world to service private property and capital accumulation. The generation of capitalist surplus does indeed involve the rapaciously mercenary exploitation of any and all resources but this ‘overconsumption’ is precisely one face of capitalism’s contradictory coinage whose flip side is the restriction of access to and control over those resources in a politically regulated economy of underconsumption. Waste policy, in all its ambiguous and ambivalent appearances rearticulates, again and again, the political contradictions of capital accumulation.

Some light can be shed on this politics by reconsidering Claus Offe’s (1984) essay on the state and social policy. In that essay, Offe (1984, 104) writes that social policy

... consists of answers to what might be called the *internal* problem of the state apparatus, namely, how it can react *consistently* to the two poles of the “needs” of labour and capital – in other words, how to make them mutually compatible. (Emphasis in original)

The internal problems of the state apparatus arise from the fact that it is pulled in two different directions, or split into two political forms, by the contradictory demands of capitalist accumulation and capitalist socialisation – that is, on the one hand the demand for the expansion of surplus value and the development of means of production to achieve this expansion and, on the other, capital’s need for a disciplined labour force, compliant with the strictures of wage labour and able to reproduce itself *as* wage labour. In this vision of a split political apparatus, the state is:

... characterized by constitutional and organizational structures whose specific selectivity is designed to reconcile and harmonize the ‘privately regulated’ capitalist economy with the processes of socialisation this economy triggers. (Ibid, 51)

The push-pull of privatised and socialised supervision plunges the state apparatus into a constant condition of crisis<sup>18</sup> in relation to capitalist accumulation, a crisis which consists in the problem of supplying regulatory services to the economy without politicising that regulation and thereby opening up the whole capitalist system to social oversight and political scrutiny. In Offe's construction of social policy, the state apparatus transacts welfare transfers with the social sphere for loyalty to or compliance with the framework of capitalist accumulation. At the same time, the state apparatus transacts regulatory services with the economic sphere for fiscal inputs to fund the framework of capitalist accumulation. In this system of transactions, the economy needs to be 'insulated' from problems and conflicts that may arise in the social system of family, community, social and trade institutions and unions, and so on. This is achieved, importantly, through the distribution of income transfers from the private sphere of the economy to the public sphere of society. The purpose of these transfers – in the form of welfare services and income support – is to rationalise the framework of social power that underpins capital accumulation. In this circumstance, state social policy is directed towards the task of supplying capital with what it needs to continue and expand private appropriation: labour power so that, in Offe's (ibid, 98) terms, such policy is not a 'reaction' to the 'problem' of the working class, 'rather it ineluctably contributes to the *constitution* of the working class'. In short:

... social policy is the state's manner of effecting the lasting transformation of non-wage labourers into wage labourers. (Ibid, 92)

The reason I have taken this short sojourn into political sociology is because Offe hints at, but does not develop, a potential route into untangling and over-viewing, in sociological terms, the characteristic complexity of waste policy which I discussed above. For, insofar as labour is constituted, at least in part, through state policies designed to transform dispossessed labour power into 'active' wage labour (ibid, 99) then the question immediately arises as to whether state policies, on the other side of the equation, similarly constitute, at least in part, capital. That is, if labour does not lift itself by its own bootstraps into the condition of *wage* labour then it is reasonable to propose that capital does not lift itself by its own bootstraps into *accumulated* capital. In other words, *if state policy transforms potential labour into actual labour then it can also be argued that state policy transforms potential capital into actual capital*. Thus, Offe's thesis on the constitution of wage labour can be reformulated to apply to the constitution of capital accumulation by noting that the transformation of potential capital into actual capital 'does not occur through the market alone but must be sanctioned by a political structure of rule, through state power' (ibid, 99).

The capitalist market cannot be left to effect the transformation by its own mechanisms alone because, in political terms, it is too weakly structured. By this, I mean that the capitalist market is rooted in but not genetically dominated by what Offe calls the exchange principle<sup>19</sup>. To the extent that, in theory at least, the market allows exchanges of any kind between any individuals it lacks a sanctioned mechanism of *compliant* exchange within a capitalist social framework and leaves open the possibility for markets themselves to undermine capitalism's normative structures of exchange and distribution. Citizens, left to their own devices and operating only according to a logic of exchange, may decide to build alternative economies by, for example, transforming the redundant resources of capitalist abundance into useable goods. They may decide that the millions of tons of discarded supermarket food supplies represent a fine larder for supplying a hearty Sunday meal. They may decide that the left-over commodities of capitalist exchange may be used to satisfy

a proportion of their material needs sufficient to substitute for a portion of their wage labour and thereby erode the principle of compliance through which state social policy constitutes wage labour for capitalist exploitation in the first place. These examples are intended to illustrate that if social policy is an attempt to make the needs of labour and capital mutually compatible by intervening in the rights, relationships and arrangements by which (potential) labour power is lastingly transformed into (actual) wage labour in the sphere of compliance then it can be argued that waste policy provides the same kinds of services in the lasting transformation of potential capital into actual capital in the sphere of exchange. At the same time, in its regulatory specifications and bureaucratic taxonomies, waste policy defines who can and who cannot profit from the surplus that capitalism produces. So, the EWC and its surrounding interpretive labyrinth is not merely a 'list' of wastes. It is a flowchart of allowances and permissions for waste's exploitation. It intervenes into the rights, relationships and arrangements through which capitalism's surplus is configured for exploitation by sanctioned agents whilst at the same time ensuring that the crisis of overproduction in the sphere of exchange does not spill over into a crisis of legitimation in the social sphere and thereby a crisis of capitalist accumulation as a whole. On this analysis, it can be argued that waste policy is not a 'reaction' to the 'problem' of capitalist surplus; rather, it ineluctably contributes to the *constitution* of the surplus and is the state's manner of 'effecting the lasting transformation' of non-accumulating capital into actively-accumulating capital.

The regulatory services supplied by the state apparatus not only define (contradictorily and inconsistently) the substances, sectors and industrial processes that surround waste's exploitation, they also define and enforce the exclusions, demarcations and barriers that preclude, criminalise and demonise interference into the cosmological order of capitalist surplus management. Unsurprisingly, in this circumstance, any material substance from which surplus value may be realized is slowly but inexorably drawn into the orbit of capitalist appropriation. The, perhaps unintentional, freegans – Steven De Geynst and Sacha Hall – referred to earlier in this article may not knowingly constitute the 'forces of socialism' whose 'head-on collision' with state power was, according to Sweezy (1962: 244) the only means of abolishing the institution of private property. They represent, nonetheless, forces of non-capitalist socialisation which capital has no choice but to counter. As others have observed (see Ferrell, 2006; Eighner, 1994), scavenging and foraging networks comprise alternative arrangements for exploiting materials of all kinds – they are *unsanctioned* agents of transformation and distribution of material residues whose actions negate both the compliance mechanisms that effect the 'lasting transformation' of non-wage labour into wage labour and the normative mechanisms by which capitalist exchange accrues surplus value for capitalists.<sup>20</sup> After all, the very reason why 'our friend [the capitalist] has a penal code of his own', according to Marx, is because:

... all wasteful consumption of raw material or instruments of labour is strictly forbidden, because what is so is so wasted, represents labour superfluously expended, labour that does not count in the product or enter into its value. (Marx, 1977a: 190–91)<sup>21</sup>

In a previous paper (O'Brien, 1999b) I quipped that whilst there are UK Minerals Authorities that control all the minerals beneath the UK there is, currently, no UK Waste Authority that controls all the rubbish in your attic or your kitchen swing-bin. Yet, from the level of freeganic behaviour to the level of European policy this possibility is slowly becoming a de facto reality. There may be no single authority controlling all of the waste but Government guidelines, European case law and sectoral

realignments are inexorably coming to define even surplus food as a resource akin to mineral wealth. There's gold (or, at least, fuel) in them there waste receptacles<sup>22</sup> and where there's gold there's a state-supported structure of exploitation that marginalises, criminalises and demonises alternative solutions to capital accumulation. In this structure of exploitation surplus food stocks are transformed into scarce feedstocks in an economy desperately combating stagnation. As I have shown, this transformation spins webs across national and European legal regimes, waste 'catalogues' and policies, technological developments in materials reprocessing, rearticulations of food as a fuel, the licensing and certification of sanctioned users and the criminalisation and exclusion of non-sanctioned users. So, the next time you discard the last half-potato from your plate into the organics box and leave it for your local authority to collect, remember that whilst you may have discarded it you have most certainly not thrown it away. Instead, you have siphoned it into a political economic channel which converts it from a private leftover to a capitalist surplus. In this way its 'value' can be recharged, revitalised and disbursed to corporations as a counteracting tendency to the depletion of profits established by the structure of underconsumption.

### **Concluding Remarks**

The issue in this article has been to provide a sociological account of food waste that does not demonise ordinary people; one that situates the critique of excess not in the ignorant, sordid voraciousness of individual citizens but in the structures and institutions of capitalist accumulation. I have considered the mismatch between the potential and the actual through the concrete lens of social transformation rather than the abstract lens of ethical critique: specifically, through the convoluted political and economic strategies for transforming discarded (but not discarded) muffins and waffles into exploitable commodities and services. I do not deny my own or anyone else's wastefulness – I do not deny that I am a statistical entry in a larger measurement of the propensity to eject and exude environmentally damaging quantities of stuff. What I propose is that the over-production of capitalist surplus renders my, and my fellow citizens' efforts to avoid (where possible and manage where not) these wastes worthy at least of proper acknowledgement. I live in a capitalist society that produces much more than it can possibly consume whilst the surplus value generated by all this stuff accrues as idle capital the hands of tiny numbers of individuals whilst millions die from want of basic necessities.

According to Marx, all waste is anathema to capitalism so, rather than reducing the waste, capitalism defines it as 'goods' from which surplus value may be realized and then triumphantly celebrates its technological wizardry in transforming the consequences of underconsumption into scarce energy and fertiliser commodities. The free distribution of food 'represents labour superfluously expended' and cannot, within a capitalist social formation, be permitted to flourish as anything other than a marginal activity. The imagination of waste is always immediately an imagination of the social conditions of production, distribution and consumption; of social relations and social norms; of moral outlooks on how society is and how it ought to be. To imagine that surplus food stocks are 'renewable' energy feedstocks is to imagine a society in which production is expanded 'without any reference to the consumption which alone can give it meaning'. In this respect, the management of capitalist surplus is a neat shorthand for the monumentally complex contours of waste policy and serves to explain the fierce restrictions on deriving value from that surplus in ways that do not support capital accumulation. So, finally, to 'discard food' means to convert a non- or potential value into a positive or actual value but *only* within a regulated regime of

exploitation in which the alchemists of the rubbish society (O'Brien, 1999b: 280) put a bag of muffins into a political top hat, tap it with a technological stick and, following a litany of bureaucratic and legal incantations, pull out a shovel of coal.

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<sup>1</sup> See: <http://www.independent.co.uk/environment/nature/a-mountain-of-trash-china-closes-everest-for-cleanup-857661.html> and <http://www.ecology.com/2008/08/14/pacific-plastic-waste-dump/> (retrieved April 21 2012).

<sup>2</sup> See [http://www.conservatives.com/News/Speeches/2009/10/George\\_Osborne\\_We\\_will\\_lead\\_the\\_economy\\_out\\_of\\_crisis.aspx](http://www.conservatives.com/News/Speeches/2009/10/George_Osborne_We_will_lead_the_economy_out_of_crisis.aspx) (retrieved May 7 2012).

<sup>3</sup> See <http://www.flanderstoday.eu/content/offside-no-such-thing-free-muffin> and <http://s4ss.org/337/food-for-thought-the-case-of-the-muffin-man/> (retrieved April 21 2012).

<sup>4</sup> See 'In court charged with theft by finding, the woman who took food from a Tesco bin' <http://www.dailymail.co.uk/news/article-1357741/In-court-charged-theft-finding-woman-took-food-Tesco-bin.html#ixzz1uw1AzL8f> and 'Sentence for "Waffle One"' Essex Chronicle, June 23 2011 <http://www.highbeam.com/doc/1P2-28981984.html> (retrieved 13 April 2012). See also <http://discardstudies.wordpress.com/2012/03/27/dumpsters-muffins-waste-and-law/> (retrieved 13 April 2012).

<sup>5</sup> See <http://www.biogas-info.co.uk/index.php/ad-basics.html> (retrieved 13 April 2012).

<sup>6</sup> See <http://www.cakenergy.com/default.aspx> and also 'Food waste to provide green gas for carbon-conscious consumers' <http://www.guardian.co.uk/environment/2009/nov/22/food-waste-green-biogas-tariff> The Observer Sunday 22 November 2009 (retrieved May 7 2012).

<sup>7</sup> Tripe: 1. from the lining of the stomach of some ruminants, used as a source of food. 2. Something, especially speech or writing, that is false or worthless; rubbish. <http://dictionary.reference.com/browse/tripe> (retrieved April 4 2012).

<sup>8</sup> The actual waste catalogue developed in Council Decision 2000/532/EC is different to the list provided in Annex 1 of Directive 2006/12/EC. In fact, Directive 2006/12/EC lists only sixteen Chapters instead of twenty (and omits the detailed list). In spite of this difference, national guidelines invariably refer to the 'List Of Wastes' (the LOW) contained in Decision 2000/532/EC. See, for example, Environment Agency (2006) *Using the List of Wastes to code waste* (available at [http://www.environment-agency.gov.uk/static/documents/Business/low\\_guide\\_v1.2\\_1397222.pdf](http://www.environment-agency.gov.uk/static/documents/Business/low_guide_v1.2_1397222.pdf)). Directive 2006/12/EC updated and emended Decision 94/3/EC which responded to Council Directive 75/442/EEC on waste (retrieved May 7 2012).

<sup>9</sup> See <http://www.alamut.com/subj/artiface/language/johnWilkins.html> (retrieved July 3<sup>rd</sup> 2009).

<sup>10</sup> See Commission Communication of 21 February 2007 on the Interpretative Communication on waste and by-products [COM(2007) 59 final – Not published in the Official Journal]. [http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007\\_0059en01.pdf](http://eur-lex.europa.eu/LexUriServ/site/en/com/2007/com2007_0059en01.pdf)

<sup>11</sup> See COMMISSION v ITALY. JUDGMENT OF THE COURT (Third Chamber). 18 December 2007 <http://curia.europa.eu/juris/showPdf.jsf?jsessionid=9ea7d2dc30dbf938d97bdd85423fa56d8d79eac6160e.e34KaxiLc3qMb40Rch0SaxuKaNr0?text=&docid=71919&pageIndex=0&doclang=en&mode=doc&dir=&occ=first&art=1&cid=1952634> (retrieved May 7 2012).

<sup>12</sup> See COMMISSION v ITALY op cit para 34: 'the EWC is 'intended only as guidance ... and the classification of a substance or object as waste is to be inferred primarily from the holder's actions and the meaning of the term "discard"'.

<sup>13</sup> See COMMISSION v BELGIUM. JUDGMENT OF THE COURT. 9 July 1992. Case C-2/90. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61990CJ0002:EN:PDF> (retrieved May 4 2012).

<sup>14</sup> Which states that: 'Quantitative restrictions on imports and all measures having equivalent effect shall ... be prohibited between Member States.'

<sup>15</sup> There are different versions of this comment which, originally, was a bracketed aside in Marx's text and was incorporated into the main body by Engels. The version in the 1977 Moore & Aveling translation (which draws extensively on the Charles H. Kerr edition) runs: 'The ultimate reason for all real crises always remains the poverty and restricted consumption of the masses as opposed to the drive of capitalist production to develop the productive forces as though only the absolute consuming power of society constituted their limit'. See Marx, 1977b: 484.

<sup>16</sup> See 'Population: Overconsumption is the real problem' <http://www.newscientist.com/article/mg20327271.700-population-overconsumption-is-the-real->

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[problem.html](#) and 'Overconsumption? Our use of the world's natural resources'  
<http://www.foe.co.uk/resource/reports/overconsumption.pdf> (retrieved April 8 2012).

<sup>17</sup> See Bataille's discussion of 'India's possibilities of industrial growth' (1988: 39): 'On the one hand, there appears the need for an exudation; on the other hand, the need for a growth' – where exudation represents the expenditure of energy without return (or waste) (1988: 23) whilst growth represents the absorption of excess (1988: 21) or 'conformity with the balancing of accounts' (Bataille, 1985: 128).

<sup>18</sup> Offe distinguishes between a concept of 'sporadic crisis' – which refers to an event or events that are 'acute, catastrophic, surprising and unforeseeable' and his preferred concept of 'processual crisis' – which refers to the 'grammar' and 'mechanisms' that generate events. See Offe, 1984, 36-7.

<sup>19</sup> See Offe, 1984 p.38 on normative structures, exchange relationships and coercive relationships and pp.52-3 on the elaboration of these terms in his model of the state apparatus.

<sup>20</sup> See <http://freegan.info/> which announces that freeganism turns essentially on 'strategies for sustainable living beyond capitalism' (retrieved June 25 2012).

<sup>21</sup> As Marx observes, capital 'produces essentially capital, and does so only to the extent that it produces surplus value' (Marx, 1977b: 880)

<sup>22</sup> 'Pots of it' (Swanton, 1998: vii).