

MARX'S DEMOCRATIC IDEA: COMMUNISM'S RELATION TO LIBERAL THEORY

By

MORGAN HOROWITZ

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Abstract

MARX'S DEMOCRATIC IDEA: COMMUNISM'S RELATION TO LIBERAL THEORY

by

Morgan Horowitz

Advisor: Professor Sibyl Schwarzenbach

My dissertation, "Marx's Democratic Idea: Communism's relation to Liberal Theory," focuses on working out the undeveloped connections between Marx's economic theory and his political critique. I develop a conception of Marx's work which demonstrates that his critique of the republican political state and capitalist private property relations led to a demand to develop communal, discursively empowered agency over economic relations. I argue that the communist project thus should be viewed as inseparable from a concern about both just social relations (non-coercive, non-exploitative relations) and the maintaining and empowering of democratic, political procedures. I then critically appropriate the work of John Rawls and Jürgen Habermas to fill out a normative standpoint which makes clear structural demands that must be fulfilled to realize a commitment to equality, but also notes that a part of justice is fulfilling the preconditions of discursive relations which should serve to consciously reproduce social relations (and allow citizen self-monitoring of the provision and maintenance of just relations). I

then connect the conception of “citizen,” which entails state granted protections, rights, and privileges, to Marx’s early, descriptive standpoint of democracy, which simply refers to or emphasizes the location or place of each member of society in social reproduction. A connection is found then between a “non-ideal” social theory, which asks one to note the practices and relations which are found in and maintain a society, and an ideal theory of democracy which asks social relations to be consciously or discursively guided. Justice demands are then seen as inseparable from a communist perspective which critiques the alienated and exploitative relations of wage labor to capital; not as transcended in communist relations, but instead, as inherent to their construal and maintenance.

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Introduction

0.1: On the Supposed Break in Marx

A tragic struggle for the ideal and the desirable cannot at first blush be imagined in any way but as intervening meaningfully in the actual state of things, stirring it up, pressing it hard; with the result that the meaningful ideal encounters an equally meaningful resistance which proceeds either from inertia, petty malice, and envy, or possibly from a more conservative view. The will working for an ideal must accord with the existing reality at least to such an extent that it meets it, so that the two interlock and a real conflict arises. (Auerbach 302)

Inspired by a paradoxical intention of *subversion oriented toward conservation or restoration*, the revolutionary conservatives find it easy to define as reactionary resistances the defensive reactions provoked by the conservative actions they describe as revolutionary; and they condemn as the archaic and retrograde defense of “privileges” demands and revolts that appeal to established rights, in other words to a past threatened with deterioration or destruction by their regressive measures – the clearest example being the sacking of trade union representatives or, more radically, of the oldest workers, the trustees of the traditions of the group... The conservative revolution calls itself neoliberal, thereby giving itself a scientific air, and the capacity to act as a theory. One of the theoretical and practical errors of many theories – starting with the Marxist theory – has been the failure to take account of the power of theory. We must no longer make that mistake. We are dealing with opponents who are armed with theories, and I think they need to be fought with intellectual and cultural weapons. (Bourdieu 168, 128)

At the moment neo-liberalism is well established in public discourse and being thoroughly implemented in social policy in many parts of the world. Though the 20th century saw the development of the grand liberal theories of John Rawls and Jürgen Habermas, who are often marshaled as antidote or check to the conservative trends introduced by the neo-liberal orientation, it does not seem that any clear victory has been won in establishing their more left leaning interpretation of liberalism as the correct one, such that the neo-liberal standpoint is revealed as obviously contradictory or essentially limited. I advance the intuition that only by establishing a Marxist orientation in relation to the normative theories of Rawls and Habermas can neo-liberal ideals be sufficiently challenged.

Marx is well known for analyzing the contradictions of capitalist economic relations, and critiquing the bourgeois standpoint and values which serve to justify and reinforce those relations. He emphasized the problems suffered by those living in the capitalist world, which he saw as connected to and insolvable by the standpoints offered by bourgeois thought. Thus, Marx's work addresses the problems the bourgeoisie created, could not adequately express, and would not solve. His class perspective provides a historical materialist paradigm which was intended to be used by the working class to situate their struggles as the struggle to overcome capitalist relations (and bourgeois values) and establish communist relations.

Whatever unanimity is found in this interpretation of Marx's contribution is complicated by implications that are seen to follow from this standard view. "Bourgeois professors of philosophy reassured each other that Marxism had no philosophical content of its own – and thought they were saying something important *against* it. Orthodox Marxists also reassured each other that their Marxism by its very nature had nothing to do with philosophy – and thought they were saying something important *in favor* of it." (Karl Korsch 32). Rather than being seen as making an essential step, development, or contribution to philosophy (and political norms), Marx is seen as providing a standpoint which critiques and explains not only bourgeois thought, but all norms. Thus Marx is thought of as either lacking "philosophical" thinking or rejecting or "superseding" philosophical thinking. From either perspective, it is thought a Marxist should not and can not provide a contribution to normative theory.

The difficulty of relating Marxism to norms is I believe also exaggerated by a view which chooses to see a break between Marx's "early," liberal, humanist, normative critical work and his "mature," class, historical materialist writings. By cutting Marx from his roots - from the concerns, values, and motivations that spurred him to study the political economists and

critically embrace the socialist literature and orientation of his day (which was prior to and contemporary with his writings) - one reinforces a perspective on Marx's later works that de-emphasizes their connection and continuity with normative concerns. Thus, the view that there is break in Marx's own works stands in the way of establishing a continuity between the normative commitments he gathered from and critically construed in relation to bourgeois thought and his later commitment to socialism. As Louis Althusser has written,

There is an unequivocal 'epistemological break' in Marx's work which does in fact occur at the point where Marx himself locates it, in the book, unpublished in his lifetime, which is a critique of his erstwhile philosophical (ideological) conscience: *The German Ideology*... This 'epistemological break' divides Marx's thought into two long essential periods: the 'ideological' period before, and the scientific period after, the break of 1845. (Althusser 33-34)

By tracking Marx's philosophical and political roots, I wish to establish how his theoretic ("scientific") outlook develops. This thesis argues that the early Marx cannot simply be separated from the later, "mature" Marx. Key "philosophical" political concepts (a democratic critique of political states) and ideas and ideals (alienation, species-being potential, etc.), led to the conception of certain dilemmas and problems, and these led to his later insights. Perhaps unsurprisingly, Marx's later insights were arrived by and in part explicated or grasped through his earlier ideas. In particular, I wish to demonstrate which conceptual problems helped Marx develop his notion of socialism, and also led to the development of his notion of revolutionary praxis. I hold that a proper story of "origins," of establishing the transition in Marx's works, is not just a historical curiosity, but is essential for grasping the Marxist methodology and practically applying to normative outlooks and debates that live on today.

I believe my analysis of Marx's early works in part agrees with the smoother notion of transition suggested by Karl Korsch: "Marx's development can be summarized as follows. First, he criticized religion philosophically. Then he criticized religion and philosophy

politically. Finally he criticized religion, philosophy, politics and all other ideologies economically,” (note 66). But, what is presumed by Korsch is that certain philosophical concepts, political ideas, etc. (“ideological” outlooks) led to Marx’s “economic” outlook, and yet Marx’s later perspective can adequately supplant philosophical, moral, and political conceptions which it reveals as limited or inadequately expressed. However, I believe that noting the demand that Marxism address or speak to political perspectives that have a normative content, admits and responds to the fact that people remain concerned about such things as self-respect, dignity in their relations, and the existence of legitimate power. Taking this self-awareness and consciousness seriously (rather than simply breaking from it) I believe is a different way to interpret Althusser’s point that, “the economic dialectic is never active *in the pure state*; in History, these instances, the superstructures, etc. – are never seen to step respectfully aside when their work is done or, when the Time comes, as his pure phenomena, to scatter before His Majesty the Economy as he strides along the royal road of the Dialectic” (113).

I also think it is only by retaining a normative content in a Marxist “economic” understanding that we can understand Marx’s 3rd Thesis on Feuerbach, which critiques a materialism that relies on only circumstances and upbringing to change men, and reminds us that “it is essential to educate the educator himself.” How are we to do this without finding a way to educate “from within” our ideals as well? Counter Althusser’s influential conception of a break in Marx, I will attempt to demonstrate, consistent with a view that recognizes a development and a transition, that Marx’s “economic,” historical materialism has incorporated, and continues to deal with important political, and even moral or ethical concerns, in the formulation of his historical materialist standpoint. Insofar as political and moral problems were addressed along

and in conjunction with the development of Marx's class perspective, the class perspective also has political and moral import. For, as Korsch also writes,

A theoretic method which was content in good Feuerbachian fashion to reduce all ideological representations to their material and earthly kernel would be abstract and undialectical. A revolutionary practice confined to direct action against the terrestrial kernel of nebulous religious ideas, and unconcerned with overthrowing and superseding these ideologies themselves, would be no less so... In different phases of his life, wherever he came across views like this, which still survive in contemporary syndicalism, Marx always emphasized that this 'transcendental underestimation' of the State and political action was completely unmaterialist. It was therefore theoretically inadequate and practically dangerous. (Korsch 70)

Just as further thought is required when dealing with the relations and power that is involved in politics and the state, so too there will remain a conceptual confrontation with "ideologies" that remain to this day (addressing and critically speaking to, not beyond). Through an analysis of Marx's own works, I hope to make clear the connections that do in fact exist between the socialist project and a development from the moral, philosophical, and political tradition of the bourgeoisie, it is my belief that this opens the way to communicative and practical opportunities to counter current neo-liberal trends that have not often been acknowledged as possible (or even desirable) for Marxism.

My effort to emphasize the transition, rather than the break, from Marx's early writings is not without precedent. Among others (mentioned below), Cornel West's book *The Ethical Dimensions of Marxist Thought* is a recent attempt to provide a view of Marx's development that is a useful parallel and point of comparison for my project. West's analysis starts from very early writings of Marx (a letter to his father while attending the University of Berlin, his dissertation, articles in the *Rheinische Zeitung*, his early Paris writings) and tracks the arrival to the "mature," historicist Marx by the time of his *Theses on Feuerbach* and *The German Ideology* (similar to Althusser). In part my work on the early Marx (chapter 1) can be construed as a

supplement to this work by West. However, I focus on early writings that West only briefly touched on (*Critique of Hegel's Doctrine of the State* and its *Introduction*, *On the Jewish Question*, *The Economic and Philosophic Manuscripts*), and offer a second chapter on Marx's later political writings to provide a check on where Marx saw himself to have "arrived" and what problems still remained (whether he was always conscious of them or not).

My analysis of Marx's work, tracking the content and development of Marx's normative commitments as well as the development of his historical materialist perspective, also does not have West's meta-ethical focus, which views Marx's development as a movement from a "philosophic," objectivistic ethical perspective to a "theoretic" radical historicist standpoint. My focus focus is also on the challenges that Marx's critical perspective offers to normative standpoints, and yet I think also demonstrates that we do not thereby move "outside" or "beyond" a normative perspective. I also do not commit to an emphasis on discovering a point of arrival of a "mature" Marx that I believe both West and Althusser share, for I think the philosophic/theoretic distinction offered by West may be too close to Althusser's ideological/scientific distinction to properly construe the transitional, developmental perspective on Marx that at other points West does indicate quite well. West's commitment to a philosophic/theoretic distinction does after all have an effect on the status of norms:

Instead of focusing on the status (objective or subjective, necessary or contingent, universal or particular) of moral principles, the radical historicist approach stresses the *role* and *function* these principles (or any principles) play in various cultures and societies. Instead of accenting the *validity* or *objectivity* of the justification of moral principles, the radical historicist approach highlights the plausible *descriptions* and *explanations* of the emergence, dominance, and decline of particular moral principles under specific social conditions in the historical process. (West 2)

West's construal of a historicist, at best has one seek the effects certain moral codes have in reinforcing or challenging the institutions and relations of society or, given a certain interest, lead

one to propose theories about the origins of moral beliefs. What is presumed then is that one is not oneself within the social network of normative beliefs; the possibility of an “extra-moral,” “amoral,” or “scientific” perspective is being assumed. I think that even when the historicist perspective does provide the possibility and demand to better situate your standpoint, this can only deepen our normative understanding, not provide a pathway beyond it.

That even the historicist Marx has normative commitments (or “value laden” language) is indicated by West at other points: “As we noted earlier, Marx’s theoretic formulation *contains* moral elements, e.g., self-realization of the individual in community, but he does not put forward purely moral rhetoric to defend these elements or his theory” (81). In noting Marx’s shift from a more moral-centric discourse to theoretic concerns, however, which “contain” moral insights, West shifts his own analysis away from the normative issues involved in Marx’s socialist standpoint. Questions of how powerful, or how persuasive a standpoint is developed (but one which does not slip into “purely rhetorical” defenses), are not his concern, and the latter half of his book is in fact dedicated to critiquing what he views as the inadequate (insufficiently historicist), soft objectivist standpoints of other “Marxists” (e.g., Engels, Karl Kautsky, and Georg Lukacs). And yet the importance or place of norms for the socialist perspective is not fully avoided by West, his careful and insightful tracking of Marx’s early normative commitments (which included a commitment to press “publicity” (29), counter “alienation” and “servitude” (43), and other values) suggests that these norms led to (and are in some manner “contained” in) Marx’s later commitments. Nonetheless, when considering the later historicist Marx, West claims that norms are not distinctively part of the communist movement, although still a part of the impetus for it and even provide aims to guide it:

For Marx the communist movement is privileged in the sense that only it has the potential of overcoming the rhetoric/reality discrepancy in history. This is so not

because of the moral ideals, e.g., self-realization, self-development, that it espouses – for many movements in the past and present espouse these ideals – but rather because of the *historical timing* of the movement, that is, when it appears in history, what it has at its disposal (e.g. technology, values of freedom and equality) due to this appearance, and how it intends to put to use what it has at its disposal (i.e., to promote individuality within community under conditions of abundance and participatory democracy). (93-94)

How the values of freedom and equality are part of the “means” for the communist movement is not, I think, a minor point. What aspects or understanding of modern political norms are connected to Marx’s emphasis on the development of productive relations, technology, etc., such that norms are no longer felt as a mere “ought” but connected to realizable social alternatives is a central question which I do not think can or should be dealt with quickly. Nor is it at first obvious or easy to grasp what is involved in Marx’s communist commitment to individuality, or in what matter “participatory democracy” has deep ties with Marx’s goals. Though I share West’s intuitions here, I wish to demonstrate the grounds and details of the connections, otherwise I fear Marxism still suffers from the more common association of communism with totalitarianism. This is the specter that haunts communism today.

0.2: Democratic Relations and Communism

In my first chapter (1.1) I evaluate the early works of Marx to re-establish the political conceptual concerns that led to the development of his communist perspective. What is found quite early in Marx’s writings is a “democratic idea” which introduces a formal or abstract normative focus that also directs attention to analyzing the relations of society. This democratic emphasis is offered both as an alternative to Hegel’s critique of democracy as formless (lacking reality, determination, and organization), and to critique Hegel’s late “statist” standpoint, which views the state as the reconciling force of the opposing interests and contradictions of society,

and sees the state as the expression of the “universal” or the common good. In an important sense Marx takes the “universal” ideal or presumption of the state more seriously than Hegel himself. Marx acknowledges the ideological efficacy of the standpoint that views the state as the site of reconciliation for society’s relations (thus providing legitimacy for the state’s political power), but he also views the state apparatus as only a part of society’s relations, mediated and influenced by other significant social forces, and thus not as a final, “universal” mediator of society. I argue that Marx’s democratic idea led him to seek the actual conditions or relations that could be viewed as reconciling social relations. This allowed him to pose the problem of the “political state,” where the determination of the common good, the “universal,” or collective/social interests (and the “legitimate” force used to reconcile opposing or competitive interests) is made the special task or function of only a small portion of society (state assemblies, political authorities, and subservient bureaucracies).

By comparing German, French, and American political constitutions, Marx sees imperfections in the “political state” idea insofar as religious and class distinctions (we now recognize race and sex discrimination as existing on this continuum as well) were legally significant for the state, affecting an individual’s voting rights or ability to serve as a representative in the state bureaucracy (1.1, 1.2). Marx’s “perfected” political state was the democratic state, which he identified with the possession of universal though still formal political and civil rights. The universal political rights that Marx identifies are perhaps best represented by Kant’s notion of republican freedom and equality (as found in his *Perpetual Peace*, Sec. II, First Definitive Article). Freedom is to live under consented law (with some form of representation), and equality is to have law applied and enforced “equally” for all members of society. Kant also sees that these rights imply that there can be no noble distinction, but only distinction by merit.

By contrast, Marx argues the perfected political state presupposes and protects (by way of specific civil rights) a problematic “individualist” relation in society, and sets loose financial social power. The features of civil rights that take on a narrow (individualistic) bourgeois character are then explained through the identification of the bourgeois as the leaders of the republican revolutions, which included the workers and peasants, and the bourgeoisie’s own interest in asserting rights that protect (and reinforce) their new conditions of power. The dynamic development of the bourgeois themselves - that the *Manifesto*, Section I reminds us was also a *political revolutionary history* that sought the liquidation of feudal “rights” and privileges - is suppressed in the viewpoint that focuses only on the present freedoms found in republican capitalist societies.¹ At the same time, Marx sees that the formal universality of the republican state, along with the political protection of the framework of civil rights, allowed de facto (economic) social power to rise to state power; and this legal framework gave the added resources of state power and legitimation to those new bourgeois social forces, which also

1 This tendency to an ahistorical presentation and construction of norms (which is one possible development of the notion of the “universality” of rights) is well represented by the deontological Kantian paradigm as well. Thus we find Kant (in his *Groundwork for the Metaphysics of Morals*) having to assert that his notions of good will, universal law, dignity of rational beings, etc. have been appreciated in all places, for all times, and thus *are* shared by any and all rational creatures (§ 412). Kant offers the caveat (§§ 403-404, 441-443), to give credit to his discovery, that the universal law and moral autonomy was not self-consciously or conceptually understood until his work. Whether this self-consciousness is not itself a development of the moral standard (something more than a guide to stick to it and avoid temptation, which is how Kant portrays it in § 405) is a big question. Hegel’s phenomenological and historical perspective (tracking the progress of self-consciousness or the development of the “world spirit”) certainly provided a *yes* in answer here (though a complex and problematic *yes*). Kant’s ahistorical construction is also something remarkable coming from a theorist who presented the (historical) nebular thesis of the development of the universe (Engels credits Kant for injecting this historical sense into Newtonian physics in his *Socialism: Utopian and Scientific*). Thus in addition to the “need” felt by Kant to distinguish the noumenal world from the sensible (besides wanting to be able to distinguish rational freedom from causality), Kant wanted norms that were universal, and his conception of this was that they couldn’t be subject to development.

determined the content of the “rights” which would be protected. Of course, Marx’s emphasis at this point is on the opportunity offered here for civil, financial power (protected by the civil right to private property) to express itself as ideological state power as well, but his approach also demonstrates how a “secular,” “perfected” state could allow all civilly protected views to become politically operative, including religious views. The significance of this insight and political concern of Marx is all too often ignored (see 1.2).

In Marx’s writings on France (2.2), moreover, we find that central “democratic freedoms,” such as freedom of speech and association, have a limited civil existence that is subject to the democratic political state; the latter offers itself as the legitimate filter determining which associations and viewpoints are to be protected. However, many democratic (civil) freedoms are in fact being violently suppressed through the “legitimate” use of state force. Marx’s emphasis is on police and military suppression of workers’ unions, protests, strikes, and insurrections, but we can also note the state permits, when not prosecuting and preventing, civil violence of citizens on more vulnerable members; e.g., of worker organizations at the job site or on strike, “minorities” and immigrants broadly, and women. What Marx’s critique, both early and late, indicates is that not only can certain civil rights run counter to the “universal” pretension of the democratic state, but civil movements which might better realize or express democratic relations in society are often suppressed by state enforcement. Admittedly, Marx’s focus is on developing the view that the civil right to private property protects a social power that leads to civil and political domination. Holding private property as a right was recognized by the “early” Marx (1.4) as avoiding (or closing off) a critique and demonstration of capitalist exploitation, a critique which is needed if the call to eradicate private ownership of the means of production is to be viewed as desirable and legitimate. Thus the early critique of the

presupposition of private property, underpinning modern forms of estrangement or alienation, was also an essential component of Marx's later critical perspective.

Thus I argue that Marx's developments can be oriented in relation to his early "democratic idea," which was expressed through the abstract but suggestive demand to bring together social and political relations (1.2). My chapter two then tracks Marx's different attempts to advance and make clear his orientation which is now embedded and further articulated in a focus on worker struggle. The *Manifesto of the Communist Party* (see 2.1) offers the idea of the dictatorship of the proletariat, but without going into detail about *how* the authority and functions of the political state might be taken up by the proletariat as a class. It is noted in the *Manifesto* that "despotic" and enforced inroads will have to be made to begin to eradicate the conditions of exploitation found in capitalism, and Marx and Engels do offer a 10 point program outlining the sort of interventions (heavy graduated income tax, state directed labor, free public schools, etc.) that they thought would be needed to begin a transition to a classless society at that time in Europe. *The Civil War in France* (2.3), the case study of the Paris Commune, demonstrates Marx's acknowledgment of the kind of political relations that would have to hold insofar as the *working class* is to attain political power. What becomes central in the analysis of the Paris Commune, however, are the kinds of authority (disenchanted and functional), modes of representation (removable, collectively mandated), and general forms of participation (broad public involvement - a people's militia, oversight and removal power over judges, police, representatives, etc.) which are needed to both empower the proletariat and to spur and accomplish the transition to communist relations. Finally, in the *Critique of the Gotha Program* (2.4) one finds a greater emphasis on providing and extending a social support, such that individual satisfaction and enrichment occurs in and through social production, public

provision and public institutions (of health care, education, etc.). The Marxist project at times thus focuses on the need to intervene in social relations through political power, to both eradicate the conditions of exploitation and to provide the means for gratification, and at other times on the political relations which would have to be established for members of society publicly to guide their relations and monitor representative structures which are dedicated to coordinating social labor and administering social services.

Thus, I argue (2.4) that the democratic idea, which at first suggested the demand that social relations become enmeshed with political power, led to more concrete proposals about the transition to communism or the “vast association of producers”. However, these tended to stress *either* the political relations required (the empowerment of the working class over social relations) *or* the economic relations that would be needed to achieve (serve as a pre-condition for) workers’ empowerment. This divided approach leaves the expression of the exact relation between Marx’s goal of the “withering away” of the political state and the eradication of the economic conditions of exploitation poorly developed. A transition is both projected to proceed from “above,” by seizing political power, and from “below,” by transforming social relations such that new political potentials are found in the conditions of the working class. I believe Marx was expressing (one-sidedly, in light of different challenges) varying aspects of the difficulties involved. To better construe what Marx was after, therefore, I believe Marxism must remain committed to political-economic terms, and not only “scientific,” “materialist” postulates: a normative dimension (concerned with guarantees and legitimate power) is critical. One may speak of both a “right” to socialism (through a critique of state-capitalism), and of “socialist rights” (through an appreciation of the relations aimed for in achieving communism). So, again,

it would not appear to be inconsistent with Marxism to seek a normative perspective that is suitable for articulating and defending the communist project.

0.3: Marxism and Norms

Work in the analytic tradition of philosophy has made clear the difficulties (and confusions) that arise when attempting to retain (or dismiss) a normative standpoint in the Marxist perspective. Allen Wood has challenged the adequacy of such terms as “equality,” “liberty,” and “justice” when understanding the aims of the Marxist project. For instance, in Wood’s article “Marx and Equality” the challenge is raised that when it comes to equality as a goal Marx can (at most) be seen as “indifferent,” while regarding an “ideal of equal rights” Marx is actually “highly critical” (284). Wood refers to Marx’s point (Volume 1 of *Capital*) that equality may well be claimed by the bourgeoisie (compared to the master-slave or lord-serf relation) in reference to the commodity exchange relation, where the wage offered to the worker fairly represents (in accordance with ideal market laws) the amount of labor-time necessary to socially reproduce the labor-power sold. Wood also argues that, of course, “The wage bargain as Marx sees it is highly coercive, and the cumulative result of such bargains is that society is divided into an oppressing class of capitalists and an oppressed class of workers” (285). Thus Wood holds that for Marx the ideal of equality, “is outmoded, unhelpful and obfuscatory when used by a working class movement” (286); the proletarian goal of “equality” is to find its “real meaning” in the “abolition of classes,” where “class” is considered “scientific and realistic” (288).

However, to explain this shift from the “confusing and outmoded” notion of equality to “scientific” language we are told by Wood that, “Marx does not tell us that he favours the

abolition of class society because he regards a classless society as intrinsically good...he favours the abolition of classes because he thinks it will lead to *other things he values*, such as increased human freedom, well-being, community, and individual development or self-actualization” (297, italics mine). There is clearly a tension here in Wood’s argument. We are being warned off of certain normative conceptions, for instance, equality (though it should be noted that Wood grants the continued relevance of “equality” demands for gender and racial oppression, 299), to focus, “realistically,” on class relations and relations of oppression, and yet we are (scientifically) to strive to create a classless society, because of other values (such as self-actualization) cherished by Marx?

G. A. Cohen, on the other hand, aims to reveal those normative commitments that would support Marx’s communist standpoint. In his “The Structure of Proletarian Unfreedom,” Cohen advances the intuition that “if the structure of capitalism leaves the worker no choice but to sell his labour-power, then he is forced to do so by the actions of persons . . . for the structure of capitalism is not in all senses self-sustaining . . . it is sustained by a great deal of deliberative human action, notably on the part of the state” (240). This intuition, leaves open the possibility (denied by Wood) of retaining a critical continuity between lord-serf and bourgeoisie-proletariat by pointing out relations of force and domination - not contract or consent - that enable exploitation. I also argue (1.4) that even Marx’s early considerations on alienation suggest this critique, as does his analysis of the often oppressive role of the state during the class struggles in France (2.2, 2.3). For Cohen, the proletariat as a class is identified as unfree (coerced to sell labor-time) insofar as capitalist relations make it impossible for all the members of the proletariat, as a group, to escape (or choose otherwise).

Even when (counter-factually) denying a lack of freedom in the proletarian condition, and viewing the proletariat as collectively “unable” (somehow lacking in capacity) to escape their condition, Cohen offers us, “anyone concerned about human freedom and the prospect of expanding it must also care about structurally induced disability (or whatever he chooses to call it) which he refuses to call an absence of freedom” (248). But Cohen’s defense of Marxism on the ground of values seems to give way to other, critical considerations as well, “I grant that collective unfreedom with respect to the sale of labour-power is not lamentable merely because it is collective unfreedom . . . It is what this particular unfreedom forces workers to do which makes it a proper object of regret and protest . . . forced to subordinate themselves to others who thereby gain control over their, the workers’, productive existence” (251). The “unfreedom” involved is thus seen as an insufficient critical ground, unless certain (unjustifiable?) consequences are also observed. Cohen’s claims still leaves open questions (like those asked by Wood) of the adequacy or usefulness of a standpoint concerned with articulating value commitments. And, in responding to critics, Cohen even presents a claim which would *de-emphasize* his critical normative constructions, and instead focuses on historical relations and economic developments, “In encouraging workers to bring about social change he (Marx) was not asking them to bring about what would explain their doing so: the exhaustion of the progressive capacity of the capitalist order, and the availability of enough productive power to install a socialist one” (“Forces and relations of production”, 21-22). Once again, contradictions in the economic relations seem to lead the way.

There are other interpretations of the fruits of Marx’s work which call for one to deny all “justice” discourse as relevant (because ideological or insufficiently scientific) when appreciating Marx’s “political economic” goals (2.4, note 49). Marx’s “free association of

producers” has even been portrayed as “beyond justice”, insofar as it is viewed as a relation of communal solidarity, and thus not in need of an ideal to settle conflicting claims, a view argued by Robert Tucker in *The Marxian Revolutionary Idea*, for instance.² Kenneth Baynes also develops this idea of communism as beyond justice in *The Normative Grounds of Social Criticism*. If one held communism to this presumption of going “beyond justice,” Baynes writes,

Marx had to presuppose either the capacity of science and technology to renew infinitely the sources of social wealth (on a more scientific reading of his texts) or that in a fully communist society citizens share a comprehensive and unified conception of the good, thereby eliminating the source of conflicting claims (on a more Aristotelian or Hegelian interpretation). (57)

By contrast, Baynes notes that John Rawls’s justice paradigm assumed Humean “circumstances of justice,” which include the condition of “moderate scarcity” objectively and limited altruism subjectively, and thus “it cannot be assumed that there are enough natural and social resources to satisfy all legitimate demands” (Baynes 57).

2 I don’t think it can be denied that Marx himself provides reinforcement for this interpretation of the consequences of his own perspective. In Section II of the *The Manifesto*, for instance, we do find: “But whatever form they [class antagonisms] may have taken, one fact is common to all past ages, viz., the exploitation of one part of society by the other. No wonder, then, that the social consciousness of past ages, despite all the multiplicity and variety it displays, moves within certain common forms, or general ideas [Freedom, Justice, etc], which cannot completely vanish except with the total disappearance of class antagonisms.” But I try to trace the political/normative standpoint that motivated and remains within Marx’s “mature” perspective, and I think there are certain inescapable (untranscendable) moral commitments to communism (see chapter 5).

My normative defense can be compared to Cohen’s. As Jeffrey Reiman’s “Moral Philosophy: The critique of capitalism and the problem of ideology” notes, “Cohen then considers that Marx might not have realized that theft constitutes injustice, and he concludes that the relations between the two ‘is so close that anyone who thinks capitalism is robbery must be treated as someone who thinks capitalism is unjust, even if he does not realize that he thinks it is.’ And from this, Cohen ends with the epigraph just quoted to the effect that Marx thought capitalism unjust but mistakenly thought he did not” (152). However, I would rather not deny Marx the “insight” of connecting the notions of theft (coercive exploitation) to injustice, or deny Marx self-consciousness of certain of his morally-loaded forms of expression; rather, I question whether Marx’s “alternative” (“scientific,” “realistic,” etc.) ever really can or does escape the need to express and make clear normative commitments.

My own perspective on Marx, as a result of tracing his early political and normative commitments through and into the later works, in order to see which problems and tasks these led him to, retains a continuity with Marx's "early" normative commitments, but allows for re-situating and developing these values. Sean Sayers' "Analytical Marxism and Reality" expresses the complexity here well, "For Marxism is not only a social theory, it is also, and essentially, a form of *socialism*: it is a political outlook, in which practical and moral commitments play a fundamental role" (83). Sayers identifies Wood's and Cohen's views as two divided interpretations of Marx - or two tendencies typical of analytic interpretations (where Steven Lukes is also identified with Wood here and Norman Geras with Cohen) - what is imposed on us is "an either/or choice between pure relativism and moral absolutism" (84). Either justice and right is relative to, i.e., "harmonizes" with, the mode of production and thus gives no ground for transcending or critiquing those relations, *or* Marx has timeless or absolute ideals regarding what a future society should be (similar to Kant's "Kingdom of Ends") and on the basis of these universal principles, capitalism is critiqued. Sayers rejects this choice when approaching Marx, and I believe he is correct in pointing out the false dichotomy here.

As Sayers argues, Marxism brings a "historical approach to morality," making it "thoroughly historical and relative, and all the more useful as a result" (92). A "monolithic or homogenous" view of society is rejected by a social analysis that notes the contradictory developments in society (massive productive forces alongside poverty and starvation, for instance), and the conflicts and tensions that persist. In Hegelian and Marxist fashion, Sayers notes, that there are "negative aspects" and "critical tendencies" in Marx's approach to analysis of social relations. Critical, "transcendent," values are discoverable, and *are to be put to practical use*, insofar as they are grounded in the developments of society, but express certain

potentialities that have yet to be realized or set loose. However, Marx's critique of private property and call to socialism should still be viewed as grounded in the productive potential of capitalism and the conditions of the working class. "As Marx shows, the conditions which make socialism possible, and the agents who bring it about, develop *within* capitalism, as *its* product" (98). My project is in line with this perspective insofar as it demonstrates the norms that are adequate to and fill out Marx's political, socialist commitments in the midst of welfare-state-capitalist developments (see 4.3).

In order to trace normative commitments in the Marxist perspective one would thus have to grant that forms of self-understanding offered by political liberalism still provide useful material from which to develop (albeit critically) further conceptions or demands.

Even if the moral notion of individual rights arose with capitalism, it might nonetheless reflect important features of the human condition and provide important safeguards against well-intentioned oppression and thus might properly be thought of as among capitalism's lasting contributions (alongside technology) rather than among capitalism's ills. (Reiman 155)

Yet Marx's political theory from *On the Jewish Question* to the Paris Commune mistakenly failed to spell out this commonality [concerns about fair judicial proceedings] with liberalism. Marx too readily expected democratic participation to protect basic rights to physical security, security against torture, and expression of conscience. (Gilbert 189)

There are thus many developments in recent analytic Marxist literature examining the kinds of norms that may be suited to the Marxist project, or are believed to challenge it (insofar as it does not provide a space to "incorporate" the concerns raised). This, in part, suggests the need for my project of critically relating the thought of Rawls and Habermas to Marx, as I do in chapters three and four. For instance, in Reiman's work, referred to above, he departs from Cohen's focus on unjust ownership of the means of production, which the latter views as the product and reinforcing condition of capitalist exploitation (thus denying an "equal contribution" by the

capitalist when giving wage-labor access to the means of production), and adds the assumption that exploitation is itself wrong via the taking from or “extracting” from another. However, Reiman emphasizes that the focus should shift to “the view that sees Marx as primarily criticizing capitalism for its coerciveness and its violation of freedom” (158). Reiman believes there is a Marxist conception of “social justice” which need not focus on distribution but instead on “certain social relations between persons.” But what Reiman offers is at best suggestive of the social contract tradition: “this ideal social relation as one in which human beings stood to one another as ‘equal sovereigns’, that is, as each freely able to direct his or her own destiny to the greatest extent compatible with a like freedom for everyone else” (158). This normative outlook is thought to be sufficient to express Marx’s emphasis on the “elimination of the subjugation of some people by others” and “the reduction of natural constraints”. However, I think a more robust paradigm is needed to develop and further situate and appreciate other insights he has (see below, and chapter 5).

In Alan Gilbert’s “Political Philosophy: Marx and Radical Democracy” the argument is made that an emphasis should be placed on the “radical democratic vision” in Marx’s project, which Gilbert argues was influenced by Aristotle’s and Hegel’s political works (see 1.1 for some follow up on this point). Gilbert further believes the practical results of Marxist-inspired efforts have not been appreciated in a balanced fashion:

Much more than academic writing acknowledges, successful Marxian movements have achieved considerable democracy. They have – but only to varying, limited extent – followed Marx’s insistence that in movements to secure reform and democratic revolution, communists need to advocate internationalism, erode prejudices between city and countryside, project a radical republic modeled on the Paris Commune, and envision an association of statusless individuality. (191)

Here also, we find an indication of the norms Gilbert sees as adequate for the expression of this Marxist “democratic” political standpoint:

But to be democratic, the movement needs an understanding of political autonomy, of the Rousseauan and Rawlsian test that each participant can conceive of himself or herself as a member of an ideal sovereign, deliberating in favorable circumstances on the best policies for that movement and the best institutions for a new regime, and, even when disagreeing, can find the main decisions reasonable. A radical must stimulate the internal discussion of central issues before and especially after revolution. (190-191)

This proposal is of interest insofar as, again, the social contract tradition is appealed to in order to bring in a needed supplemental normative framework. However, it must also be noted that there is no easy connection between a Rousseauan and a Rawlsian conception of the contract. Rousseau is primarily concerned with real (not counterfactual) legislative opportunities given to each citizen: what might be called strong “positive liberty” commitments (1.1, 2.4). Rawls’s original position by contrast is an idealized counter-factual, but one which was developed to express his first and second principles of justice; these are to provide concrete guides for restructuring society (see my 3.2). As I argue in chapter three (3.4) Rawls’s discussion of his notion of liberty seems to place more emphasis on and prioritizes a “negative liberty” liberal standpoint. I thus consider in chapter four Jürgen Habermas’s developments of a “public discourse” ideal to address limitations I perceive here. And we should note that Rawls’s difference principle (concerned as it is with material distributive justice) is not given a place within Gilbert’s “democratic” emphasis. Rawls’s concern about the justice of the “basic structure” of society brings a critical eye to not only political relations and opportunities, but also of conditions of coercion and inequality in economic, social relations.

In fact Reiman’s article provides a perspective on human relations, which suggests that the concerns that led Rawls to develop his difference principle may be unavoidable.

It is possible that the need to distribute such things [living space, status, privileges and penalties, desirable and undesirable tasks, etc.] fairly among people is based on something more fundamental than antagonistic social relations. It might be based on the fact that individuals are physically separate, mortal, and aware of

it...Accordingly, human beings – even those living in harmonious relations, even filled with fellow feeling for one another – might always exist in the circumstances of justice because their physical separateness and mortality makes things count to them in ways that make the distribution of things matter. Moreover, because oppression can be the result of policies made with good intentions, justice and rights can be important safeguards against oppression, even among people whose antagonistic interests are at a minimum. (153-154)

As well as concerns about equal influence in collective decisions and the right to disagree or dissent, there thus remain concerns about being given equal consideration, equal opportunity, and being treated with respect.³ It may be recalled that Allen Wood was forced to grant concerns about racial and gender equality as supplemental to a “scientific” Marxist perspective. I believe it is a critical problem to work out how, where (and whether) these various normative conceptions fit into a Marxist standpoint - or, at least, where Marxism has a non-antagonistic and non-contradictory space for them. This is not, I believe, merely a theoretical question, but connected as well to the Marxist concern for “praxis.” After all, challenges are made against Marxism from the liberal normative standpoint: “Marxian parties have overextended their political positions to nonpolitical aspects of a comprehensive good. Their stands on religion, art, sexual mores, and the like have been at best superfluous and usually harmful, for they have stretched the wit and credulity even of activists and weakened popular confidence in well-reasoned democratic positions” (Gilbert 194). For this reason it is important to tie the thought of Rawls and Habermas to a Marxist perspective, and to try to develop a sufficiently broad normative framework for this task.

³ The difficulty here is maintaining a concern for both democratic commitments and an emphasis on the dignity and respect due each individual. For instance, Sibyl Schwarzenbach’s work can be seen to develop a project distinct from my own, but motivated by a similar problematic. “I wish to make clear, however, that I am not arguing for ‘worker sovereignty’ in society. People have claims and entitlements, after all, independently of their laboring role. Instead, the suggestion here is that worker-owned enterprises be considered elements within the democratic order, rather than be viewed as society’s organizational base.” (“Rawls and Ownership: The Forgotten Category of Reproductive Labor”, pg. 167, note. 26).

0.4: Critical development of Rawls and Habermas

The intuition that - after Marx and the Soviet example - there can still be a “liberal” conception of socialism, which learns lessons from and checks totalitarian tendencies, is intriguing and is offered by John Rawls’s justice standpoint (3.3). Rawls suggests that his principles of justice can fairly structure and guide *both* capitalism and socialism. As we will see (3.2, 3.3), Rawls presents his theory as unbiased or “above” the details and dispute over economic relations, although his resulting principles of justice are to be critically applied to empirical conditions *after* lifting the veil of ignorance: at what he calls the “constitutional” and “legislative” stages of application. Although the power or reach of Rawls’s theory appear to be attained through an initial distance from concrete relations, chapter three argues that his theory (and its resulting principles of justice) nonetheless suffer by trying to maintain such a distance (3.3, 3.4). The result is either: 1) ambiguity in the content and critical import of his two principles (thus a toothless bite in his difference principle, for instance); or 2) an insufficiently critical or too one-sided articulation of the content of his principles (placing unnecessarily strong emphasis or priority on negative liberty in his first principle, for instance). That is, either Rawls’s principles of justice lacks the specificity of content that would provide a truly critical edge, or at points where Rawls claims to be only illustrating or discussing some details in regard to his principles, he is actually bringing in concrete commitments which too quickly restricts their meaning and critical import.

Chapter three argues then that Rawls’s difference principle is open to interpretation, ambiguously allowing for an incrementalist (“fine-tuning”) approach to exploitation or a more radical critique in regard to capitalist relations (3.3). The ambiguity here is argued due to

Rawls's non-committal stance regarding the exploitative character of wage labor in relation to owners of means of production, which exploitation is viewed to manifest itself in coercive and alienated relations. Rawls's commitment to favor neither capitalism or socialism, but instead to provide a justice framework for both, has to presume that the economic relations for both *can be* just. However, to accomplish a distance from economic relations, and yet still have content that can critically apply to such relations, Rawls must do a very delicate dance, a tight rope walk between "principled thought" and empirical relations (3.2). He establishes content for his principles by viewing some facts as "general" (needed and admissible within his Original Position) and others as "particular" (at this "stage" not essential and only to enter into consideration after lifting the veil); the general facts are held as "good enough" to fully or adequately articulate his principles of justice. I argue that this decision or stipulation by Rawls over which facts are general and which particular is crucial and must be far more critically considered. After all, this issue of deciding which facts are admissible in the original position even led Rawls to the later judgment (in *Political Liberalism* for instance, see 3.3) that certain "facts" are too controversial or debatable (e.g., those pertaining to social and economic inequality), resulting in the difference principle - and the concern about the "fairness" or "justice" of wealth distribution - not being considered "a constitutional essential." We can note that this later skepticism is granted by Rawls in the hope of achieving an "overlapping consensus" in liberal, capitalist society, with which he sought to strengthen the support of his (now modified) theory.⁴

4 Perhaps another way to portray this movement of Rawls is that the question of whether capitalism can be characteristically ("generally") portrayed as exploitative of wage labor becomes viewed as a debatable fact when it is relegated to the "legislative stage" of application. I argue below that to bring this fact into the "constitutional stage" would call for the end of

Thus I argue that applying Rawls's difference principle to socialism can only be done if we critically deal with: a) Rawls's ambiguity in viewing capitalist exploitation as a (principled) issue of justice⁵; b) Rawls's later stance (his skepticism) regarding if his (principled) justice standpoint applies to issues dealing even with wealth distribution. Nonetheless, some aid in recovering Rawls's theory for a more left liberal reading, and ultimately articulating norms for socialism, remain. Welfare state capitalism is deemed by Rawls (3.3) as inadequate for giving the "fair value" to his 1st principle commitment to equal liberty and sufficient weight to the difference principle: it is noted even when maintaining a decent standard of living, unemployment benefits, and medical care for all, this would not prevent wealth inequality from expressing itself as political inequality. It is thus asserted by Rawls that the difference principle *should be* viewed as violated by a mere welfare state. Rawls here argues by contrast that to maintain a just private-property society - a "property-owning democracy" which "disperses the ownership of wealth and capital" - all unjustified inequality (i.e. that not contributing systematically to raising the level of the worst off) must be avoided, and political liberties should be equal.

coercive relations in the basic structure of society, and this would be done as a matter of justice alongside the application of the difference principle.

⁵ Stanley Aronowitz once remarked in class "There is no such thing as a *fair* wage." I see this claim as correct, because it notes the coercive and exploitative relations in which wage-labor operates in regard to capital. See 1.4 for some discussion on this point. Also it can be noted that Marx's discussions about being paid for your labor-time introduced thoughts about the limitations of time-chits (Grundrisse) and certificates of labor. Marx as early as the *Economic and Philosophic Manuscript* saw the reduction of all to wage-labor as still presupposing a relation to capital (with "society" now as an "abstract capitalist", and "the category of *worker* is not abolished but extended to all men" 333, 346), and in *Critique of the Gotha Program* would only discuss concerns about tracking labor-time for "fairness" or "equity's" sake after discussing the social support (education, health care, etc.) that a transition to communism would build up, and of course was also critical of the limited, bourgeois horizon that such equality concerns kept to (see intro 0.3, and 2.4).

Hence, the inclusion of a focus on economic relations - the alienation, coercion, and exploitation that can be found here - together with Rawls's critique of a welfare state, may cause us to reject an incrementalist reading of the difference principle, and allow us to read the difference principle (when retaining an emphasis on equal political liberties) in a more radical way; I argue the difference principle should require the end of exploitative and coercive economic relations, such that any inequalities that are viewed as "permissible" are deemed so by the "worst off" themselves. This radical reading suggests that exploitative and coercive relations not only should, but must be eradicated, and this can only be accomplished with the free and equal participation in and guiding of the social forces. On this reading of the difference principle, it becomes apparent that issues of political and positive liberty are closely connected to concerns about equality, and need to be explicated further. I thus indicate that even Rawls's ordering or separation of his two principles suggests a separation between freedom and equality concerns that cannot actually be addressed separately in reality.

Chapter four then turns to the thought of Jürgen Habermas, for Habermas does not flinch from acknowledging the bourgeois origins of political autonomy. Yet, he also sees that the political ideology that the bourgeoisie expressed to justify their political influence reached beyond bourgeois conditions (4.1). Habermas establishes that the bourgeois notion of public discourse remained ideology insofar as bourgeois conditions were also defended as in "the best interest of all"; all are considered "subjects" of this justification of bourgeois empowerment, but not all subjects are thereby politically empowered. Still, bourgeois ideology offers us a "utopian," but also critical, re-conception of the ideal of public discourse, such that a demand could be expressed that all members of society have the political power and influence that was once only available to the bourgeoisie. A criticism of the conditions that empowered the

bourgeois individual is then developed by Habermas that recognizes social status as enabling political status; an exclusive and limited political citizenry was predicated on social inequality and privilege.

What is found, then, in Habermas's thought is a critical conception of political autonomy that has its point of departure from the bourgeoisie, but which can be re-constructed and fitted for the previously excluded, exploited, and oppressed. Insofar as a norm of this kind can be discovered, a strong "positive liberty" supplement to Rawls's considerations of liberty is found and developed from the liberal tradition, but one still capable of critiquing the relations presupposed and developed in that tradition. The utopian potential of bourgeois public discourse is critically transformed to suggest the need and demand for new social practices that relate political and economic relations. The critical development offered by Habermas is a "socialist public of private persons," with economic relations designed (structured) to enable public discourse, while at the same time the relations are made the object of that discourse (4.4). Also, with an emphasis on the enabling conditions for public discourse for all there is found a new, critically developed notion of a private sphere, which can, in part, counter and allay fears of totalitarian interventions. Individuals secure from coercion and exploitation, with free time and access to information, are to participate in (and maintain) the social structures that make possible public management of social relations.

To consider what is required to enable the right to participate in public discourse and secure the corresponding conditions for individual empowerment that actualize this right, chapter four argues we must return to the (just) commitment of ending exploitation and oppression. My analysis of Jürgen Habermas's work not only demonstrates a normative emphasis within the bourgeois, republican tradition that tied political legitimacy to public debate and criticism, but

also tracks with Habermas the corresponding historical developments (social and political) that changed the role or place (realization) of this norm. I argue that the development of Habermas's notion of public discourse (and ultimately the articulation of it, including the "demands" or aims inherent to it) becomes problematic when one compares Habermas's quite critical evaluation of welfare and state-capitalism (in *Structural Transformation of the Public Sphere* and *Legitimation Crisis*) to his late reconstructive praise of the legal and political institutions of welfare-state-capitalist societies (in *Between Facts and Norms*) (4.5, 4.6). He moves from a frank evaluation of the deforming influences of the forces of capital, and from an evaluation of the political and social mechanisms which only defer crises without surpassing capital's crisis ridden logic, to an appreciation of the legitimacy of state-capitalist forms of legal institutions, possibilities for political participation, and representation. A norm of political autonomy which could lead to a radical articulation - though historically it was not extended to all members of society, and is even seen as losing its ground due to manipulation - is discovered by the late Habermas in *Between Facts and Norms* to have been already achieved! We also discover that capitalist relations, which at first appeared to play a large part in the failure of the realization of political autonomy, are now viewed as restrained or "reigned" in by a "discourse" legal paradigm of republican state-capitalism, which is offered as the ideal mechanism for further amelioration.

Besides the problems raised by Habermas' rosy appraisal of state-capitalist legal institutions, and particularly in light of the ever growing material inequality, massive (racialized) incarceration in the U.S., current economic crises (and government bail-outs of banks), continuing imperial wars, and neo-liberal policy which is firmly globalized, Habermas's initially radical ideal of inclusive and empowered public discourse is diluted (into status quo state-legal institutions), and the discourse standpoint abstracted into a mere "thought experiment" or

“methodological fiction” (4.5).⁶ Noting this “development” in Habermas’s work raises the issue, I believe, of carefully relating conceptions of liberty to equality, of political power to social power, and also asks us to include considerations about the relations and institutions that must be in place for certain political powers to be available and not merely “suggested” in the first place. Not only may exploitation and oppression deform public discourse, but an ideal of debate, criticism, and decision by a populace over its own social (and productive) relations seems to require us to seek out its enabling conditions.

0.5: A Marx-Rawls- Habermas Construction

In my final chapter, having given a reading of Marx theory that remains sensitive to the political theory and normative commitments of its “origins,” and which then notes in what way these views develop and come to be embedded and re-situated in a class perspective, I conclude with a discussion of how the best from Rawls and Habermas may help illuminate and realize the normative dimension of Marx’s commitment to communism. My central claim, on the one hand, is that Rawls’s emphasis on the justice of the “basic structure” (political and economic relations) of society is comparable to those aspects of Marx’s writings that emphasize the critical need to transform the social and economic conditions of coercion, exploitation, and oppression.

⁶ At the end of 2007 the United States had less than 5% of the world's population, and 23.4% of the world's prison and jail population (U.S. Census Bureau, World Prison Population List, 8th edition). Non-Hispanic blacks accounted for 39.4% of the total prison and jail population in 2009, according to the US Bureau of Justice Statistics; yet blacks (including Hispanic blacks) comprised 12.6% of the US population according to the 2010 US census. Charles Mills (*The Racial Contract*) has thus offered the (non-ideal) notion of the “racial contract,” which recovers the anthropological reading of the social contract to articulate the devastating role white supremacy (colonialism and the “subperson” status of non-whites) has played in modern history. The challenge Mills leaves us with is seeing whether the “ideal” elements of the social contract still have a positive role to play. Can and should the “classic” social contract norms be critically re-appropriated or must they be held as only ideologically culpable and obfuscatory? My work indicate the lines of a critical re-appropriation.

Habermas's notion of public discourse, on the other hand, is also needed to assert the commitment to workers' control over their political and economic relations, and articulate what a socialist public (and private) sphere would be like.

It is my contention that not only did Marxism unnecessarily avoid a normative expression of its standpoint (with deficits to its self-understanding, motivation, and praxis), but that a construction which tries to relate more recent and important developments in political, normative theory requires a Marxist critique of capitalism and a (re)appreciation of communist productive relations to provide a coherent picture. Relating to and "filling out" Habermas's and Rawls's standpoints leads to a better understanding of the aspiration for a communist society. The dialectic between interest and right that is assumed in Marx's standpoint, in which the proletarian class interest is to eradicate the conditions of exploitation and achieve human emancipation (1.4), I believe gives important *insight into* the relation between demands for freedom and equality. Rather than an out and out rejection of the language or discourse of norms, normative developments and demands can be achieved which take better account of and address our social reality.

I argue in chapters 4 and 5 that both Rawls and Habermas fall short of capturing the relation between concerns (or demands) for freedom and equality, and yet there are also indications in their work that conceptualizing and maintaining a relation here is fundamental to an adequate (political-economic) normative standpoint. Rawls presents a distinction between the "rational" and the "reasonable." Our capacity to be "rational" is identified as our ability to prioritize and balance ends (such that we order ourselves in pursuit of our desires), and it gives us the ability to determine the best, most efficient means for our ends. This capacity for rationality is granted within the constraints of the Original Position so that there still can be a

conception of a choice while wearing the veil of ignorance and being informed about the “general conditions” of society (with this content, principles of justice within the OP are thought to be derivable). Our capacity to “reason” (or be reasonable) is what gives us the ability to acknowledge other standpoints than our own, to respect difference. We use our “reason” insofar as we propose conditions that we believe others would be willing to accept. But the one-sidedness of this distinction (the relation between these human “capacities”) is made clear by certain additions that are added. Within the OP the rational agent must also be granted a commitment to certain “primary goods” in order for there to be sufficient content for choice; in constructing the rational *individual* (or the hypothetical delegate to represent each individual) Rawls must grant there are some goods that *all* require or desire. As for what is “reasonable,” Rawls doesn’t simply leave this up to what is agreed upon by others (as Habermas, and Kenneth Baynes, his advocate, would have it - 3.3, note 11, and 4.5), he thinks he is right (given the contingency of human circumstances and the social reproduction of relations) to place the veil of ignorance upon us, and in his later work (*Political Liberalism*) he even grants and demonstrates that his standpoint comes from the liberal, republican tradition.

Habermas distinguishes between “instrumental reason” and “public discourse.” Instrumental reason (or scientific rationalization) gives us the ability to both construe and order the world (theory and technology), and, as noted by Stanley Aronowitz (in *The Crisis in Historical Materialism*, 34-42) production is also viewed as a matter of instrumentality (insofar as productive power and efficiency, “universal rationality,” is stressed). And, coming from Max Weber, Habermas also finds the grounds here for institutional bureaucratic organization; the notion of specialists or authorities (those who know better, or should be obeyed for organizational efficiency’s sake) is developed from the standpoint of instrumental reason. But

public discourse is presented as a human activity that is needed to discover reasonable or right views. Norms are construed as not on the same level as techniques or facts (a different problematic or plane of experience is found here), but rather are discovered or appreciated (in regard to “commitment”) through debate and self-criticism. The difficulty then arises for establishing the place or role for public discourse in current “rationalized” societies. Habermas’s viewpoint forces him to introduce a notion of civil society (quite outside the political philosophical tradition) which divorces it from economic relations, and, failing to see a robust civil society of the kind he conceptualizes in state-capitalism, proceeds to re-construct the discourse standpoint of the state! Instead of a “division of labor” between the instrumentalization of society and a public guiding of it, one discovers a practically antagonistic relation, with a continually hedged in and limited (“colonized”) public discourse, where it becomes unclear what conditions must be in place for its realization or what “domains” it would (or should) include. How our instrumental reason can be restrained, guided by, and, ultimately, *integrated with* public discourse remains unresolved.

Again, Marx’s orientation is useful for focusing on and connecting concerns about freedom and equality, reason and rationality, and instrumental reason and public discourse. What Marx’s emphasis brings in is the “need” to gear production in the direction of providing for human needs and our developmental potential (1.4, 2.1, 2.4), and asserting the “practical” point or *political fact* that this “ideal” production is not to be viewed as possible or realistically attainable without worker control of productive relations (1.2, 1.4, 2.1, 2.3). In contrast, capitalist exploitation, which is predicated on alienation (despite the “freedom” of the laborer necessitated to sell labor-time, in whatever developed form or expression, on the market) is, or *should be* viewed as fundamentally unjustifiable or unjust. Exploitation is seen in the capitalists’

accumulation of surplus value (profit) through the laborers' exertion of surplus labor-time; political domination (and thereby protection of the conditions of capitalist, social domination) is conditioned and reinforced by the capitalists' accumulation of capital (and the corresponding desperation and vulnerability of the working class); the waste of human potential is found in alienated conditions of the laborer; anxiety, hopelessness and despair is experienced through having one's livelihood and "social role" (survival and self-respect) subject to the vicissitudes of the market, and, generally, being cut off from our self-conscious "species-being" potential; the murder of human beings is pursued through unending, cyclical imperialist ventures; and, with the environmental critique and earlier psychological (Freudian inspired) critique, capitalism has been characterized as a killing (eradicating) act directed against life or the conditions of life itself (4.4, note 31, for instance). In comparison, Marxism can be seen as directed to attaining both a supportive and a liberating social environment.

Marx challenged the notion that economic relations are "private" (even before post-liberal, state-capitalist interventions), instead, he viewed productive relations as social (the huge productive potential of capitalism relied on the cultural achievements of science and technology *and* the "division" and social relation of labor). After the development of state-capitalism (4.3), the effort to transcend the civil-political dualism of liberalism (which is projected by Marx to end with the "withering away of the state") can acknowledge where more discursively inclusive and socially supportive mediating institutions have already been struggled for and created (though in a deformed and constantly challenged condition). What becomes clear with the normative emphasis of Marx's project that is my focus is that the institutions and relations needed for public provision directed towards eradicating exploitation for the purpose of human flourishing

must be identified from the first, and be part of transitional moments, or rather, there is no transition to communism without such an emphasis.

The political-economic normative emphasis to be made then is that recognition of human freedom and equality is not accomplished simply through discovering inherent dignity or innate capacities; to acknowledge our equal claims to “autonomy” certain human potentialities must be nourished and cherished and corresponding social relations must be established. The exercise of freedom requires the conditions necessary for the full expression of political autonomy, conditions which have been restricted through relations of exploitation and oppression. Exploitative relations (which reinforce or enable the conditions of oppression) are based on conditions of coercion and alienation which are unjust; the injustice in the “basic structure” (relations) of society reinforces (and provides the “rationale”) for the restriction of human freedom. Freedom is seen as unattainable in the midst of our inequality, equality impossible without freedom.

The communist call to the common ownership of the means of production is only realizable through public control, decision, and direction (worker management) of production (see this emphasis in 2.3, 2.4, and chapter 5). By looking to Rawls’s emphasis on the justice of the “basic structure” and Habermas’s public discourse norm we can say then that there is a right or justice to attaining the conditions needed to establish, maintain, and optimize worker control over production, which itself is required to transcend the relations of capitalist exploitation. Each has a right to equal inclusion and empowerment in the productive relations they participate in, and a (claimable) right that, in re-producing society, burdens and rewards (distribution of goods, opportunities, costs, “effects,” sacrifices) are shared, such that each’s freedom and equality is maintained. Justice and equality (the transcendence of the relations of exploitation

and oppression) are required for freedom, and this justice will be best served by the empowerment of those who are the subjects or “claimants” of just demands.

The public discourse norm of Habermas which was at first derived from exclusive bourgeois relations (4.1) had a normative content that remained open to a radically democratic standpoint (public debate and decision whose ideal functioning required the empowerment of the individuals of society). Here the instrumental and bureaucratic “systems” should be regulated by a “life-world” capable of legislation and executive decision. I believe one finds here the normative underpinning of the “political relations” attempted and indicated by the Paris Commune. Hierarchy and authority (for “efficiency’s” sake) are to be legitimated (and structured) through a process of social (public, deliberative) decision-making – not presupposed or assumed as necessary. Insofar as authority structures are put in place this is done through debate and decision, and they remain in place through relations and procedures that offer the opportunity for continued, explicit consent. Thus, consistent with Habermas’s ideal of public discourse, the members of society are to determine social goods, including the good to be had by certain organizational structures.⁷ This raises the question of whether a radical “re-start” is first

⁷ Engels’s *On Authority* discusses the limits found for “pure” anti-authoritarianism. Collective work relations, which are found in most modern industry, require coordination and direction (discipline and hierarchy is, inevitably, found here – for productivity’s, efficiency’s, and safety’s sake), and to institute non-coerced, non-exploitative relations unjust (capitalist) relations must be eradicated (efforts here must be defended). There is not, I think, a contradiction on these points when it comes to empowering social discourse, only admitting the conditions and limits found in lived circumstances, i.e. reality. “Cooperation, as a characteristic of dialogical action – which occurs among Subjects (who may, however, have diverse levels of functions and thus of responsibility) – can only be achieved through communication... Once a popular revolution has come to power, the fact that the new power has the ethical duty to repress any attempt to restore the old oppressive power by no means signifies that the revolution is contradicting its dialogical character. Dialogue between the former oppressors and the oppressed as antagonistic classes was not possible before the revolution; it continues to be impossible afterward... There is no freedom without authority, but there is no authority without freedom. All freedom contains the possibility that under special circumstances (and at different existential levels) it may become

needed. This is the question of “revolution,” gaining the power to change the “basic structure” (political, economic, civil), and reorganize institutions and relations, and create new societal conditions, keeping in mind that even ridding ourselves of much that is old can be something new.⁸

The particular, unique, and “unequal” resources that are determined necessary for the efficient functioning of the various forms and roles of social production is the ground for Rawls’s point that certain inequalities are justified insofar as they improve the conditions of the “worst off.” However, the resources and efforts required to create and maintain the conditions for each to participate equally in the debate and decisions of social production is also a basic, just demand for free association. Also, the difference principle and the identification of the “worst off” (through utilizing the social sciences) can be construed as a just “steering mechanism” for a

authority. Freedom and authority cannot be isolated, but must be considered in relationship to each other. Authentic authority is not affirmed as such by a mere *transfer* of power, but through *delegation* or in sympathetic *adherence*” (Paulo Freire, *Pedagogy of the Oppressed*, 149, 120, note 13, 159). But, I disagree with Engels’s construal (in *On Authority*) of communist relations as those where “public functions will lose their political character and be transformed into the simple administrative functions of watching over the true interests of society,” for, as I will argue, the social management of economic relations has political relations proper to it. It can be said that there are “administrative functions” needed to secure the (objective) conditions for debate and decision, but social debate and decision will be guiding for determining the “true interests” (“legitimately produced norms”) of society.

⁸ Hardt/Negri (*Multitude*) see communal production as already going on; “network production” is on the rise, thus they hold we must just get rid of sovereignty/authority structures and set free the communal relations. This is a project of change geared more towards a subtraction than an original creation, anarchists are similar in strategy, so too libertarians – but this is only in part right insofar as we need to produce or create new relations, new institutions - not just dismantle or destroy. This raises the question of the kind and degree of democratic relations we must develop and first have in order to effectively challenge non-democratic authority relations and establish more democratic ones.

society which wishes to maintain just relations, *even after the exploited and “underclass” attain their political autonomy* in a democratic social re-production process.⁹

Thus I hold (and develop in chapter 5) that the normative approach re-asserted by Rawls and Habermas can not only be critically checked by a Marxist orientation, but their point of emphasis gives means to better articulate and construct the goals of a Marxist orientation in a non-utopian fashion. “Necessary labor time” will be that social effort required to create and maintain conditions that prevent coercion and exploitation, are required to maintain democratic discourse and decision procedures (at the workplaces and to guide public institutions), and maintain fair equality of opportunity. With a normative emphasis it can be said each has a “right” to these conditions, here each finds their “dignity” or the “social bases of self-respect” – and truly relate as “free and equals.” “Surplus labor time” will be found where desires are pursued through democratically decided (non-coercive, non-exploitative) production.

Production is then not to be guided by mere acquisition (and not through the weight of the past, “In bourgeois society, living labour is but a means to increase accumulated labor... In bourgeois society, therefore, the past dominates the present” (*Reader*, “Manifesto”, 485) or at the expense of the future, “Money, then, in so far as it now already *in itself* exists as capital, is therefore simply *a claim on future* (new) labour” (*Grundrisse*, 367), but, rather, by the future production of increasingly more democratic possibilities (better education, public debate and worker “steering” of social re-production, more free time, etc.). Thus the responsibility to future generations becomes a guiding perspective. Here we find fulfillment of what Marx sees as “promised” by communism, “accumulated labour is but a means to widen, enrich, to promote the existence of the labourer... the present dominates the past.” However, what is more to the point

⁹ By noting this point we can see how an emphasis on justice would remain even in a “free and equal” or classless society.

here is the wish to eradicate the preconditions of domination. The future is to be brought to the present, the present measured insofar as it secures a future for the democratic reproduction of humanity. Financial resources (banks, credit, tax) are to be dedicated to the “value” of a truly human society; our “accounting” is to be for the efficient creation and preservation of the conditions necessary for democratic relations (an empowered public of free and equal individuals) and the pursuit of democratically decided production (the open-ended pursuit of desire).

This normative understanding of the Marxist orientation I believe is not only essential for avoiding wrong (totalitarian) turns, but for Marxist praxis, i.e., persuasion, mobilization, struggle, “revolution,” and reconstitution. The normative standard of being equal participants in the free reproduction of society (communist association) requires that those who were formally oppressed, “underclassed,” and exploited attain the powers and resources that do in fact achieve their status as “free and equals.” There is a basic, primary justice to attaining this status in society (not just reparation for harms done, but establishment of political autonomy and dignity), and though this status then gives each the opportunity to (democratically) determine further conditions of freedom, this basic right of all to remain equal participants in the democratic reproduction of society is also a check and guide of the choices made during democratic reproduction. The right of each to equal participation in the free re-production of society is a radical demand for workers’ democracy, and a fundamental restraint on democratic choice (such that the “oppression of a minority,” or even of one, by the majority, is to be forbidden and designedly avoided).

Since I argue that Marxism can and should be conceived as retaining a political normative dimension, the final chapter demonstrates in what manner these theorists’ normative

standpoints may be critically appreciated from *within* a Marxist perspective. Rather than choosing between a Marxist standpoint that can only find signs and reasons for labeling normative theory as “ideological” and “bourgeois” or viewing liberal theory as retaining the “moral high ground” in comparison to Marxism, rather than a choice between a commitment to class interests and class struggle instead of to justice, rights, freedom, and equality, a false dichotomy is seen here. A too “materialist” or “scientific” conception of Marxism can not only cut it off from normative discourse and consciousness altogether, so too does it provide the occasion for insulating normative constructions from development by lack of contact, and conflict or contradiction with, a Marxist critique. Normative theory may have developed where Marxists (and perhaps even the mature Marx) believed they dare not travel, and this development bears great practical import, but insofar as Marxism returns to the normative domain we should not expect that it will remain as it was.

Part I: Marx: Democracy and Communism

Chapter 1

Early Marx

1.1: “Critique of Hegel’s Doctrine of the State”: Marx’s democratic critique.

Sovereignty of the monarch or the people – that is the question. (“Critique of Hegel’s Doctrine of the State” 86)

To Prussian ears at the time, this line (if published) would have had a radical ring to it; no doubt it does not jar our ears as directly. But in his critique of Hegel’s *Elements of the Philosophy of Right*, Marx’s ultimate target is not the constitutional form of monarchy, but the subservience of the people to any political state. The question can likewise be posed, “sovereignty of the democratic republic or the people”; with this I take it, we are all ears. Marx contrasts the sovereignty of the people to that of the state (monarchical or republican) so absolutely not merely as a rhetorical flourish, but to make clear his commitment to a conception of political relations that critiques all “idealisms” of politics, which assume the state as the site of “universal” reason for society.

Of all the different expressions of the life of the people the political state, the constitution, was the hardest to evolve. When it did appear, it developed in the form of universal reason opposed to other spheres and transcending them. The task set by history was then the reclamation of universal reason, but the particular spheres do not have the feeling that their own particular existence coincides with the constitution or the political state in its transcendent remoteness, or that its transcendent existence is anything but the affirmation of their own estrangement. (“Critique of Hegel’s Doctrine of the State” 89)

Marx sees the idealism of politics being accomplished through the state claiming the task of enunciating and enacting “reason” on behalf of society; this is the rationale for the state’s power and action which is maintained even as a rift is found (and felt) between the members of

society and the state. “Political constitutions” are identified as the product of the separation of the “private spheres” – the family and civil society– from the political state. “It is self-evident that the political constitution as such is only developed when the private spheres have achieved an independent existence” (90). With the “freeing” of the private spheres from political significance, thus transcending the “democracy of unfreedom” (90) of the feudalism of the Middle Ages, a political state as neutral overseer, presumably free of its material underpinnings (or their particular influence), is created. The freeing of individuals from political distinctions based on their private (“civil,” after this victory) roles is identified by Marx as leading to the creation of the conception (and corresponding functional allowance) of the “political state” as the official representative of society’s “political” (“universal”) affairs. Ultimately, Marx views Hegel’s *Elements of the Philosophy of Right* as blessing the current Prussian government through a rational reconstruction and defense. Though some “progressive” additions are added in Hegel’s survey of Prussian society (to be covered below), ultimately it remains the monarch (together with his loyal, state paid bureaucrats) who is posited by Hegel to have the necessary, “universal” standpoint to decide on the common concerns or “general affairs” of the people.

Marx’s criticism, although it starts with the particular form of state endorsed by Hegel, ultimately problematizes any political state that locates itself as separate from, beyond, over, or above the people. Insofar as the people are under the rule of a monarch who decides their common affairs, the constitutional form of monarchy assumes the people for its own existence (it “manages” the affairs of the people); however, it asserts that it itself forms the people (as if it *creates* their affairs). Criticizing this assertion, that every modern political constitution (and the state apparatus set up from it) is separated from but ultimately gives form to the people, leads Marx to seek the “real” basis of the political constitution.

What Marx here perceives is that Hegel does not offer a sufficiently critical and open evaluation of a political constitution which presupposes the civil/political separation:

Hegel's logic is cogent if we accept the presuppositions of a constitutional state. But the fact that Hegel has *analyzed* the fundamental idea of these presuppositions does not mean that he has demonstrated their validity. *It is in this confusion* that the *whole critical failure* of Hegel's *Philosophy of Right* can be discerned. (96)

By demonstrating the realization of the "Idea" (human freedom, or self-actualization) in Prussian society and the state, and claiming that no essential, insuperable contradictions remain to be found in the political constitution, the different "elements" of society are thought to be successfully mediated.¹⁰ Hegel should be viewed as "mostly" justifying Prussia at the time, since he incorporated into his construction of Prussian politics certain (unrealized) proposals of liberal "progressives" of his day: the opening of the officer corps and high levels of civil service to the bourgeoisie (not just to the hereditary nobility), public criminal trials and trial by jury (Wood, *Editor's Introduction to Hegel's Elements* x), also civil rights for Jews and tolerance for Quakers and Anabaptists (Seymour, *Enlightenment Rationalism and the Origins of Marxism* 25). But Hegel's incorporation of "Estates" - corporate guilds that are to be given a voice in legislation - is the "novelty" to the state structure that draws Marx's critical attention.

¹⁰ I believe one can find here an early, self-conscious expression by Marx of a distinction between a dialectical materialist methodology as opposed to Hegel's dialectical idealism. "He (Hegel) does not develop his thought from the object, but instead the object is constructed according to a system of thought perfected in the abstract sphere of logic. His task is not to elaborate the definite idea of the political constitution, but to provide the political constitution with a relationship to the abstract Idea and to establish it as a link in the life-history of the Idea – an obvious mystification" (69-70). Perhaps paradoxically (given what are seen as Marx's distinctive developments) this is least true of Hegel in his discussion of the creation of poverty in civil society (Hegel, *Elements* § 243-245); the trouble is Hegel doesn't see his inability to discover a state/"universal" solution to this problem, "which agitates and torments modern societies especially" (*addition*, § 244), as an essential limit to his demonstration of the realization of the "Idea."

In the case of the estates, certain private interests found in civil society are thought to be in further need of being represented “politically” in the state. For Marx, that such a “solution” as the proposed Estates is added, *given* the divide between private/civil and state/political, is revealing.¹¹ The separation of the political state from “private” civil society, which was thought to be the pre-condition of the realization of a universal reason, now presents itself as a divide in need of being bridged.

The state and government are consistently placed on one side as identical and the people broken up into associations and individuals are placed on the other. The Estates stand as a *mediating* organ between the two. The Estates are the meeting-point where the ‘political and administrative sense and temper’ and the sense and temper of ‘individuals and particular groups’ come together and merge... Earlier (§300) Hegel had referred to the ‘legislature as a whole.’ The Estates are really this *whole*, they are the state within the state; but it is precisely the Estates which *make it appear* as if the state were not the whole, a totality, but a dualism. The Estates represent the state in a society that is *no state*. The state is a *mere representation*. (131, 134)

Hegel’s addition to the Prussian state structure, and to the problem of the separation of the political from the private, highlights a fundamental problem. Rather than perfecting or completing the political system, Hegel’s proposed Estates try to bring a political role and significance back to the economic relations found in civil society. The *need* of such a connection, Hegel’s offering of the Estates as a “mediating” organ (a political voice), calls into question the role of the state as the people’s mediator in the first place. A mediator in need of mediation points to the estrangement and dislocation of the supposed first mediator. The political

11 Though an important structural problem is developed here, it should also be kept in mind that Marx viewed the proposal of the Estates as a regressive or “romantic” one. “The *constitution based on the Estates*, when not a tradition of the Middle Ages, is the attempt, partly within the political sphere itself, to plunge man back into the limitations of his private sphere, to make his particular concerns into his substantive consciousness and to use the existence of political class distinctions to re-introduce corresponding distinctions of social class” (147).

state, instead of “constituting the people,” seems to instead constitute itself *outside* the people, and the state, as the political authority, holds itself *above* the people.¹²

For Marx, the “solution” of the Estates suggested the need to find a way to connect political power to the people themselves (or, minimally, to the economic actors of civil society). “The bureaucracy can be superseded only if the universal interest becomes a particular interest *in reality* and not merely in thought, in *abstraction*, as it does in Hegel. And this can take place only if the *particular* interest really becomes the *universal* interest” (109). “The people,” amidst their “private” affairs in society, have to find a way for their “political affairs” (their common, “universal,” interests) to become part and parcel of their pursuit of particular affairs. The Estates were Hegel’s attempt to fit an “integrated” piece into the deep divide between the private and political spheres. This proposal fails because it presupposes the difficulty that is supposed to be transcended. For Marx, the real problem here (a problem lying behind the problems Hegel identifies *and* the solutions he offers), is that though the current state exists in reality - it is a part of society, and composed of members from it – its role and legitimacy is still in question. Marx views Hegel’s discussion about the political separateness of the state, its universality, as insufficiently advancing our knowledge about the political state; this is why Hegel’s theory of the state is viewed as a mere rationalization.¹³ Even the facts of the state are missed, because of the myth of the (legitimate) state:

12 There are other links between civil society and the state that Marx notes Hegel mentioning, but each demonstrates essentially the same problem: the election of corporate officials and parish officers who are to deal with the “dualism” between state demands and private/civil interests (110); the “open” opportunity to join the bureaucracy, with a state examination to prove the appropriate/required knowledge: “the legal recognition of the knowledge of citizenship, the acknowledgment of a privilege” (112); state payment of bureaucrats’ salaries, which makes them completely dependent on the state (not “free” to focus on public functions).

13 To lay out the whole course and the nuances of Marx’s critique is not my purpose here. But it should be noted that Marx is also concerned with explaining Hegel’s mode of presentation in the

And this is the key to the entire riddle of [Hegel's] mysticism. The same fanatical abstraction according to which *state-consciousness* is to be discovered in the inappropriate form of the *bureaucracy* with its hierarchy of knowledge, and which then uncritically accepts this inappropriate form as a *fully adequate* reality, this same fantastic abstraction does not hesitate to declare that the real, *empirical* state-mind, *public consciousness*, is a mere hotch-potch made up of "the thoughts and opinions of the Many." (124)

The bureaucracy is assumed to be well-directed, imbued with an (adequate) "state-consciousness," well-disciplined, and to operate efficiently, with its "hierarchy of knowledge," while public opinion is summarily and quickly degraded.¹⁴ For Marx, Hegel does not stop at assuming that the current, monarchical state (with some institutional adjustment) is a legitimate political arrangement, he also rejects outright the standpoint that would provide the critical ground and suggest a solution to the dualism of the modern state.

Due the unfinished and, at times, fragmentary nature of this early text of Marx, a little textual reconstruction is needed to develop this point. First, to fill out Marx's point of departure, we can note this quote from Hegel:

Philosophy of Right, which, in claiming the state as the realization or culmination of the "Idea," first starts with all the elements of society it must incorporate or mediate. For Marx, merely noting all the elements of a society (with their contradictions) does not prove they were successfully mediated, and the analysis of Hegel's attempt to prove the "universality" of the state merely demonstrates the unresolved conflicts and existing failures here. "Thus Hegel constantly retreats from the view of the 'political state' as the highest actual and explicit reality of society, and assigns to it instead a precarious reality, *dependent on other factors*: instead of regarding the state as the *true reality* of the other spheres of society, he forces the state to discover its reality in other spheres. The state constantly requires the guarantee of spheres external to itself. It is not realized power. It is *supported* impotence; it represents not power over these supports but the power of these supports. The power lies in the supports" (184).

14 This in Hegel's work *after* Rousseau (*On the Social Contract*, Bk. III, Chapter 2) who warned us that bureaucrats have three wills: 1) private (self-interest); 2) corporate (interest in the executive and state bureaucratic structure); 3) sovereign (the "spirit" of the law), and though, "ideally" the 3rd would be the strongest, the 2nd the next, and the 1st the last, it is in fact, *in reality*, the reverse! And, it is *after* Kant's (*Perpetual Peace*, Appendix II) assertion that public opinion should be held as the standard whereby wrong and right/good government policy can be found (though the test and transparency here is counter-factual, see 4.6).

Without its monarch and that articulation of the whole which is necessarily and immediately associated with monarchy, the people is a formless mass. The latter is no longer a state, and none of these determinations which are encountered only in an internally organized whole (such as sovereignty, government, courts of law, public authorities, estates, etc.) is applicable to it. It is only when moments such as these which refer to an organization, to political life, emerge in a people that it ceases to be that indeterminate abstraction which the purely general idea of the people denotes. (Hegel, Elements 319)

Then, Marx continues by quoting from the line which follows in Hegel's text: "If by 'sovereignty of the people' is understood a republican form of government, or to speak more specifically... a democratic form, then... such a notion cannot be further discussed in face of the Idea of the state in its full development" (86-87). This Marx follows with the commentary: "This is perfectly correct as long as we have only 'such a notion' rather than a 'fully developed Idea' of democracy" (pg. 87).

Hegel sided with the present political reality (plus his modifications) against any notion of the sovereignty of the people for two, connected reasons: 1) because in his view 'the people' are in fact a "formless mass" without (the present) political institutions; 2) democracy can't be realized; Hegel sees in democracy a mere "notion"/abstract idea which must be given up in the face of present political realities.¹⁵ The kind of response Marx must give to this challenge is

15 Pre-dating this is Edmund Burke's critique in *Reflections on the Revolution in France* of the destructive results (the Terror) of French revolutionary efforts, which he recognizes as idealistically guided by abstract, "universal" values of liberty and equality. He asserts that, "A man full of warm, speculative benevolence may wish his society otherwise constituted than he finds it, but a good patriot and a true politician always considers how he shall make the most of the existing materials of his country. A disposition to preserve and an ability to improve, taken together, would be my standard statesman. Everything else is vulgar in the conception, perilous in the execution" (138). Hegel, in his *Phenomenology of the Spirit*, drew similar conclusions from his analysis of the French Revolution, "Spirit thus comes before us as *absolute freedom*... It is consciousness of its pure personality and therein of all spiritual reality, and all reality is solely spiritual; the world is for it simply its own will, and this is a general will... In this absolute freedom, therefore, all social groups or classes which are the spiritual spheres into which the whole is articulated are abolished; the individual consciousness that belonged to any such sphere, and willed and fulfilled itself in it, has put aside its limitation; its purpose is the general purpose,

quite clear, he must establish a standpoint that takes the people *as* the state (or the more essential aspect of it), challenging the view that they are just an undifferentiated “matter” awaiting/requiring the “form” granted by the current governmental institutions, *and* present an “Idea” of people’s sovereignty that can serve as a real alternative to the present political constitutions. He begins to work towards this by introducing his own notion of democracy:

Democracy is the truth of monarchy; monarchy is not the truth of democracy. Monarchy is by necessity democracy in contradiction with itself; the monarchic moment is not an inconsistency within democracy... In monarchy the whole, the people, is subsumed under one of its forms of existence, the political constitution; in democracy the *constitution itself* appears only as *one* determining characteristic of the people, and indeed its self-determination... Democracy is the solution to the *riddle* of every constitution. In it we find the constitution founded on its true ground: *real human beings* and the *real people*. (87)

Democracy could not answer the “riddle” of every constitution (and be their “truth”) unless these constitutions all posed the same problem. The “problem,” of course, is that though political constitutions claim to constitute the people, these political constitutions could not exist without the corresponding separation of the private spheres from the political. And, this separation raised fundamental contradictions. The state, which claims to form the people, must admit *as its first principle* that the people also exist outside the state. The various affairs of “the people,” the different spheres of society, are granted by Hegel (though they are portrayed as insufficiently integrated, or even in conflict) so the state can have a role and place to act. The state, though intervening in the life of the people, does not approach the people as an

its language universal law, its work universal work . . . But thereby all other individuals are excluded from the entirety of this deed and have only a limited share in it, so that the deed would not be a deed of the *actual universal* self-consciousness. Universal freedom, therefore, can produce neither a positive work nor a deed; there is left for it only *negative* action; it is merely the *fury* of destruction” (356, 357, 359). What is lacking in the analysis of both cases was the “successful” (for the propertied, white, males of the time, admittedly) effort of revolution *and* re-constitution that took place in the earlier American Revolution. Hannah Arendt’s *On Revolution* offers the best re-construction of this that I know (this work will be returned to later).

undifferentiated mass, but instead presupposes their organization in the civil and private spheres. And, the state, *composed of people*, must itself be connected to the society that it is supposedly above: the “universal” bureaucracy will be recruited from society and their knowledge will be based on and “manage” that society.¹⁶ Thus, Marx emphasizes that the state presupposes “the people” far more than the people require the particular (and certainly the monarchical) political state.

Another, connected, contradiction which Marx critiques is the claim that though the state is separated from the civil and family spheres, it can represent the people’s “universal” interest; it can be a state *for* them, and not just over them. Marx, with his democratic “idea,” is asserting that the monarchical constitution, along with all other political constitutions, limits the people’s self-determination by imposing its form over the people.

A state in which the ‘position’ of the ‘Estates’ prevents ‘individuals from having the appearance of a *mass* or an *aggregate* and so from acquiring an unorganized opinion and volition and from crystallizing into a powerful mass in opposition to the organic state’ exists apart from the ‘mass’ and the ‘aggregate’. Or

16 The bureaucrats will not only bring their civil experiences/outlook to the state, but the bureaucratic organizations/institutions (along with bureaucratic capacities and consciousness) will also, necessarily, be conditioned by the existing relations of civil society. “The same mentality which in society creates the corporation, in the state creates the bureaucracy. An attack on the corporation mind entails an attack on the bureaucratic mind also, and if the latter had previously attacked the corporations to create space for itself, it now attempts to ensure the survival of the corporations by force in order to preserve the corporation mind and thereby its own mind” (106). Lukacs, in *Reification and the Consciousness of the Proletariat*, updates and further develops the connection Marx has here, “Bureaucracy implies the adjustment of one’s way of life, mode of work and hence consciousness, to the general socio-economic premises of the capitalist economy, similar to that which we have observed in the case of the worker in particular business concerns. The formal standardization of justice, the state, the civil service, etc. signifies objectively and factually a comparable reduction of all social functions to their elements, a comparable search for the rational formal laws of these carefully segregated partial systems... The specific type of bureaucratic ‘conscientiousness’ and impartiality, the individual bureaucrat’s inevitable total subjection to a system of relations between things to which he is exposed, the idea that it is precisely his ‘honour; and his ‘sense of responsibility’ that exact this total submission, all this points to the fact that the division which in the case of Taylorism invaded the psyche, here invades the realm of ethics” (98-99).

alternatively, the ‘mass’ and the ‘aggregate’ are an integral part of the organization of the state; but in that case their ‘unorganized opinion and volition’ should not be allowed to become ‘opinion and volition in opposition to the state’ because such a *definite trend* would constitute an ‘organized opinion and volition.’ (132)

Further, “in the state constructed by Hegel the *political* convictions of civil society are mere *opinion* just because its political existence is an *abstraction* from its real existence; just because the state in its totality is not the objectification of those political convictions” (196).¹⁷

The Estates were not only to provide a connection of civil society to the state, but also to maintain a distance and elevation of “state-consciousness.” The organized state (the deliberations and decisions of state representatives) are identified by Hegel as the site of political discourse and decision; (civil) public opinion is *mere opinion* (and as such, better off disorganized and de-mobilized). But, Marx’s idea of democracy suggests that political discourse and power be given to the people without forming a separate and privileged political sphere. The fact that the people, the “real human beings” involved, are the ground of their own political reality is not lost sight of, and this perspective is used to judge a politics distanced (“abstracted”) from the understanding and decision of the members of society. The democratic idea thus introduces a critical standpoint which refers to “the people” as the foundation of any society and

17 As was noted in my introduction, Alan Gilbert’s “Political Philosophy: Marx and Radical Democracy”, views Marx’s critical movement from Hegel as on a continuum of development from Aristotle and Hegel. Gilbert starts with Aristotle’s appreciation of a distinctive human achievement in the Greek polis, the connection of political activity to public deliberation, and acknowledges Hegel’s emphasis on reflective individuality and the attempt of the state, through law, to achieve conditions of mutual recognition. Marx’s democratic idea can then be viewed as a critical, progressive step that is taken which is key to his later developments. “Yet somehow, Hegel thought that a monarchy - in which one person, not the citizenry, had “public” awareness - rather than a democracy could realize this commonality (the common good). Thus, despite his defense of free speech, Hegel’s theory is not fully political. Nonetheless, his conception of a system of rights combining legal preconditions and individuality in the realized idea of human freedom indicates the structure of democratic theories as defenses of what Marx would call *social individuality*” (172).

its political institutions (revealing the “untruth” in taking the political state as formative of the people). This critique would appear to introduce a radical, “participatory” view of political relations, and thereby raises the further, *more general*, demand that “the people” gain control of their society’s organization (the relations and institutional means which constitute society, and through which society is guided and further organized).

But, Marx notes another expression of Hegel’s challenge to this “Idea” of democracy:

‘ ... To hold that **all, as individuals**, should share in deliberating and deciding on political matters of general concern on the ground that *all* individuals are members of the state, that its concerns are their concerns, and that it is their *right* that what is done should be done with their knowledge and volition, is tantamount to a proposal to put the *democratic* element *without any rational form* into the organism of the state, although it is only in virtue of the possession of such a form that the state is an organism at all. This idea comes readily to mind because it does not go beyond the abstraction of “being a member of a state”, and it is superficial thinking which clings to abstractions.’ [§308]. (185)

Marx responds by expressing the critical commitment found with the democratic idea, that “being a member of the state” was to be the culmination of the realization of Hegel’s own “Idea,” and “if ‘being a member of the state’ is an ‘*abstraction*’ this is not the fault of thought but of Hegel’s theory and the realities of the modern world, in which the separation of real life from political life is presupposed and political attributes are held to be ‘abstract’ determinations of the real member of the state” (185).¹⁸ It can be noted that Marx is here unflinchingly holding

18 Jürgen Habermas’ discourse ethics, and especially its political, public discourse variant, will be seen as falling under the range of this critique by Hegel. How Marx’s answer to Hegel here (and his subsequent development) relates to the relevance or application of Habermas’ ideal will be considered in Chapters 4 and 5, and I believe is an essential task given a challenge that Habermas voices in regard to Marx. “Praxis philosophy is guided by the intuition that it still makes sense to try to realize the idea of an ethical totality *even* under the functional constraints set by highly complex social systems. This is why Marx is particularly tenacious in his discussion of paragraph 308 of the *Philosophy of Right*, where Hegel is carrying on a polemic against the notion “that all, as individuals, should share in deliberating and deciding in political matters of general concern.” Nevertheless, Marx came to grief in his self-imposed task of explicating the structure of a formation of will that would do justice to the “striving of civil

to an “idea” to be realized, but one suggested by taking real human relations as his political ground. This commitment leads Marx to bring out an alternative notion of political transition; in answer to Hegel’s (and previously Burke’s) requirement for conservative, slow transitions, Marx finds less reason for restraint: “Whole constitutions have in fact been transformed by the gradual growth of new needs and the collapse of the old, etc., but *new* constitutions have always depended on an actual revolution for their introduction... The category of *gradual* transition is firstly historically false and, secondly, it explains nothing” (119). Marx’s democratic perspective can note the mounting of unaddressed needs (treated by Hegel as “mere opinion,” or the expression of non-state, “disorganized” actors) as a revolutionary impetus, and the ground for a fundamental re-constitution of political relations. Through his democratic idea, he thereby discovers a radical and revolutionary outlook not just in relation to the Prussian state, but to every known political constitution.¹⁹ So, he writes, “The conflict between monarchy and republic still remains a conflict within the framework of the abstract state. The *political* republic is democracy within the abstract form of the state. Hence the abstract political form of democracy is the republic; here, however, it ceases to be *merely* a *political* constitution” (89); and, “The representative constitution is a great advance because it is the *open, logical, and undistorted* expression of the *situation of the modern state*. It is an *undisguised contradiction*” (141).

society to create a political existence for itself, or to make its real existence into a political one” (*The Philosophical Discourse of Modernity* 62-63).

¹⁹ Jürgen Habermas also acknowledges the sweep and relevance of Marx’s early critique of political states, and views the critique as immanent to demands Hegel places on himself.

“Consequently, Marx confronts Hegel’s *Philosophy of Right* to show what the sublation of civil society would look like if it were to do justice to Hegel’s own idea of an ethical totality. Marx’s point - which is no surprise to us today - is that the state (which attains its authentic form in the parliamentary systems of the West and not in the Prussian monarchy) by no means embeds an antagonistic society in a sphere of ethical life; the state merely fulfills the functional imperatives of this society and is itself an expression of its ruptured ethical dimension” (*The Philosophical Discourse of Modernity* 62).

Republican representative government does not fair better under the democratic criticism being raised, and in fact indicates the need for such a criticism more openly. The delegation of certain members of society to “represent” the rest politically through “democratic” elections, serves to claim out front, in an “undisguised” manner, that though the political state requires the participation of its members in politics (it grounds its legitimacy thereby), it gives political significance to only those delegated, all the rest are relegated to the private spheres of existence.²⁰ The “deputies” of the people are viewed as expressing two inevitable and unavoidable contradictions (due to their very role as the “political representatives” of society): 1) they represent a “formal contradiction” (194), that is, they are elected to express/pursue the people’s concerns, but once elected they are not bound by *any* express concerns (“instruction” or “commission”) of the people; 2) The deputies also represent a “material contradiction,” “they have the authority as the representatives of *public* affairs, whereas in reality they represent *particular* interests” (194). It is both the autonomy of the deputies of the people from the people, and the impossibility of the deputies of the people to serve as a substitute for the people (or to have particular standpoints become the “public” standpoint) that show representative government also expressing the contradictions or problems facing the supposed political/private separation that is characteristic of every political constitution. With the opportunity of all to make a few political “elects,” and the few to make decisions on behalf of everyone, the fundamental,

20 Criticism of representation is by no means novel with Marx. For instance, Rousseau was quite critical here: “The English people believes itself to be free. It is greatly mistaken; it is free only during the election of the members of Parliament. Once they are elected, the populace is enslaved; it is nothing. The idea of representatives is modern. It comes to us from feudal government, that iniquitous and absurd government in which the human race is degraded and the name of man is in dishonor. In the ancient republics and even in monarchies, the people never had representatives. The word itself was unknown” (198). Any similarity of this critique to Marx’s suggests the need to compare the significance of Marx’s democratic idea to Rousseau’s sovereign people (the people as legislators).

“structural” contradiction of every political constitution is not resolved, but simply made all the clearer. “In modern times the French have understood this to mean that the *political state disappears* in a true democracy. This is correct in the sense that the political state, the constitution, is no longer equivalent to the whole” (88).

Marx then points out, in striking fashion, that the true “sovereignty of the people” could not or must not be burdened with a particular political constitution as we have come to understand it. “The constitution is thus posited as the people’s *own* creation. The constitution is in appearance what it is in reality: the free creation of man” (87). The political state must be viewed as perpetually *under* the supervision of “the people,” and always *only* one of their products; it is only a part of what the people can do (“...the affairs of the state are nothing but the modes of action and existence of the social qualities of men” (78)).

This critique no doubt suggests the standpoint of the great contract theorists, but with a decidedly Rousseau emphasis. When Hobbes claimed an absolute monarch should be adopted for mutual security, by presenting his reasons publicly, he already placed monarchical rule on a consensual basis even though he recommends it as the only rational option.²¹ Locke explicitly

21 The unresolved difficulty for Hobbes is well presented by Habermas as an “antinomy” in his *Theory and Practice*. “The dialectical way in which political natural force [the “natural” life-and-death struggle for survival] is tamed by means of a second nature, embodied in sovereignty founded in contract, requires, of course, that the laws of civil intercourse are to be provided, as it were, wholesale by the general clause of the social contract, and that these laws can only be given in the exclusive form of sovereign commands (*auctoritas non veritas facit legem*). But the dialectic is only fulfilled through the stipulation that the judgment itself, of whether these commands correspond to the expectations of the social contract, must be reserved exclusively for the sovereign...Hobbes can point to the heuristic character of the artificially constructed state with the argument that all states which in fact arose by virtue of despotic force can still be conceived *as though* the power of their sovereigns arose from a reciprocal contractual obligation. However, in the actual application of his social philosophy Hobbes must again have recourse to the fictional role of a constitutive assembly of citizens. For if his own doctrine is to have any practical consequences, it must be generally published and accepted by the mass of citizens” (69, 73).

acknowledged the need for consent of any form of government, but allows the choice of forms of government to be open (*Second Treatise of Government*, Ch. X). But it is only with Rousseau that the distinction is made between sovereign people as legislators (held as necessary for a legitimate social contract, *On the Social Contract* Bk. II, Ch. 1) and the government merely as a conditional and pliable instrument (Bk. III, Ch XVIII), though retaining an adjustable (in size/membership) executive body, of the sovereign will.²²

Marx, however, is not presenting his own contract theory; he is making a point of emphasis, that only with democracy would the real conditions of the human beings involved, through the participation of each and every individual found within those conditions, have a direct influence on society's constitution. This emphasis (and semantic shift) critiques our notion of a political constitution. Marx's outlook would hardly seem to introduce any reliance on something like Rousseau's "Legislator" (Bk. II, Ch. VII), a foundational paternalistic "transitional" force, a "father of the nation," who first frames a constitution which a people will "consent to" (an obvious tension here exists with the idea of the people as legislators because now they are seen as somehow dependent upon, because *established by*, a prior, foundational legislator). With regard to the dilemma of understanding how to think of a legislature creating a constitution, when it is the constitution that is to create the (legitimate) legislature, Marx remarks, "If the question is to make sense at all, it can only mean: does the people have the right to make a new constitution? And this question can only be answered unreservedly in the

22 Where Rousseau talks somewhat disparagingly about democracy, "Were there a people of gods, it would govern itself democratically. So perfect a government is not suited to men" (Bk. III, Ch. IV), it should not be forgotten that here he is only calling into question the manner, institutions, or relations in which the execution of the laws (the particular application of them) is to take place. With *every* form of government for Rousseau (aristocracy and monarchy included) the legislative function is to be retained by the citizenry as a whole, and expressed through the general will determined through the *actual* vote of each. Thus Rousseau discusses (Bk. III, Ch. XIII) the need to set times, places, and procedures for the meetings of the citizenry.

affirmative, for a constitution that has ceased to be the real expression of the will of the people has become a practical illusion” (120).

Here a problem in fact opens up from Marx’s standpoint: what he apparently assumes (what his democratic idea requires), and thus what must be discovered, is “a people” already sufficiently organized to carry out their further self-determined organization. Marx’s divergence from Rousseau here (and other contract theorists) points to a break in the kind of approach that Marx takes when considering the possibility of a democratic society. For Marx is taking, as his point of departure, the elements of the political and civil society found already in modern states that must be moved from and surpassed, whereas Rousseau, showing a certain limit in his situated or “materialist” thinking, only establishes general rules from what he takes as the necessary and “universal” start of ancient societies.²³

By contrast, Marx views the demands of his democratic idea as brought up by contemporary political developments: “The question whether *all people individually* ‘should take part in deliberating and deciding on political matters of general concern’ is a problem that arises from the separation of the political state from civil society” (188). The standpoint of the social contract introduced the notion of the “sovereignty of the people”, expressed in repressed form by Hobbes’ arguments to consent to an absolute monarch, developed further by Locke’s emphasis that the executive is the servant of the law and should be separated from the legislature

23 And it is a conspicuous fact that Rousseau’s 18th century work concludes with *ancient*, Roman examples (Comitia, Tribune, Dictatorship, Censorship) when trying to flesh out his political theory. Lukacs, critiquing the methodology of Comte, Spencer, and Max Weber, appears relevant here as well. “We have already noted the methodological limits of formal, rational and abstract conceptual systems. In this context it is important only to hold on to the fact that it is not possible to use them to surpass the purely factual nature of historical facts...The very most that can be achieved in this way is to set up a formal typology of the manifestations of history and society using historical facts as *illustrations*. This means that only a chance connection links the theoretical system to the objective historical reality that the theory is intended to comprehend” (154).

(whichever form it takes), and culminated in an “open contradiction” in Kant’s republican representation, consented law, and equality under the law. Of the political contract theorists, only Rousseau had reached the conclusion that the people, *to remain sovereign*, must be legislators; he saw this as the only way the law could truly manifest the “general will” or the “common good,” *and* Rousseau asserted the sovereign people’s control over the executive functions of government (with the perpetual power of removal of those appointed, and adjustment of the executive and bureaucratic institutions) as the *only* legitimate relation of the people to political authority. Marx’s orientation appears to add a different emphasis, one which undercuts (or expands) the notion of legal citizenship (whatever the government forms), membership in the state derives from real (*de facto*) relations: “If they are a *part* of the state, it is obvious that their very *social existence* already constitutes their *real participation* in it” (187). In raising the problem of resolving the political-civil divide, Marx needs to deal with the realities of human relations; the deontological standpoint does not furnish the means to establish state membership, “so that when we are speaking of *real* members of the state we cannot assert that they *ought* to participate in the affairs of the state. For in that event we would be talking about those subjects who *want* and *ought* to be members of the state, but *are not* in reality” (188).

Marx’s democratic standpoint, that the political should not be distinguished from the members of society, leads him to call for the dissolution of the political state itself. “Political” functions of the state are to be brought down from the political heaven into the grasp of the members of civil society; they would become quite simply problems and tasks to be taken up along with all the other concerns people face (civil and private spheres would no longer be denied political significance). “On this assumption the *legislature* entirely ceases to be important as a *representative* body. The legislature is representative only in the sense that *every* function is

representative” (189). The discussion and debate required to decide upon the provision of the needs and desires of society are to be a part of the process in which each human being participates in a truly democratic society: “The general concerns of the state are political concerns, the state as a *real concern*. Deliberation and decision are the means by which the state becomes *effective* as a real concern” (187).

Insofar as there are fundamental contradictions inherent in the political state (noting that primarily only some general structural contradictions have been discussed here), Marx has certainly pointed out that Hegel’s apologetics and proposals for the private/political divide must be replaced by a more critical survey. But has he sufficiently answered Hegel’s challenge (#2 above), to provide an alternative “sovereignty of the people” for present realities? Can’t it be said that we have moved no further than an abstract democratic “idea,” with no discussion of the organizations or movements required of the people that would institute democratic relations? Are we only left with the abstraction of “the people” (rather than with social groups or movements), and thus an inadequate or undeveloped notion of democratic relations or of the institutions required?

To take part in the legislature, therefore, is to take part in the political state, it is to prove and realize one’s *existence* as a *member of the political state*, as a *member of the state*...Hence if civil society forces its way into the *legislature en masse*, or even *in toto*, if the real civil society wishes to substitute itself for the *fictional* civil society of the legislature, then all that is nothing but the striving of civil society to create a *political* existence for itself, or to make its real existence into a *political* one. (188)

There are two essential tasks here, which are actually two, connected moments:

- 1) By making the point that democracy is already the “truth” of every political constitution, the constitution is seen as dependent on the human beings of the society, the people as the state; 2)
- By stressing that democracy must be realized within the circumstances of society, a survey of

modern societies is needed that includes an analysis of the other “spheres” of society, which are only in part structured, formed, or “subsumed” by the particular political constitution with which a people is historically laden. With 1 the justification of democracy (along with the standpoint for critique of the given political constitution) is found; with 2 the kind of work needed to establish the means (and deficits) towards the realization of a truly democratic society is indicated.

If democracy is to be realized by the people, the present reality of the people must become the focus. Political states and political constitutions were pointed out as an idealism of politics, a politics which had yet to express the truth of people’s conditions, and give the people in those conditions deliberative power over them. The “truth” of democracy makes this clear in any form of political state, but this truth is expressed in a genuine democracy by the dissolution of the political constitution through resolving the divide between the private and the political. Marx’s development of the “Idea” of democracy placed a demand on him to analyze the present, social realities, for he needed to still ascertain the status or circumstances of human beings in society. By holding to the “Idea” of the political empowerment of all within their lived relations, a demand is placed to discover the “real” conditions of each. What is sought is the ground for a transition to democracy.

1.2: “On the Jewish Question”: The Political Principle of an Apolitical Society

It is not so much the status of the Jews in Prussia that fuels Marx’s reflections at the time he writes “On the Jewish Question,” as the adequacy of the standpoint of a critic of the Jews. For Marx, Bruno Bauer appreciated quite well the inevitable conflicts that arise between a religious state (a state with an official religion, explicitly giving opportunities and excluding due

to religious affiliation) and non-endorsed “members” of that state who hold to other religions. The conflict rests on the problem of the nature of political citizenship, which is connected to the myth, which Marx tried to expose in the previous work, that it is state identification that makes one a member of a society, and not real, factual, human relations (with state identification only playing a part). Bauer offers as a solution “political emancipation,” the establishment of “a true, a real state,” “that the Jews give up Judaism and that man in general give up religion in order to be emancipated as a *citizen*” (Marx, “On the Jewish Question 215). For Marx this “solution” demonstrates two, connected, fundamental misunderstandings by Bauer: 1) he is wrong that political emancipation entails giving up religion; 2) his general solution, and goal, of political emancipation falls short of the emancipation human beings require.

As was seen in the last section, Marx has already recognized the fundamental divide presupposed by a political constitution and manifested by the political state. This divide immanent in the “ideal” of the political state can be seen to be more or less fulfilled in reality; the state, as a political state, can be more or less “perfected”.²⁴ Thus, “the form in which the Jewish question is posed differs according to the state in which the Jew finds himself” (216); the real human beings’ circumstances and possibilities do indeed include the political environment (constitution, institutions, etc.), which also conditions or structures the conceptions of both the problems and solutions available. Insofar as the German state remains Christian, insofar as it has not separated itself from the elements of civil society (still granting legal privileges), the German state is held by Marx as not a political state in that respect, for it has not achieved the pure expression of the political state’s ideal: a universal politics, in constitutional word at least,

24 The “reality” of the political state/civil society divide can be evaluated as more or less realized in the content or expression of the constitution itself (the explicit laws, rights, rules of functioning etc.), as well as in the real, day-to-day life of the society with that political constitution.

separate from civil/personal distinctions. Thus the “Jewish question” is doomed to be a theological question in a society with a Christian state (how are citizen-Christians to establish their relations with Jews?). In France, the retention of a “*religion of the majority*” raised the question of the “*incompleteness of political emancipation*” in the constitutional state, thus the Jewish question still retained the “*appearance of a religious, theological opposition*” (216) there. But in the “free states of North America” the Jewish question loses its “*theological significance and becomes a truly secular question*” (216). There is found the completed separation of the state from the religion of its members, “the state relates to religion as a state, i.e., *politically*.” With the fulfillment of the ideal of political emancipation (the “perfected” political state), the nature of political emancipation can be made clear, and put on trial. “Criticism then becomes *criticism of the political state*” (216-217).

Bauer’s first mistake, one that Marx shows could have been revealed empirically, was thinking that the perfected political state rules out the existence of religion, in fact religion in America took on a “*fresh and vigorous form*.” What is important is that the relationship the state there established between itself and religion is consistent with, and in fact constituted by, the separation of the political state from the private spheres. The perfecting of the political state, the establishment of the state outside of private and civil distinctions, has as its concomitant the freedom of those private spheres. Thus Marx further characterizes his approach to the Jewish question through the following general statement, “We humanize the contradiction between the state and *a particular religion*, for example Judaism, by resolving it into the contradiction between the state and *particular secular* elements, and we humanize the contradiction between the state and *religion in general* by resolving it into the contradiction between the state and its own general *presuppositions*” (218).

In other words, the contradiction that now presents itself is that the political state and constitution become free of religion, while religion persists amongst the members of the society. Man, through the “medium” of the state, can declare himself politically an atheist, while privately retaining his religious commitments. Marx is quite right to note the “abstract and restricted” transcendence of religion found here, and the tension within himself that the religious citizen must feel. Again, this insight wasn’t novel with Marx; Rousseau, for instance, also expressed the remaining tension here, “this double power has given rise to a perpetual jurisdictional conflict that has made all good polity impossible in Christian states, and no one has ever been able to know whether it is the priest or the master whom one is obliged to obey” (222). Of course in this case Rousseau is considering Christianity’s claim that it is not political (but “otherworldly”), whereas Marx is concerned with the political state’s claim not to be religious (an innovation Rousseau did not envision or even desire), but the essential tension is not resolved so long as both the political state and religious believers exist in the same society. The question then is what exactly is accomplished, what “transcended”, when it is the state, not people, that is “free of religion” - what are the characteristics of this achievement that is political emancipation?

According to Marx, “The *political* elevation of man above religion shares all the shortcomings and all the advantages of political elevation in general” (219). The separation of “church from state” is not a special case of political constitutions, but a particular case of the general framework of the separation of the political from the civil and private spheres. All other elements of the “private spheres” are likewise denied “political” content (they are not “declared” as relevant variables in the political/legal status of citizens), but as Marx notes, in denying political significance to these existing features of human existence, the political sphere does not abolish or deal with these features but *presupposes them*. Thus, by “perfecting” the state, for

example, by ridding it of property or educational qualifications for voting (or more recently “race” or “sex” qualifications) the real distinctions manifest in property disparities, disparities in education, or “opportunities,” etc., are by no means dealt with, but instead left just as they are. “Nevertheless the state allows private property, education and occupation to *act* and assert their *particular* nature and in *their* own way, i.e., as private property, as education and as occupation” (219). Thus, the real activity of these “private” elements in society still has to be considered, as does the question of whether a state, in “abstracting” itself from these elements, in reality simply subjects itself to their activity - the perfectly formal state necessarily having its content determined by forces outside itself.²⁵

The “universality” of the state is thus thought to be accomplished by a formalization of the content of the state, its “abstraction” away from the particular elements of the society. But political constitutions are in fact closely tied to civil and private spheres. Putting aside the “action” of these spheres on the state, as was also seen above, the establishment of the state presupposes simultaneously the establishment of the private spheres. With this is found, coordinate with the achievement of the perfected state, the realization or awareness of the “rights of man,” which are theoretically and (legally) constitutionally expressed. Consistent with the above analysis, the “privilege of faith” (the freedom of religious worship, assembly, and practice,

25 I believe the importance of this insight and political concern of the “young Marx” is often missed (especially if one is only looking for the “mature” Marx, his focus on economic relations). His construal of the perfected political state as the atheist/secular expression of Christianity is quite ingenious; the secular is found with his emphasis on political power, the “Christian” element is found by noting that political power is in fact far removed (in the “heavenly” sphere of the state) from most citizens. For Marx this perfected political state reinforces a religious worldview that believes its moral significance or dignity is beyond secular/political concerns (the political disempowerment felt in the republic, even when granted free and equal republican citizen rights, reinforces the felt “reality” of this religious worldview). We see a dialectic assert itself in this case as well: the religious believer, organizing a consensus in civil society, feels every right to have their worldview expressed through the formal politics of the state, and thereby, the secular state becomes the expression of a religious worldview.

to express religious views, and freedom from compulsory support) acknowledged in North American state constitutions - this “freedom” - is in fact the right of an element of civil society to be protected from political interference, and entails the use of legitimate, political force to be defended in civil society. Though this right of the “privilege of faith” or of freedom of conscience is now commonly acknowledged as among the most cherished (and essential) liberal rights, the general structure from which it gains expression has consequences that can be called into question. “The first point we should note is that the so-called *rights of man*, as distinct from the *rights of the citizen*, are quite simply the rights of the *member of civil society*, i.e. of egoistic man, of man separated from other men and from the community” (229).

With this, Marx famously commences to analyze the rights of “equality, liberty, security, property” granted in the “most radical” constitution: the French Constitution of 1793. They include the right to liberty, essentially the right to do anything that does not harm the rights of others (“man as an isolated monad” (229)), the right to property, to dispose at will one’s goods, revenues, and fruits of his work (“without regard for other men and independently of society” (229)), the right to equality, each treated as if possessing self-sufficient liberty; and the right to security (police protection of the above notions of person, rights, property). For Marx, this analysis demonstrates that the rights guaranteed against political power are in fact the political guarantee that the individual, egoistic, and private interests of civil society will be left untouched.²⁶ In “The Critique of Hegel’s Doctrine of the State” we find the first intuitions of the

26 Earlier, in “The Critique of Hegel’s Doctrine of the State” we find, “*Roman civil law* is the *classical form of civil law*. But the Romans never mystified the law of private property as the Germans have done. They never developed it into *constitutional law*. The law of private property was the *jus utendi et abutendi* (right to use and abuse), the law enabling one to dispose of things *as one wished*... The actual foundation of private property, *ownership*, was a *fact*, an *inexplicable fact with no basis in law*. It only assumed the character of rightful ownership, *of private property*, by virtue of the legal determinations which society bestowed upon the mere

tie between civil society and egoism, “the principle of civil class or civil society is *enjoyment* and the *capacity to enjoy*...The civil society of the present is the principle of *individualism* carried to its logical conclusion. Individual existence is the ultimate goal; activity, work, content, etc., are *only means*” (147). The “universal” state in light of these “rights” is not merely dissociated from the private spheres, but viewed as a threat to the pursuit of interests (assumed legitimate) found in them. But in achieving the security of the private spheres, the civil/natural rights, what now constitutes the political community of the citizen? And, what kind of participation in the political sphere is available to the members of society, who are now protected as they are found, and “rightfully” unaltered in their private relations?

It is a curious thing that a people which is just beginning to free itself, to tear down all the barriers between the different sections of the people and to found a political community, that such a people should solemnly proclaim the rights of egoistic man, separated from his fellow men and from the community...This fact appears even more curious when we observe that citizenship, the *political community*, is reduced by the political emancipators to a mere *means* for the conservation of these so-called rights of man and that the citizen is therefore proclaimed the servant of egoistic man...and finally that it is man as *bourgeois*, i.e. as a member of civil society, and not man as citizen who is taken as the *real* and *authentic* man. (230-231)

If the establishment of the perfected political state requires a complete abstraction from the elements of civil society, presupposing and securing as found the civil sphere, the accomplishment that is the political state, in its basic conception and structure, *has no principle of organization*, provides no “community” to the members of society. The “abstract,” perfected

fact of possession” (179). We have then with these “rights of man” a secular/political monadology far more ambitious than a proposed metaphysical theory to explain reality, for it serves as an outlook to frame/re-constitute it. Conspicuously lacking is Leibniz’s “God” who served as a guarantee of pre-established harmony and proved that we live in the best of all possible worlds. This leaves the theoretical space open (and thus leads to the varied speculations) as to whether there is an “invisible hand” (Smith), or “ruse of reason” or “Idea” (Hegel), establishing order between us. Marx, of course, rather than seeking a justification for the established realities, pursues a critical evaluation of them.

political state in essence and in principle, leaves the real human beings of society in their day-to-day lives subject to the forces found in the private spheres. The human beings in this society are not really citizens and subjects of a political community, for, again, *it is the state that is political* (while the real person is left to be religious or not, rich or poor, male or female, a cultural minority or one of the “majority”, etc., in civil society). The reality for the human being is not as a political citizen and political subject, but as a human being subjected to the forces of civil society (navigating its relations) with only a premonition of the political state. “For man as *bourgeois* ‘life in the state is nothing more than an appearance or a momentary exception to the essential nature of things and to the rule’” (220).²⁷

The perfected political state’s “political principle” thus appears to be the very lack of a political principle. The establishment of the political state sets loose the forces of civil society; in acknowledging the egoistic man it secures the “unbridled movement of the spiritual and material elements which form the content of his life” (233). And, insofar as the political state is perfected, insofar as “political” significance is taken away from every element of civil society and the political state achieves its peak of abstraction, the content of the political state can only

27 By understanding the structural connection between the abstract, political state and civil society we can explain another “curiosity,” the ‘felicity of pen’ when Thomas Jefferson claimed “the right” of “the pursuit of happiness” in The Declaration of Independence, which, according to Hannah Arendt (*On Revolution*), “blurred the distinction between ‘private rights and public happiness’” (119). She notes, “If Jefferson was right and it was in the quest of ‘public happiness’ that the ‘free inhabitants of the British dominions’ had emigrated to America, then the colonies in the New World must have been the breeding grounds of revolutionaries from the beginning... This freedom they called later, when they had come to taste it, ‘public happiness’, and it consisted in the citizen’s right of access to the public realm, in his share in public power – to be ‘a participator in the government of affairs’ in Jefferson’s telling phrase – as distinct from the generally recognized rights of subjects to be protected by the government in pursuit of private happiness even against public power, that is, distinct from rights which only tyrannical power would abolish” (118). With the U.S. Constitution a political state is founded over political states, and the Anti-Federalist dissenters, perceiving the withdrawal of more local, available power, are left to secure the *civil rights* to speech, assembly, and, most revealing, *to petition* the government in the first amendment.

come from civil society itself. Just as every citizen is given the political right to vote, the equal right to run as a political “deputy” or to apply to serve in the bureaucracy, police, or military, and insofar as politics is held to have no right to interfere with the forces of civil society out of respect for civil rights (or interfere only out of respect of them), the powers of civil society will inevitably be a force on and in the state. “The state stands in the same opposition to civil society and overcomes it in the same way as religion overcomes the restrictions of the profane world; i.e. it has to acknowledge it again, reinstate it and allow itself to be dominated by it” (220). And, just as each religious individual has their “private whim” (as Marx construes it) protected politically, their religious preference can be used as a reason for preferring one candidate over another, and their beliefs can be translated into policy (from concrete religious doctrine to abstracted political law), so too nothing stops private property owners from attempting to have their interests expressed as the “universal” interest. That is, the same act that frees the state of religious, property, and other “private” qualifications on the vote makes the state, in its abstraction, completely open to those same “earthly” influences which win their way into its “heavenly” sphere.

The *political revolution* dissolves civil society into its component parts without *revolutionizing* these parts and subjecting them to criticism. It regards civil society, the world of needs, of labour, of private interests and of civil law, as the *foundation of its existence*, as a *presupposition* which needs no further grounding, and therefore its *natural basis*... Actual man is acknowledged only in the form of the *egoistic* individual and *true* man only in the form of the *abstract citizen*. (pg. 234)

The problem then is that though the state is supposed to provide the means or medium for a universal political community, it is determined by the particular interests and powers of civil society. This is the conclusion that follows from Marx’s earlier notion that the political state couldn’t possibly “constitute” society, it reflects it. And, insofar as the “perfected” state does

not offer each, as a member of civil society, political power, but instead only offers the voting right to choose a few deputies to marshal political power, the political state still remains the privileged domain of “politics.” With the representative republic, the *state is democratic*; instead of the members living democratically, the perfected, abstract state makes an abstraction of citizenship itself. The members of civil society find in the state a further channel for the forces of civil society: the state becomes a “means” which claims itself to constitute “the sphere of community,” to be able to realize the “*universal* concern of the people ideally independent of those *particular* elements of civil life” (233). Thus is found an ideological force added to the already real forces of civil society. And insofar as the political state protects the rights of civil society, the forces of civil society get the real forces (police, prisons, bureaucratic institutions, etc.) of the state, and are themselves given an ideological dress (“rightfully” empowered and protected). Each member of civil society who is also an “abstract citizen” may get his “political lion’s skin” (221), but they are thrown to the dominant forces of civil society, which, with the aid of the state, must be viewed as the true lion.

Marx then indicates his own solution, “human emancipation,” which is needed to transcend mere political emancipation:

Only when the real, individual man resumes the abstract citizen into himself and as an individual man has become a *species-being* in his empirical life, his individual work and his individual relationships, only when man has recognized and organized his *forces propres* (own forces) as *social forces* so that the social force is no longer separated from him in the form of *political* force, only then will human emancipation be completed. (234).

What in “The Critique of Hegel’s Doctrine of the State” took the form of a democratic idea, here gains a different conceptual expression, but, I believe, is only a further articulation of the same political theme. The notion of a “species-being” is already mentioned in the “Critique,” though it is not a dominant conceptual category (compared to the notion of “democracy”): “It is here, in

the sphere of the political state, that the individual moments of the state achieve the *essential reality* of their *species*, their ‘species-being’. And this is because the political state is the sphere of their universal meaning, their *religious sphere*. The *political state* is the *mirror of truth* which reflects the disparate moments of the *concrete existence*” (176). I believe seeing the continuation and development of the democratic “idea” here is unproblematic then.²⁸ The individual man who “resumes” (incorporates) the abstract citizen into himself is not the member of civil society with new, different, or even more political “rights” or privileges, but a person existing in a society which surpassed the civil/political break established by the political state. Political influence, now shared by all in their day-to-day lives (not distant or supposedly realized only through the privileged, elect), has a direct influence on those lives; political determinations are not made in the name of human community *but by it* (and through this is found the conscious development of the “species”). The social forces, which all the classical contract theorists sought to legitimate *to each member of the community*, are to be put back in the hands of community as a democratic community. The relationships and work of the community are placed under its control and are the expression of collective self-determination.

This democratic “idea” is presented in contrast to the progress (never denied by Marx) of the full realization of political emancipation and the perfection of the political state/civil society

28 Feuerbach’s influence on the young Marx is well known. But the “species-being” notion was earlier developed by Kant. “*In man (as the sole rational creature on earth) those natural capacities directed toward the use of his reason are to be completely developed only in the species, not in the individual*” (“Idea for a Universal History with a Cosmopolitan Intent,” Second Thesis). Kant’s point is that mankind fulfills its “rational” potential through our *collective labors* (individuals are educated by socially developed knowledge, only can gain an expertise in some of it, and if they can, contribute their part in their short life-span). Marx’s democratic idea is articulated through the species-being notion, adding that the transcendence of the political state would offer each equal access to and an equal role in the direction of the social forces.

divide, “ the last form of human emancipation *within* the prevailing schemes of things” (221).

However with this “progress” we find:

It is no longer the spirit of the *state* where man behaves – although in a limited way, in a particular form and a particular sphere – as a species-being, in community with other men. It has become the spirit of *civil society*, the sphere of egoism and of the *bellum omnium contra omnes*. It is no longer the essence of *community* but the essence of *difference*. It has become the expression of the separation of man from his community, from himself and from other men, which is what it was originally. (221-222)

Hobbes presented a picture of a brutal, competitive state of nature to provide grounds for justification, to “reveal” as necessary and desirable, an absolute monarch, and through the inherent contradiction of trying to justify “absolute” monarchy admitted a principle of consent to social organization which led Rousseau to his radical equation of liberty with peoples’ sovereignty. For Marx, however, with the modern political constitution, the “war of all against all,” is not seen as avoided through the state, but instead is thoroughly established in civil society and protected by the state.

But, again, grasping what stands in the way of the people gaining control of their social forces (a conception which I see bridging Marx’s earlier democratic idea and his species-being focus) is essential to the commitment here. In raising the promise of the democracy of the community, the question is raised how the real members of society will become such a community. For my purposes Section II of “On the Jewish Question” will not simply be passed over, or excerpted out, just because Marx equates Judaism with commerce – which I see as an unfortunate, and ultimately dangerous language game (the German *Judentum* standing to mean ‘commerce’) – or, because he picks up Bauer’s analysis of the Jewish Talmud as expressing “the world of self-interest to the laws that dominate it; the wily circumvention of those laws constitutes the principal skill of that world” (249), or makes many other similar claims, such as

“Money is the jealous god of Israel before whom no other god may stand” (239). Given Marx’s dependence on, not critique of, Bauer on this point, a critique here is a critique of Marx’s conception of Judaism as based on practical need, egoism, or crass materialism. Marx can be accused (as students of mine have done) of expressing this outlook as a form of “rhetorical flourish” to advance his attack on commercial relations in civil society within the anti-Semitic milieu of Europe at the time, but, this rhetoric, no matter the “appropriateness” of its ultimate target, can be deemed itself irresponsible and wrong.²⁹

What can be salvaged from this section is that Marx is concerned with the degradation of mankind in civil society’s “free” commercial relations, and ultimately, human relations being mediated through money.

Money debases all the gods of mankind and turns them into commodities. Money is the universal and self-constituted *value* of all things. It has therefore deprived the entire world – both the world of man and of nature – of its specific value. Money is the estranged essence of man’s work and existence; this alien essence dominates him and he worships it. (239)

Already Marx recognizes, and prioritizes in this recognition, the force of financial means as a dominant material force in civil society (his primary concern in this section). And, insofar as the political domain does not offer a substantive community, but one dependent upon the organizational forces of civil society, financial power is itself free to provide the content and direction of societal relations. It appears everything has its price (even “nature” itself); human dignity too (placed “categorically” beyond price by Kant, *Grounding for the Metaphysics of*

²⁹ Leo Lowenthal’s judgment of these aspects of this text is unambiguous about the problems here. “The pamphlet, “On the Jewish Question”, is a classic document of a type of anti-Semitism for which history has yet to be written, namely, Jewish anti-Semitism. This little text contains statements of great anti-Semitic harshness and pointedness, free of all concessions and all those loathsome compliments that non-Jewish anti-Semites like to apply to individual Jews... That Marx is speaking out of his profound ignorance of Jewish cultural values when he fails to distinguish loudly and clearly between Jewish possibilities and realities is certainly not to be overlooked” (32, 34).

Morals §435) has to be purchased or earned.³⁰ Money becomes the end of human activities (as the universal medium from which desires are satisfied), and thereby money determines the nature of activity. Consistent with the apolitical principle of the perfected state, and the emphasis on financial force in civil society (as a “material” force), Marx notes that “ideally speaking” political power is superior to financial power, “but in actual fact it is in thrall to it” (238). The “ideal” of politics, ultimately fulfilled for Marx at this stage of analysis by the “idea” of democratic community, could only be set as a real goal by not only coming to terms with the financial relations of civil society set free by the political state, but by overcoming them. But then, for Marx, the battle for democracy would have to take account of the elements involved on the “real ground,” the ground of civil society, where can be found “real human beings”; “the *real human being* is the *private human being* of the present political constitution” (“Critique of Hegel’s Doctrine of the State” 148).

1.3: “A Contribution to the Critique of Hegel’s Philosophy of Right. Introduction”: Establishing a political position in the private sphere

Marx opens his “A Contribution to the Critique of Hegel’s Philosophy of Right: Introduction” with some of the most powerful statements of his “diagnosis” of religion, describing religion as a sign, symptom, and expression of unaddressed, “real” suffering. Marx

30 This point can still be made when granting Hegel (and later feminist critique) the point that, along with civil society and the state, the family is also an “element” of society. “While, outside the privacy of the family, men’s existence was chiefly determined by the exchange value of their products and performances, their life in home and bed was to be permeated with the spirit of divine and moral law. Mankind was supposed to be an end in itself and never a mere means; but this ideology was effective in the private rather than in the societal functions of the individuals, in the sphere of libidinal satisfaction rather than in labor” (Marcuse 183).

notes, insofar as religion attempts to compensate for, without correcting, the problems of the state and society, humanity's "chains" are only lightened "ideally," for such respite gives no release. However, if we were to use previous sections to anticipate the real problems to be addressed, it is not just that material or bodily needs are not being met, but that there is a lack of democratic community, a lack of political self-determination, and isolation and competitiveness in place of social projects, as well as the domination of choice and activity by a financial system of relations. In the early works so far considered, it was in light of the positive idea of a democratic community that Marx undertook his critical analysis, uncovering the various compensatory efforts (even political progress) that served only to cover the deficiency (unique to the human "species-being") found in anything short of a democratic community. Along with his diagnosis of the otherworldly promises of religion, there is also found a test of the adequacy and realization of republican legal and political promises. Where the heaven of the "otherworld" leaves unchanged real causes of suffering and dissatisfaction, the members of society could likewise evaluate and critique the supposed removed, universal domain of the political state along with its actual and manifest counterpart, civil society.

In this "Introduction," Marx announces that insofar as the Germans "have shared the restorations of modern nations without ever having shared their revolutions" (245) the German *status quo*, the social-political reality, is below the level of critique. Again, Marx admits his commitment to the "progress" of the republican state. The perfected state is, to him, an answer and response to feudal conditions, and insofar as elements of feudalism remained in Germany, the critique of its conditions had already been "articulated" by the actual revolution in France. But, he notes the "advanced" countries are already facing a fundamental question, "In France and England the alternatives are posed: *political economy* or the *rule of society over wealth*" (248) –

the choice being posed between the aid to be garnered from a developing economic “science” or the need for the society or community to control the economic forces (Marx’s democratic idea).

However, in response to Germany’s backwardness (relative to the developments of European political culture around it), Marx perceives the development of an “ideal” compensatory “forwardness”: German philosophy. German idealism, and its “most refined and universal expression... the speculative philosophy of law” (250), is identified as driven by reflection on the modern political conditions of other countries, while remaining only the “abstract continuation” of German reactionary political conditions. “The Germans have *thought* in politics what other nations have *done*. Germany has been their *theoretical conscience*... then the *status quo* of *German political thought* is an expression of the *imperfection of the modern state*” (250-251). With this claim, Marx raises the challenge that *both* the peak of perfection of the *actual* political state and the highest *consciousness* of the political presuppositions and implications of this state must be surpassed. The critique of German idealism, and “philosophy as philosophy” (by revealing the inevitable connection of philosophical ideals to the circumstances of society), becomes a necessary adjunct to the transformation of German conditions, and perhaps not only German conditions.

As the determined opponent of the previous form of *German* political consciousness, the criticism of the speculative philosophy of law finds its progression not within itself but in *tasks* which can only be solved in one way – through *practice* {Praxis}... Clearly the weapon of criticism cannot replace the criticism of weapons, and material force must be overthrown by material force. But theory also becomes a material force once it has gripped the masses... The point is that revolutions need a *passive* element, a *material* basis. Theory is realized in a people only in so far as it is a realization of the people’s needs. But will the enormous gap that exists between the demands of German thought and the responses of German reality now correspond to the same gap both between civil society and the state and civil society and itself? Will the theoretical needs be directly practical needs? It is not enough that thought should strive to realize itself; reality must itself strive towards thought. (251-252)

What is sought is not a new theory alone, or simply a new practice, but a thorough connection of theory and practice.³¹ The underpinnings of this now famous Marxist connection can be seen as tied to the problem already articulated by the separation of politics from civil society, the separation of the idea of the self-determined human community from the reality of human conditions. The break from the most modern conditions - the perfected state and the corresponding civil society, and the highest consciousness of the presuppositions of these conditions - would have to come about, for Marx, through the revolutionary action of members of society that do not merely seek influence in or through the state, nor seek dominance in civil society, but whose goal or aim would be to supersede the civil/political divide. The problem then becomes differentiating or recognizing the members of society whose characteristics or circumstances dispose them towards this “extreme” alternative of consciousness and action.

What is sought is not a universal or general human *telos*, nor a transcendental framework or divining of the strivings of the “Idea,” but a historically situated, social ground for the overthrow of the perfected state with its corresponding free development of financial power, along with the other unregulated, unchecked, and even state “assisted” social forces.³² Thus,

31 “The Antinomies of Bourgeois Thought”, Part II of Lukacs’s *Reification and the Consciousness of the Proletariat*, is the definitive work demonstrating that the problem of connecting theory to practice (subject and object, form and content, freedom and necessity, etc.) was thoroughly and ingeniously articulated, but left unresolved, by “classical philosophy” – from the 17th century rationalists and empiricists, to Kant (who introduced the unknowable “thing-in-itself”), to the heights of German Idealism found in Hegel.

32 Jürgen Habermas, in *Theory and Practice*, presents the movement from “philosophical” transcendental orientations, or natural law justifications, to an outlook concerned with concrete circumstances and actual social relations as a development conditioned by (but *departing from*) the liberal, bourgeois mode of consciousness. “Just that linking by the liberals of the construction of Natural Law to the political economy of the bourgeois society has provoked a sociological critique, which teaches that we cannot isolate formal right from the concrete context of social interests and historical ideas, and, as it were, ground it independently – whether ontologically, transcendently-philosophically, or anthropologically – in nature (the nature of the world, of consciousness, or of man) – an insight by which Hegel, in the Jena *Philosophie*

identifying the circumstances or telling “situations” of people in society, within even the “democratic” republic, is required by this standpoint. An essential division - or difference - within society is sought, which, instantiated by the conditions of society, would open the way to criticism of those conditions. But, to establish the fact of this divide, even though feudalism was transcended by the political constitutions guaranteeing equal citizenship and civil rights, is for Marx to make the point of the inadequate and incomplete revolution accomplished by the republican revolutions.

What is the basis of a partial and merely political revolution? Its basis is the fact that one *part of civil society* emancipates itself and attains *universal* domination, that one particular class undertakes from its *particular situation* the universal emancipation of society. This class liberates the whole of society, but only on the condition that the whole of society finds itself in the same situation as this class, e.g. possesses or can easily acquire money and education. (253-254)

With this, Marx reveals his insight into the bourgeois nature of the French republican revolution, and its inevitable shortcomings. The “inevitability” of the defects found in the aspirations of the bourgeois revolutionaries was tied to their very real circumstances and interests (a standpoint they presupposed and struggled for), but, as Marx goes on to elaborate, this does not explain why the bourgeois, with their own particular interests, were taken up as the “universal representative” of the aspirations of society in general. The opportunity for one class to rally most of society to revolution while in pursuit of its own interests is explained by the existence of another class which “gives universal offense,” and is “the embodiment of a general limitation,” which “must appear as the *notorious crime* of the whole society, so that liberation of this sphere appears as universal self-liberation” (254). This “liberation” was *liberation from* the domination of the French nobility and (landed) clergy.

des Geistes, had already anticipated what Marx stated in the *Deutsch-Französische Jahrbücher*” (117-118).

The progress of the bourgeois revolution may indeed have been progress, but ultimately (if the bourgeois victory is taken as “the end”) only proved to be “satisfactory” or adequate progress for some. However, the shortcomings here could not be easily or generally anticipated. The particular nature of the bourgeois victory, realized through the political state that fully set free the power of the bourgeoisie, for Marx, was revealed through the victory itself. The conditions that “the people” found themselves in after the victory revealed the nature of the revolutionary leadership and the gains of the revolution. The perfection of the state, the maturation of the now unchained forces of civil society, realized the bourgeois dream and subjected society to bourgeois conditions, whether you were bourgeois (“could easily acquire money and education”) or not.

But the question must be raised of the actual immanence of the democratic project - democracy as not only a concern of Marx himself, *but actually* more broadly a concern in society - for Marx is seeking a practical and theoretic ground for a democratic revolution. The conditions required for a “coming to consciousness” of the population were suggested with Marx’s early analysis of the transition from feudalism to political constitutions, and with the perfection of the political state itself. With the challenges to feudal conditions and the eventual overthrow of those conditions (in France and America most completely), where a transition was made from the members of society being relegated to specific, separate, and unequal political spheres tied to private functions to an “equality” of civil and political rights, Marx charts the political gains that bring the members of a society one step closer to being able to realize a democratic community.

The impetus for democracy is not a “universal” human need (again, such an ahistorical characterization is decidedly unMarxist), but is seen as inculcated and reinforced (though frustrated) in a society with a “political” state. However, since the desire (and frustration) sought

here can be more or less, it must be noted that motivation will be found for each individual depending on their role or place in society (*or not at all*, for it must be acknowledged that there are also those in “advantaged” circumstances or positions of power); thus Marx’s standpoint faces the challenge of finding sufficient motivation for a democratic community, i.e., discovering the real individuals who in fact have (or could have) such a motivation. Addressing this challenge is clearly not just a theoretic, but a practical problem for Marx.³³

In the “Introduction” Marx evaluates two contemporary possibilities: a French and a German case. Each is characterized by the differing circumstances or conditions of the actors involved (and it should be noted that both “ideal” and “material” components are seen as relevant for the analysis). It is suggested that the members of each class in France are “political idealists.” The political history of France, the revolutions and reformations, reinforced a political self-conception and expression of the classes, opening the possibility that classes identify themselves, “if only for a moment, with the spirit of the people, that genius which can raise material force to the level of political power” (254). This material/political connection leads to classes experiencing themselves “not as a particular class but as the representative of social needs in general” (255). The classes of society, conceiving themselves, expressing themselves, and fighting for themselves (in the name of all), are participating in a framework of

33 Walter Benjamin knew well the importance of this emphasis on frustration and suffering as an essential motivation for Marxism. “Not man or men but the struggling, oppressed class itself is the depository of historical knowledge. In Marx it appears as the last enslaved class, as the avenger that completes the task of liberation in the name of generations of the downtrodden... Social Democracy thought fit to assign to the working class the role of the redeemer of future generations, in this way cutting the sinews of its greatest strength. This training made the working class forget both its hatred and its spirit of sacrifice, for both are nourished by the image of enslaved ancestors rather than that of liberated grandchildren” (“Theses on the Philosophy of History” XII). Of course whether Marx has discovered the means to liberation--not just the motivation, but also the forms, relations, or institutions in which it can be accomplished or realized--remains essential to evaluating the worth of his standpoint.

consciousness and action which, for Marx, opens the door for the critique of the political state that the bourgeois defend as realizing human emancipation.³⁴

Marx predicts that in these conditions,

The role of *emancipator* therefore passes in a dramatic movement from one class of the French people to the next, until it finally reaches that class which no longer realizes social freedom by assuming certain conditions external to man and yet created by human society, but rather by organizing all the conditions of human existence on the basis of social freedom. (255-256)

He postulates that the political idealism of the French offers the opportunity to realize a ‘radical’ revolution; by claiming to be themselves the means to the realization of the fulfillment of social needs, the classes also made themselves the target of criticism (when failing or coming up short) – thereby a material basis for critique and change is acknowledged. With this Marx perceives a path is open for the “right” class to set society aright, one whose rise to political power would place the social conditions under political sway, but whose political dominance would be based on “social freedom.” In France, it is predicted, the “universal” promises of each class will lead to the rise of a class with truly universal aims.

Germany, characterized by Marx as participating in none of the revolutions but all of the restorations, is viewed as having none of the political gains but all of the political deficits of the age, with an abstract philosophy corresponding to its political backwardness. Its classes lacked the French political idealism, but instead possessed a “modest egoism,” with class consciousness (and particular claims) attained not through the attempted overthrow of oppressive conditions, but by perceiving opportunities to oppress other classes through the overall development of societal conditions. “Germany, however, where practical life is as devoid of intellect as

34 Or, rather, political emancipation (with its corresponding civil liberties) is equated, by the bourgeoisie, with human liberty and equality, thus bourgeois political and civil conditions are taken as grounded in ultimate or inalienable human rights, fundamental values, or founded by “natural laws” of reason.

intellectual life is of practical activity, no class of civil society has the need and the capacity for universal emancipation unless under the compulsion of its *immediate* situation, of *material* necessity and of its *chains themselves*” (256). In the narrow political environment of Germany, with classes pursuing their interests as *their own*, and not in the name of society, Marx could find a ground for political revolution only in those members of society who are opposed by the conditions or relations of society as such. What follows (256) is an early statement of the characteristics of the *proletariat*: possessing radical chains and universal suffering, a class of civil society which is not a class of civil society, formed by *artificially produced* poverty and society’s disintegration, with no claim to *particular right* because suffering from *wrong in general*, no claim to a *historical* title but a *human* one, which cannot emancipate itself without emancipating all the other spheres of society.

Without proposing an “eternal” human teleology, the “material” for democratic revolution is seen to be brought forth by social (not natural) conditions that make human life intolerable, requiring then those suffering from the social forces to gain power and control over them. “When the proletariat demands the *negation of private property*, it is only elevating to a *principle for society* what society has already made a principle *for the proletariat*, what is embodied in the proletariat, without its consent, as the negative result of society” (256). Subjected to private property relations (the right to property acquired in civil society stipulated and defended), yet unable and struggling to possess even the necessities, the proletariat seeks political power over the organizational principles of society itself. The standpoint of “moderate egoism” is transcended in Germany by the conditions of life making such egoism untenable and self-destructive for a whole stratum of society.

But the “intellectual weapon,” the theoretic component, is found in philosophy, or rather that philosophy which “surpasses philosophy”; for with the conception of theory/praxis, Marx finds what he sees as a “philosophical” standpoint to critique the critical struggle with philosophy that believed “it could realize philosophy without transcending it” (250).³⁵ “The criticism of religion ends with the doctrine that *for man the supreme being is man*, and thus with the *categorical imperative to overthrow all conditions* in which man is debased, enslaved, neglected and contemptible being” (251). The social destruction of human beings brings out the motivation to overthrow all conditions that hold back human beings from establishing the conditions that allow the members of society to ascertain and guide their own social forces, thus averting their own destruction; and the critical destruction of the authority of ideologies (religious, moral, and political) through revealing the human (social/historical) root of values,

35 Karl Korsch’s *Marxism and Philosophy* presents a nuanced analysis of what is entailed here. “There are three reasons why we can speak of a surpassal of the philosophical standpoint. First, Marx’s theoretical standpoint here is not just partially opposed to the consequences of all existing German philosophy, but is in total opposition to its premises; (for both Marx and Engels this philosophy was always more than sufficiently represented by Hegel). Second, Marx is opposed not just to philosophy, which is only the head or ideal elaboration of the existing world, but to this world as a totality. Third, and most importantly, this opposition is not just theoretical but is also practical and active” (66). Korsch does grant that German Idealism had a practical relation to the revolutionary movement of the bourgeoisie, and that the development of the dialectical materialist method of Marx and Engels from Hegel’s dialectical idealism made it “clear that the abolition of philosophy did not mean for them its simple rejection” (68). However, Lukacs’s work on reification (89) makes it clear that as the labor process is increasingly rationalized and mechanized, a “contemplative” perspective is forced on both the worker and capitalist alike, with each “egoistically” adapting to the apparently fixed laws of capital (“even while ‘acting’ he remains, in the nature of the case, the object and not the subject of events,” 135). Of course Lukacs agrees with Marx that the class perspective of the proletariat is the only outlook that reinstates the connection between the human subject and his social forces (and thus establishes the dialectical relation of theory to practice). The transcending of the “presuppositions of philosophy” is presented by Habermas as accomplished through (the perhaps more general category of) “materialist critique,” “for the critical achievement of the latter consists, to begin with, in forcing philosophy to recognize the poverty of its self-consciousness and to accept the insight that it can neither furnish rational grounds for its own origin, nor can realize its own fulfillment by itself” (*Theory and Practice*, pg. 201).

frees the human mind to appreciate and problematize its human conditions. With criticism moving to the conditions of life, consciousness is brought to the service of human problems. “The *head* of this emancipation is *philosophy*, its *heart* the *proletariat*” (257).

It is in this way that Marx perceived a chance for a material/political force to bud within even the “backward” conditions of Germany at the time. Marx then held the critical supersession of German philosophy, taken along with the development of the German proletariat, as a commensurate force, or at least a force *as serviceable as*, the political idealism gained through France’s revolutionary history taken along with the inevitable tensions of its developed class stratifications. Work around and addressing “ideals” and “ideology” was not denied an efficacy insofar as it was related to “material” reality. Insofar as the forces of civil society were already producing the *proletariat*, Marx saw his task in producing the theoretic standpoint that would be of service to them. His “politics” would be the development of the proletariat’s self-consciousness and the setting out of their tasks.

1.4: “Economic and Philosophical Manuscripts”: The struggle to overcome private property

Political economy proceeds from the fact of private property. It does not explain it. (322)

If, for Marx, political constitutions have made civil society the ground of contention, and revolutionary efforts to achieve human emancipation can only come from the efforts of the members of society as it is, civil society itself has to be analyzed to discover the basis of a political revolution. And, insofar as civil rights have been identified as establishing and protecting bourgeois private property through “political” non-interference and *support of* the civil/political separation, economic relations have to become a primary object of study to grasp the conditions of civil society itself. With the “free” market, set loose through the struggles and

political revolutions of the bourgeoisie, the study of economic relations came into maturity – the economy took on the appearance and status of an “object” of science. With the “free economy,” the bourgeois were seeking self-understanding, a “science,” which could better guide (or inform) their now unrestricted, competitive economic actions.³⁶ The works of political economy thus provided Marx primary “theoretic” material to approach a key component of the reality of civil society. But, insofar as these works were developed with the aim of pursuing bourgeois interests, Marx saw them presupposing the political/private break and directed towards the accumulation of private property. These “facts” of private property, as a political/civil right and as the aim of human pursuits, would become the object of Marx’s critique. They are interrogated in light of an ideal of “communism,” which in this work is construed as a “human society” that sets loose mankind as a species-being, so a further development from, and yet continuity with, Marx’s early democratic idea can be seen. With this conception of communism in this work, Marx saw what he took to be the means to transcend the standpoint of bourgeois political economy, while retaining a “realistic” standpoint within it, thus he believed he found a theoretic outlook suited to overthrow and supersede the conditions of bourgeois life (both its political constitution and private property).

36 But as Lukacs presents quite well, with the freedom of capitalist relations, the individual capitalists must submit and adapt themselves to the economy (while competing individually) as if it is a natural fact, rather than as a product of conscious, free creation: “We have already described the characteristic features of this situation several times: man in capitalistic society confronts a reality “made” by himself (as a class) which appears to him to be a natural phenomena alien to himself; he is wholly at the mercy of its ‘laws’, his activity is confined to the exploitation of the inexorable fulfillment of certain individual laws for his own (egoistic) interests. But even while ‘acting’ he remains, in the nature of the case, the object and not the subject of events. The field of his activity thus becomes wholly internalized: it consists on the one hand of the awareness of the laws which he uses and, on the other, of his awareness of his inner reactions to the course taken by events” (135).

What is uncanny about the first manuscript (except for the last section on estranged labor) is how much “Marxist” insight Marx actually garnered from a comparative study of political economists: the struggle between the capitalist and worker over the worker’s wage, the desperation and competitive disadvantage of the wage worker, the worker himself as just another “commodity” subject to the laws of supply and demand (later, 293, Eugene Buret is quoted posing the question whether labor regarded as a commodity, “is anything other than a disguised theory of slavery”). Also: the “best of times” in the economy leading to overwork, overproduction, and crash (Adam Smith); capitalism bringing about an explosion of productive forces through machinery and the division of labor, but the same or even more hours for the worker, and machine-like work at that. Additionally: the “freeing” of the productive (for profit) labor of women and children (Wilhelm Schulz); capital as stored-up labor (Jean-Baptiste Say); the modes of producing wealth - workers employed only to increase capital, the “fair” capitalist strategies and utilization of trade and manufacturing secrets, and the full exploitation of prices through monopoly control. With the expansion of capitalism, the number of capitalists increasing, but so too the size of capital needed to make a profit, the instabilities of the market found in the gap between supply and demand or “unplanned” economy (Smith again); and more.

The “philosophical” account of estranged or alienated labor, which ends the first section, can then be seen as an abstract, conceptual summing up of the modern worker’s predicament based off of the works of political economy that Marx analyzed. Jürgen Habermas thus offers: “Actually, however, it [alienated labor] was developed as a specific analysis of a concrete situation, namely that of the condition of the working classes produced by the dialectic of wage

labor and capital” (*Theory and Practice* 201).³⁷ Marx’s presentation of alienation gives much to suggest this thesis. The worker has been separated from the objects he produces and separated from the world of produced objects that are owned and controlled by others. Workers are also separated from their own free activity (often forced by circumstances into menial, repetitive, unfulfilling activity) and their free developmental potential. The potential for human creativity and ingenuity is “utilized” by the worker in work, though most work requires little creativity, and in fact sacrifices the opportunity for it. Human capacities have therefore become mere means to fulfill basic needs, and human development is thereby stunted. Through these various forms of estrangement, human beings also find themselves estranged from other human beings, “social” relations are dominated by and reinforce degrading and oppressive relations.

Marx was not looking to deny certain facts established by political economy, he was taking up the hard earned gains of these theorists to demonstrate that bourgeois economic conditions reveal instabilities and contradictions when developing, and bourgeois “progress” had in fact achieved the domination and dehumanization of “the people” of society. However, his presentation of alienation is not so much a “specific analysis,” as it is a more abstract and general presentation of the relations and dynamics involved, and the consequences of producers not having control over their product, their activity, and, generally, the direction of human relations.

That the “concrete situation” of workers in modern capitalist societies could be fitted to a general

37 Cornel West seems to have a intuition about the more general reach of Marx’s concept of alienation, but also appears to still locate its application only in capitalist relations as well. “Generally, it (alienation) refers to a particular kind of human domination and control, namely, that in which the dominated and controlled create the conditions for their own dehumanization or “thingification.” Specifically, alienation (and its various forms) is the result of an objective social relation necessary for the working of modern capitalist societies in which workers produce products alien to them, products which are part of socioeconomic arrangements that dominate and control producers. These products are owned (to be sold for profits) by nonproducers, i.e. capitalists, who possess the power and authority of hiring, firing, and paying wages to dependent producers, i.e., proletariat” (43-44).

model of human alienation which, for Marx in this section, also included the temple builders of early Egypt, India, and Mexico, made the critical point that capitalist relations were still bound to or “worked within” exploitative relations. Whether social labor is controlled through the directives of a theocratic state or results from many, uncoordinated capitalist decisions, the coercion and degradation of the workforce was still acknowledged. The goal of a deliberative guiding of society by the members of society suggested by the democratic idea, and of humanity achieving its self-conscious species-being potential, could not be held as realistic without overcoming the human alienation which was seen as unsurpassed by capitalism. However, the general construal of alienation does not serve as a replacement for Marx’s actual specific analysis of the concrete situation, “that finally the distinction between capitalist and landlord, between agricultural worker and industrial worker, disappears and the whole of society must split into the two classes of *property owners* and *propertyless workers*” (322). The conflict inherent to this split is well elaborated by Marx:

The political economist tells us that everything is bought with labour and that capital is nothing but accumulated labour, but then goes on to say that the worker, far from being in the position to buy everything, must sell himself and his humanity...According to the political economist labour is the only means whereby man can enhance the value of natural products, and labour is the active property in man. But according to this same political economist the landowner and the capitalist, who as such are merely privileged and idle gods, are everywhere superior to the worker and dictate the law to him...While the division of labour increases the productive power of labour and the wealth and refinement of society, it impoverishes the worker and reduces him to a machine. While labour gives rise to the accumulation of capital and so brings about the growing prosperity of society, it makes the worker increasingly dependent on the capitalist, exposes him to greater competition and drives him into the frenzied world of overproduction, with its subsequent slump. According to the political economist the interest of the worker is never opposed to the interest of society. But society is invariably and inevitably opposed to the interest of the worker. (287-288)

Marx’s concern with political economy is distinguished by his emphasis on the necessity of human degradation, and the inevitability of the class divide, due to the bourgeois political

defense of private property, along with the correlative point that it is just *these facts* that are denied, hushed, or seen as a problem to be solved by further calculation, fine-tuning, “better management,” or “wiser planning” by the bourgeois political economists *within the system of bourgeois private property*, and implemented by the capitalists and the state.³⁸ This standpoint is only briefly critically constructed from a survey of already established economic works, with Marx’s own demonstration set out in *Capital*. But the point is established, that the political protection of bourgeois private property is to the benefit of the owners of capital, and to the detriment of wage workers. Political economy could not deny the “value” created by labor, but its (bourgeois) concern was the production and amassing of value through the accumulation of privately held “wealth.” The protection of private property did not secure individual “freedoms” for all, and even allows the domination of society by a minority of individuals.³⁹ Marx connects these new insights to his earlier political writings:

Society, as it appears to the political economist, is *civil society*, in which each individual is a totality of needs and only exists for the other as the other exists for him – in so far as each becomes a means for the other. The political economist, like politics in its *rights of man*, reduces everything to man, i.e., to the individual, whom he divests of all his determinateness in order to classify him as a capitalist or a worker (369).

38 By 1844 Engels felt confident that one could accuse the political economists of the day of a deliberate (ideological) suppression of the true, devastating consequences of private property and free trade. “The nearer to our time the economists whom we have to judge, the more severe must our judgment become. For while Smith and Malthus only had scattered fragments to go by, the modern economists had the whole system complete before them: the consequences had all been drawn; the contradictions came clearly enough to light; yet they did not come to examining the premises – and still undertook, the responsibility for the whole system. The nearer the economists come to the present time, the further they depart from honesty. With every advance of time, sophistry necessarily increases, so as to prevent economics from lagging behind the times. This is why *Ricardo*, for instance, is more guilty than *Adam Smith*, and *MacCullough* and *Mill* more guilty than *Ricardo*” (“*Outlines of a Critique of Political Economy*” 174).

39 To put it another way, the “freedom” of exchange secured in civil society did nothing to prevent, rather assumed, the necessity of many seeking work to subsist, and accepting a wage conditioned by their desperation (a condition manifest by a lack of wealth or sufficient possessions, training or education, and the competition to find work).

The continuity of Marx's development is quite clear. If the political constitution establishes the civil rights that also protect private property, and the state frees itself (through the content of its laws and the requirements of the representatives) of all civil/private distinctions, the "law" of society will be subjected to the forces of civil society. The "matter" or content of law is, inevitably, determined or "concerned with" real, lived relations. Thus Marx, consistently, moved to examine the forces of civil society to determine the social powers of the day. The bourgeois revolutionary class' establishment and political defense of private property rights led to a growing domination of bourgeois economic relations, and the inevitable divide between wage worker and capitalist; increasingly, then, talk of "society" is more appropriately, *more realistically* construed as talk about bourgeois society. The political constitution is not definitive to the state, it does not "constitute" it, and in fact it gives over its determinations to the forces of civil society. "Society" is therefore opposed to the interests of the worker insofar as "it" (the "legitimate" forces of the state, and the actions of voluntary, unchecked civil, "corporate" organizations) presupposes and protects private property, so if the worker struggles to reject private property, he will then be struggling to create a new society. So, Marx reasons,

It is easy to see how necessary it is for the whole revolutionary movement to find both its empirical and its theoretical basis in the movement of *private property* or, to be more exact, of the economy. This *material*, immediately *sensuous* private property is the material, sensuous expression of *estranged human life*. Its movement – production and consumption – is the sensuous revelation of the movement of all previous production, i.e. the realization or reality of man. Religion, the family, the state, law, morality, science, art, etc., are only *particular* modes of production and therefore come under its general law. The positive supersession of *private property*, as the appropriation of *human life*, is therefore the positive supersession of all estrangement, and the return of man from religion, the family, the state, etc., to his *human*, i.e., *social* existence. (348-349)

The political revolution to establish a human social existence, the reconciliation or "supersession" of the private/political divide, is identified as materially grounded, or realistically

achievable, by transcending private property. For Marx, communism, the end of private property, is not an economic idea or policy, but the means to establish his previous commitment to a democratic and human community; communism is the concrete condition of his democratic social idea. With the political economists' assertion that productive human activity, i.e., labor, is essential to the creation of value and the use of objects, a "material" ground for the control (or autonomy) and transmission (or denial) of human life was found.

Shlomo Avineri expresses Marx's insight here as, "Man's world-shaping function itself becomes the empirical content of human existence... (a) non-normative criteria for human activity... (but) which causes Marx to perceive that the conditions under which man's self-creation takes place in the present society is self-defeating" (85). Jorge Larrain offers a similar emphasis on the importance of Marx's insight here, a general, but potent category is found in productive activity. "In this sense Marx surpasses Aristotle's distinction between *praxis* and *poiesis*. What men are coincides with their practice. Therefore, practical activity cannot be opposed to other aspects of man. Practice is man's specific way of being. It is not an external determination, a sort of appendage to theory or even the application of theory. Practice determines man in its totality. It is the activity which produces not only material means but also men and their social life" (42). However, Marx's "general" emphasis on human productive activity may be perceived to lead to a more universal standpoint than even the proletariat can represent. Avineri thus poses, "It is of course an open question whether only the proletariat qualifies for this kind of new epistemology, and Marx never satisfactorily discussed this" (148).⁴⁰

40 For an alternative, critical take on "praxis philosophy" one can look to Habermas's *The Philosophical Discourse of Modernity* where it is asserted that, "Marx did not give any account of how the palpable rationality of purposive activity is related to the intuitively intended

What is at stake here are the aspects of the proletariat that make them a *necessary condition* (and sufficient?) for the overthrow of private property and, ultimately, the transition to communism for Marx. But, my emphasis on Marx's "early" concern for democratic relations highlights the general standpoint/problematic that motivated Marx's more particular focus *and* the more "universal" project that he may not have adequately articulated. I believe the democratic idea does provide a normative outlook which is later grounded by Marx in productive relations. Economic relations are then to become a primary "site" of uncoerced, deliberative procedures. Later (2.3) we will also consider Marx's analysis of public, political relations that may be required to fully realize the social embedding of this democratic idea.

However, insofar as a human being finds his or her relation to other human beings primarily mediated by the exchange of values (with bourgeois society thoroughly established and protected), the choices open to each are dictated by their "means" or what is offered by other calculating, self-interested members on the market. Yet, the relations found in the material, civil reality, as well as the relation between civil and political power, can't but clash with the abstract,

rationality of a social praxis that is only vaguely represented in the picture of an association of producers... Those who no longer invest the concept of praxis with any more reason than can be garnered from the purposive rationality of goal-directed action and of self-assertion proceed in a more consistent manner" and later, "But what happens to the notions of autonomy and self-realization that were built into the conception of a self-formative process in the philosophy of reflection? Can't these normative contents still be recovered by the philosophy of praxis?... It is the form of interaction processes that must be altered if one wants to discover practically what the members of society in any given situation might want and what they should do in their common interest... As to how this idea of reason as something that is in fact built into communicative relations, and that can in practice be seized upon, could be grounded – about this a theory committed to the paradigm of production can say nothing" (66-67, 81-82). In my work I grant that Marx's standpoint requires further normative articulation, but develop a Marxist view which incorporates the normative focus on "communicative relations" for productive relations (see chapters 4 and 5).

(“democratic”) republican promise of a free and equal political community⁴¹. Again, we must note that the theoretic political tradition prior to Marx did not miss this point. Rousseau had explicit concerns about the implications of inequalities of wealth:

Under bad governments this equality is only apparent and illusory. It serves merely to maintain the poor man in his misery and the rich man in his usurpation. In actuality, laws are always useful to those who have possessions and harmful to those who have nothing. Whence it follows that the social state is advantageous to men only insofar as they all have something and none of them has too much. (end of Bk. I, note 5)

Even when Rousseau assumes the equal legislative liberty found with his sovereign people as in place, “with regard to wealth, no citizen should be so rich as to be capable of buying another citizen, and none so poor that he is forced to sell himself” (Bk. II, Ch. XI). Rousseau probably picked up these “materialist” considerations from Machiavelli’s analysis of the disastrous effects of “corruption,” i.e., great wealth inequality, in Rome (Bk. I, end of section 17) in his *Discourses on Livy*, a text Rousseau was certainly familiar with (referenced in Bk. II, Ch. VII, note 8 of *On the Social Contract*). Economic inequality was a key element in the destruction of what Machiavelli saw as the best possible government, the republican one – which balanced what he took to be *inevitable and unavoidable* monarchical, aristocratic, and democratic interests.⁴²

41 It should be recalled that Marx has *two* critiques of the Republican notion and realization of freedom and equality. One is of the narrow, self-interested character of civil rights – the critique in “On the Jewish Question.” The other is of the “heavenly” or ethereal existence of political representation through the state. Both critiques are in fact dependent upon his early conception of the democratic idea (or truly human society) – which, I argue, Marx sought to discover as a realizable alternative.

42 The “material” wealth of citizens has always been seen as relevant to the “political constitution” (taken broadly, prior to modern political documents, to include also the natural environment, customs, religion, institutions, laws, etc., of a society). For instance, Plato’s suggestion in *The Republic* for a civic bond to be found by communal property (a suggestion based off of the practice of the Spartans) is well known, and Aristotle can be seen criticizing this in his *Politics* while proposing his own solution (Bk. 4, #11) – relying on a large number of mid-sized property owners to provide stability (a “mean” intended to balance the despotic aspirations which he perceives both in the small-propertyed masses and the large-propertyed aristocracy).

But, Marx, coming from the political economists' reflections, could observe and critique an economic system that assumes, and in fact *achieves*, relations of inequality – and thus seeks to *explain* the (social) “production” of rich and poor. As was noted, Marx's thesis (here departing from the political economists, and later conceptually set-out and developed in *Capital*) is that capital is (privately) amassed through the exploitation of the desperation and competitive situation of poorer members of society by those who own.

Thus through *estranged, alienated labour* the worker creates the relationship of another man, who is alien to labour and stands outside it, to that labour. The relation of the worker to labour creates the relation of the capitalist – or whatever other word one chooses for the master of labour – to that labour. *Private property* is therefore the product, result and necessary consequence of *alienated labour*, of the external relation of the worker to nature and himself. (331-332)

This is Marx's “explanation” of private property that he felt the political economists lacked. To be concerned only with ascertaining the “material process” of private property, to focus a “science” on grasping the course of private property with “abstract formulae which it then takes as *laws*” (322), is to presuppose not only private property as it exists, but the human alienation and exploitation that makes the vast accumulation of private property possible (which is the unquestioned, open-ended “goal” of capitalism). Marx saw it as essential to point out the interaction of human relations that lies underneath the “flow” of private property. Unlike slavery and serfdom, which expressed estrangement and exploitation openly, and domination politically, the wage-worker is represented as a “free”, fellow trader on the market. Marx's critique of the

Aristotle is also one of the early textual sources for the reification, “for all time,” of wealth inequality: “In the first place we see that all states are made up of families, and in the multitude of citizens *there must be* some rich and some poor, and some in a middle condition...” (Bk. 4, #3; my emphasis in italics).

political economists is that they do not find or sufficiently grasp the material, human ground of the economy itself.⁴³

The great difference here is that through the bourgeois political economists' standpoint, the kinds of solutions to human problems caused by "the economy" (when these are even attempted) will entail a better understanding and "running" of the economy. They take up "the economy" like a natural fact to be understood and manipulated *within its own laws*, whereas Marx sees the human problems (the dehumanizing and exploitative relations) underlying "the economy" itself, and thus can problematize private property, and ultimately economic relations themselves. In later works by Marx, and in works by subsequent Marxists, the point or purpose of identifying the devastating contradictions and instabilities *inherent to* capitalism (including Lenin's point that imperialism, colonialism and world war, is the "highest stage" of capitalism) is to focus attention on the need to overthrow capitalism as such (not regulate or fine-tune it). Marx, seeing human relations, the social circumstances conditioning the choice of activities and the aims pursued through them (the goals of the social processes), as the material ground of human reality, not only perceives a fundamental ground for critique, but also a means or ground for human emancipation.

It can be seen how the history of *industry* and the *objective* existence of industry as it has developed is the *open* book of the essential powers of man, man's psychology present in tangible form... The whole of history is a preparation, a

43 Cornel West similarly notes the critical and moral import of Marx revealing the limited horizon of the political economists' concerns. "The neglect of this alienated labor by other political economists, for Marx, reveals the prejudice and partiality of political economy, making it a "science" which stresses the viewpoint of the privileged in society. Marx's starting point - beginning with alienated human labor - yields a different viewpoint, hence a new way of looking at private property and its consequences. The political economists believe these consequences to be inevitable or unavoidable, and they thereby manage to skirt questions about the morality of human misery resulting from the institutions of capitalist production. Therefore the viewpoint of these political economists conceals and hence ultimately justifies the alienated character of human labor in capitalist society" (51-52).

development, for ‘man’ to become the object of *sensuous* consciousness and for the needs of ‘man as man’ to become [sensuous] needs... *Communism* is the *positive* supersession of *private property* as *human self-estrangement*, and hence the true *appropriation* of the *human essence* through and for man; it is the complete restoration of man to himself as a *social*, i.e. human, being, a restoration which has become conscious and which takes place within the entire wealth of previous periods of development... The supersession of private property is therefore the complete *emancipation* of all human senses and attributes; but it is this emancipation precisely because these senses and attributes have become *human*, subjectively as well as objectively... Need or enjoyment have therefore lost their *egoistic* nature, and nature has lost its mere *utility* in the sense that its use has become *human* use... We have seen what significance the *wealth* of human needs has, on the presupposition of socialism, and consequently what significance a *new mode of production* and a new *object* of production have. A fresh confirmation of *human* powers and a fresh enrichment of *human* nature. (354, 355, 348, 352, 358).

According to Marx’s developments here (and previously), human emancipation, human enrichment, human enjoyment (as compared to human alienation, exploitation, and degradation) are tied to the establishment of a society that gives human beings conscious control over their productive forces, such that the deliberate fulfillment of human needs becomes the active force behind the direction of productive forces. As Marx notes, the ground for the transition is a “new mode of production,” and insofar as the current, bourgeois mode of production has been revealed to presuppose certain alienated human relations, then the new mode of production that is communism, insofar as it is held to be a universal human aspiration, must entail its own form of liberated human relations. But, “(i)n order to supersede the *idea* of private property, the *idea* of communism is enough. In order to supersede private property as it actually exists, *real* communist activity is necessary” (365). The desired change can only be achieved through new human organizations and relations that can transform or overthrow past relations. Here is found a return to the Marxist emphasis on social praxis; theory (even if intended to “guide” social movements) must take its root in society if it is to achieve material force.

For Marx, human emancipation is given its social ground through “the emancipation of the workers,” and the political struggle to achieve the end of private property is the means to realize human emancipation. He writes,

It further follows from the relation of estranged labour to private property that the emancipation of society from private property, etc., from servitude, is expressed in the *political* form of the *emancipation of the workers*. This is not because it is only a question of their emancipation, but because in their emancipation is contained universal human emancipation. The reason for this universality is that the whole of human servitude is involved in the relation of the worker to production, and all relations of servitude is nothing but modifications and consequences of this relation. (365, 333)

Insofar as estrangement was seen to underlie private property, and produce the particular power of the capitalist, it is the end of human estrangement that is sought with the supersession of private property. But, the proletariat is not only to provide “material” for a revolution through their sufferings being acknowledged and utilized to motivate action, but the vast productive force (embedded in modern production) is acknowledged as the essential, material ground from which can be constructed a society which can enrich our human potential.

So we should now return to the question, why or how does the wage-workers’ emancipation contain the key to human emancipation? The “narrower” conception of the worker, the proletariat, as the industrial worker, along with the revolutionary focus on this role, will have to be construed as a *strategic choice*, noting: 1) the massive productive forces resulting from the organized division of labor (taken along with its developmental “adjunct,” machinery); 2) the “socialized” relations which are inevitably established through this production process; and, as a result of 1 and 2, 3) the workers struggle to emancipate themselves from exploitation as the most complete threat to capitalist power—which was establishing itself as “the” power—and thereby the freeing up, from private acquisition and for social use, the vast productive powers that were created through the division of labor and technological developments.

However, in light of the “general” concern for free human relations, the project of human emancipation must of course grapple with all forms of exploitation; thus even if the proletariat is essential to Marx’s revolution, their emancipation (or the emancipation of wage labor) alone can by no means be its sole end. Thus, though the emancipation of the worker is identified as an essential means to human emancipation, the full extent of the ideal of communism does not end with the workers’ emancipation, but embraces the establishment of free, human relations in all parts of society. Retaining and developing this political/economic connection is essential to Marx’s project. Only in this way does it seem that workers’ emancipation can contain “universal human emancipation.”

To prove that this scope does belong to Marx’s project at this point we can consider,

The immediate, natural, necessary relation of human being to human being is the *relationship of man to woman*. In this *natural* species-relationship the relation of man to nature is immediately his relation to man, just as his relation to man is immediately his relation to nature, his own *natural* condition. Therefore this relationship *reveals* in a *sensuous* form, reduced to an observable *fact*, the extent to which the human essence has become nature for man or nature has become the human essence of man. It is possible to judge from this relationship the entire level of development of mankind... This relationship also demonstrates the extent to which man’s *needs* have become *human* needs, hence the extent to which the *other*, as a human being, has become a need for him, the extent to which in his most individual existence he is at the same time a communal being. (347)

The manner in which a man fulfills his “natural needs” in relation to a woman can here be seen as problematized, targeted, and also perhaps especially in need of a “humanization” of social relations.⁴⁴ The estrangement of man from the “objects” of his environment (and thereby his human potential) is seen as grounded in the estrangement of human relations. “In general, the proposition that man is estranged from his species-being means that each man is estranged

44 Of course no mention is found here of homosexual or bisexual relations, and it is entirely an open question whether Marx’s concerns about humanizing “natural needs” approach or adequately grasp relations of love or friendship.

from others and that all are estranged from man's essence" (330). With the estranged relation of man to woman, the estrangement of human being to human being is expressed explicitly. Insofar as women are stifled and stunted so too is man; with the exploitation of woman, is found the degradation of human potential as such.⁴⁵ A truly communal being is thus identified as one who has as a "need" the full development of all others (found in any "element") of society. For Marx, the struggle for communism is the struggle to set loose this human potential in all; this is the struggle to create a truly human community.

What is clear then is that Marx must dedicate himself, consistent with his ideal of a society of human emancipation taken along with his budding emphasis on productive relations, to: 1) discovering and guiding human actors who can and will struggle to overthrow private property, though they will be found within the estranged society, and thus subjected to its alienating conditions; *and* 2) grasping the "right means," first steps, or starting conditions towards truly eradicating human estrangement, despite current relations of society which actually presuppose and reinforce human estrangement, not emancipation.

It can be noted, of course, that there is a relation between the revolutionary actors (1) to the revolutionary means (2), and in fact Marx's materialism, grounded in the real human beings of society, could not have it any other way. Looking back to the "Critique of Hegel's Philosophy of Right: Introduction," we can say Marx was attempting to discover the "elements," material

45 The true progressiveness of Marx's emphasis on the hopes for human development being tied to the full and equal development of men and women will be best appreciated by comparing his, admittedly quick, claims here to an addition found in Hegel's *Philosophy of Right*. "Women may well be educated, but they are not made for the higher sciences, for philosophy and certain artistic productions which require a universal element. Women may have insights, taste, and delicacy, but they do not possess the ideal... When women are in charge of government, the state is in danger, for their actions are based not on the demands of universality but on contingent inclination and opinion" (§166, where we also learn "woman, however, has her substantial vocation in the family, and her ethical disposition consists in this [family] *piety*").

(economic relations) and ideal (political and philosophical consciousness), for proletarian revolution in France and Germany. But noting the need for these “positive” possibilities also opened up a whole new domain of “critical Marxism” (with the members of the Frankfurt school as perhaps the best known amongst them), a Marxism that also concerns itself with the material and “ideal” deficits to a revolutionary movement found in a society. Such critical work cannot be seen as antithetical to Marxism, insofar as the critique is motivated by holding Marx’s goal of the overthrow of private property and the establishment of a truly human society. In fact only a blindly optimistic “Marxism” could do without such critical evaluation, whether this optimism is grounded in the inevitability of workers “coming to consciousness” and organizing, or through the necessary development of the contradictions of capitalism (a rigid, “naturalistic,” historical materialism), *or even the belief in the development and relationship of both.*

Without conscious struggle (organizational and theoretical), the task to overcome the ideological and material relations, which reproduce the current and continuously developing forms of human estrangement, is quite simply missed. To miss the conscious role human beings must play in their own emancipation, an emancipation whose aim is the establishment of free relations between human beings so as to consciously and democratically guide their social, cooperative forces, is to expect human emancipation from human beings who have not even yet attempted to liberate themselves. Such “materialism” is in fact fantastic and wholly unrealistic.

The “puzzle” of finding a means to liberation in a society of estrangement, the difficulty of establishing a human community when each is alienated from each and all are alienated from their human potential, can only “realistically” or materially be solved through discovering elements of the future revolutionary movement in the present. Marx’s democratic “idea” taken along with his later emphasis on productive relations provides an evaluative framework to

discover or see the potential forces for revolution. However, without human beings already orientated, disposed, or tending towards those efforts required for human emancipation, part of the “material” conditions (along with the much more often emphasized “material base” or productive forces)—the “matter”—for the desired change is lacking. Marx’s theory/praxis perspective returns here, insofar as it places a demand on theory that it articulate the conditions found in society while also setting out to discover potential interests/aims immanent in society; theory is to be pursued in such a way that it sets possible tasks that can only be pursued given the current conditions of society and the requisite critical or theoretical grasp. Marx’s approach or methodology starts within the “given” social relations, but also seeks to transcend them.⁴⁶

When communist *workmen* gather together, their immediate aim is instruction, propaganda, etc. But at the same time they acquire a new need – the need for society – and what appears as a means has become an end. This practical development can be most strikingly observed in the gatherings of French socialist workers. Smoking, eating and drinking, etc., are no longer means of creating links between people. Company, association, conversation, which in its turn has society as its goal, is enough for them. The brotherhood of man is not a hollow phrase, it is a reality, and the nobility of man shines forth upon us from their work-worn figures. (365).

Marx’s insight at this point is that (worker) community building and joint activism to advance their interest not only provides a means to achieve a force sufficient to contest the forces of estrangement found in society (with his emphasis on workmen defended above), but also provides a ground for structuring the psychological components needed for liberation movements. What is found here is the positive, flip side of Althusser’s point about the material

46 There are two aspects to the “transcendence” found here: 1) Tendencies can be discovered by grasping the relations found in society, as it is arranged, and projecting their future development (there is a predictive/verifiable aspect to this); 2) Political projects or opportunities can be proposed and attempted based on an assessment of the current relation of forces, tensions, or contradictions (this is the participatory, self-conscious aspect, pointing to *possible action* - Jean Paul Sartre, coming from his earlier, existentialist leanings, stresses this aspect in his *Search for a Method*, for instance). Too much emphasis on 1 gives a determinist reading of Marx, for anything like a dialectical “supersession,” or negation of the negation, also requires 2.

conditions of ideological outlooks (negatively developed in relation to “the ideological state apparatuses”), social practices (meetings, schools, forms of entertainment, etc.) that are introduced or develop can either reinforce *or* challenge other social relations found in society. Psychological dispositions and human potentialities are developed within lived contexts of interaction, one social practice can thus serve to reinforce or conflict/contradict tendencies or standpoints required for other practices or relations. This point connects to why Marxists often talk about the democratic process being preserved even in the hierarchical relations of “the party” (controversially defended as strategically necessary while in the process of contesting Bourgeois political power), for, again, only from organizations with truly human relations can liberation follow.⁴⁷

Insofar as what is entailed by the end of private property and more generally the end of human estrangement is a productive relation that respects human potential and is done in a truly human community, that deliberative and uncoerced relations are to be marshaled and directed in the aim of human flourishing, I believe that it is here that Marx’s earlier “idea” of democracy must be connected to the socialist ideal of the abolition of private property. Democratic social relations and communist economic relations are in fact notions that should not be conceived as distinct (“should not” because neither could be realized without the other, I believe). The democratic end of the private/political divide can only be accomplished through socialism (the

47 On this point we can note Engels’ critique of a syndicalist approach towards revolution.

From Blanqui's assumption, that any revolution may be made by the outbreak of a small revolutionary minority, follows of itself the necessity of a dictatorship after the success of the venture. This is, of course, a dictatorship, not of the entire revolutionary class, the proletariat, but of the small minority that has made the revolution, and who are themselves previously organized under the dictatorship of one or several individuals. (“The Program of the Blanquist Fugitives from the Paris Commune”)

economic end of private property), and socialism, the societal management of productive forces, if it is not “idealized” in much the same way as political constitutions idealized political freedom, requires democratic societal relations. The task of elucidating an “idea” of this which is not hollow, but could be grounded in and help direct organizational movements that are already found developed or developing in society, would have to be seen as the task and challenge that now lay before Marx. The motivation for and “success” of his future efforts can be evaluated in this light. A democratic notion of communism is not to be rejected or neglected, but is to be sought.

Chapter 2

The “Mature” Marx

2.0: Democratic Challenges in the development of Communism

Marxist (or utopian socialist) *metapolitics*: political conflict is fully asserted, *but* as a shadow theatre in which events whose proper place is in another scene (that of economic processes) are played out. The ultimate goal of true politics is thus its self-cancellation, the transformation of the administration of people into the administration of things within the fully self-transparent rational order of a collective will. (More precisely, Marxism is here ambiguous since the very term *political economy* also opens up a space for the opposite gesture of introducing politics into the very heart of the economy, that is, of denouncing the apolitical character of the economic processes as the supreme ideological illusion. Class struggle does not express some objective economic contradiction; it is the very form of existence of this contradiction. (Slavoj Zizek, “A Left Plea for ‘Eurocentrism’” 187)

Through an analysis of early writings of Marx we have seen that his initial commitment to an “idea” of democracy brought out two points of emphasis: 1) a “political critique,” which viewed political constitutions (along with the state apparatus which serves as their “realization”) as covering or disguising the social relations found between real human beings who are held as “truly constituting” the society; and 2) a “political demand”: to search out the real relations in society, to understand the state in light of these relations, and to attempt to grasp the means by which real human actors can achieve a democratic society (superseding the civil/political divide). The shortcomings of the political state are discovered to be tied to the “freedom” of civil society, and this “curious” result of the revolutions is explained by noting that such conditions favored the bourgeois interests (which appealed to the interests of other classes and groups insofar as they attempted to overthrow feudal interests in the name of “freedom” and “equality”). But with the freedom (and state protection) of the bourgeoisie, the ascent and unchecked development of capitalist economic conditions took place, thus producing, increasingly, the proletariat.

With the political state removed from civil society (the state in fact deferring to or channeling civil power), the forces of civil society became perceived as societal forces. And, with the recognition of the domination and estrangement of production inherent to the accumulation of private property, and the resulting power of the capitalist over the worker, the struggle for a free society becomes identified with the struggle for the freedom of the worker. For Marx, the heart of the democratic struggle thus lies in effectively grasping the circumstances of the workforce, within bourgeois economic relations, within the “free” spheres of civil society, and within the confines of the state, such that an effective means for human emancipation can be discovered.

I believe Marx’s later work is directed towards overcoming these challenges. The “economic” insights to follow are new, they are hard fought discoveries, and they are indispensable to current “Marxist” approaches, but one must not lose sight of the “political” motivation here. His early democratic orientation, the “idea” of the people as a political force regaining control of their social forces (a “politics” which seeks to “supersede” the privileged, removed, but also dependent, status of the political state on civil society) brought on the demand of grasping the conditions of society and developing a realistic standpoint to revolutionize society. Marx of course developed further insight into economic relations, and developed other critical surveys of the relation of civil society to the state, but his economic research (struggling to grasp the relations, developmental course, and tendencies of contemporary capitalism – which he early on took as a primary material force in modern societies), along with his practical political organizing and writings based on this “economic” understanding seem, if not inevitable, at least natural or unsurprising developments from his earlier standpoint (especially given the literature: Ricardo, Smith, and the whole of political economy read and critiqued by Marx).

I must then disagree with Louis Althusser's assertion in "On the Young Marx," that the young Marx (prior to and including the *1844 Manuscripts*) had to "retreat" from the German, ideological outlook he began with, in essence, escape from the "illusions" of his (Hegelian) philosophical education, to discover "reality" ("real history," "real objects" – which Althusser claims was, in part, found by studying "the theoretical products of the English (economists) and French (philosophers and politicians of the) eighteenth century," 76, 77, 78). For Althusser, there is a "break" between the young Marx and the mature, materialist Marx (with Hegel only providing Marx "a sort of education of the theoretical intelligence via the formations of ideology itself," 85). I believe my analysis of the early Marx clearly shows a *developmental line* from Marx's critique of Hegel's construal of the fulfillment of the "Idea" in Prussian society that was first articulated by introducing his "democratic idea" (1.1), to Marx seeking out the "real human beings" of society (1.2, 1.3). His early, democratic conception leads Marx to seek out "reality," but the political demands of the democratic idea are still relevant in his critique of the "real relations" he then discovers. I hold there is no Marxist theory/praxis orientation without his concern for democratic relations. Marx's mature materialism transcends the empiricism (the "facticity") of the economists, it is a *dialectical materialism*, due to the fact that he retains the "idealist" standpoint that human beings make their reality, but also transcends idealism (and mere "oughts") by seeking to grasp the social relations of society, so human relations can themselves be emancipated (and for the first time realize the "ideal" present in the insight of the subject-object relation).

Marx's political project could not be simply replaced by a "materialist" orientation, it was to be immersed in it, and no matter the "objectivity" of his analysis of contemporary human relations, the "subjective" task of human emancipation is retained. Two approaches can be

distinguished here. The first is an analysis that makes clear the forms of exploitation inherent in current relations, and the consequences or circumstances (developments, tendencies, contradictions, and instabilities) that will follow given the “course” of the given relations. This is easier to characterize as the “objective” moment, but it must be noted that a focus on the human relations underlying societal conditions (including the distribution of property) is just what Marx saw as his *more realistic* surpassing of the “objectivity” of the political economist (1.4). The second approach is an analysis of strategic possibilities based on the current configurations (relations, forms of organization, levels or kinds of consciousness, ideological or otherwise) found within society.⁴⁸ With the first approach, a viewpoint can be developed which clarifies the nature of the human situation in society; this, in part, develops a theory which can speak to people’s needs or interests and concerns (and perhaps, ultimately, to their hopes and fears). The second aspect stresses the political program that could be introduced (or added to) the social analysis established; with the first approach people may become all ears, you may have

48 Included in this second approach is recognizing that ideologies are created in and connected to human conditions, circumstances, and relations. This provides a means to critique or surpass them, but also does not rule out their role and efficacy in reality. “If, then, the standpoint of the proletariat is opposed to that of the bourgeoisie, it is nonetheless true that proletarian thought does not require a *tabula rasa*, a new start to the task of comprehending reality and one without any preconceptions...Just because its practical goal is the *fundamental* transformation of the whole of society it conceives of bourgeois society together with its intellectual and artistic productions as the *point of departure* for its own methods” (Lukacs 163). “So ideology is not an aberration or a contingent excrescence of History: it is a structure essential to the historical life of societies. Further, only the existence and the recognition of its necessity enable us to act on ideology and transform ideology into an instrument of deliberate action on history” (Althusser, “Marxism and Humanism” 232). But, rather than imagining a theoretic intervention which simply replaces “ideological” outlooks for “realistic” ones, my standpoint on the development of Marx’s perspective views his critique and program/s as attempts to address problems and contradictions which are raised within the liberal framework of politics and economics.

struck the “root,” but only with the second approach does one move beyond “interpreting the world” to the challenge of changing it.⁴⁹

But the political program, no matter the necessity of a materialist orientation, would seem to have to include a democratic orientation for Marx; for, given his early analysis of the estranged relations presupposed by private property and his insight into production as the “material” ground of human reality (along with his later insights into the development of these relations and the productive forces of capitalism), this democratic concern demands a revolution of economic relations, i.e., communism (communal, deliberative guiding of economic relations). I believe the degree to which Marx himself grasped the demands of the interrelation between his early, democratic orientation and his later materialist insights (the demand to pursue his democratic idea materially) can be tested by analyzing the development and adequacy of his conception of the “dictatorship of the proletariat” in two key political works, *The Manifesto of the Communist Party* and *The Civil War in France*. What can be observed in these works is a movement from focusing on the kind of policies that would have to be put in place and enforced in order to begin the transition from private property relations to communism, to a concern about the form of political relations that would have to exist in order to begin the emancipation project. I believe that both points of emphasis are essential: with the latter seen to provide the

49 Engels notes in the Preface of the 1892 Polish Edition of the *Manifesto* that the development and spread of capitalist economic relations reinforced the desire for socialist theory, but the *theoretical understanding* of those conditions helps develop revolutionary opportunities. “First of all, it is noteworthy that of late the Manifesto has become an index, as it were, of the development of large-scale industry on the European continent. In proportion as large-scale industry expands in a given country, the demand grows among the workers of that country for enlightenment regarding their position as the working class in relation to the possessing classes, the socialist movement spreads among them and the demand for the Manifesto increases. Thus, not only the state of the labour movement but also the degree of development of large-scale industry can be measured with fair accuracy in every country by the number of copies of the Manifesto circulated in the language of that country.”

“procedure” that could call forth the kind of “proletarian measures” that were believed to be required at first, and the former emphasizing the proletarian measures establishing the conditions needed to set loose a free, democratic procedure. And this makes the point, perhaps too often missed, that democracy and socialism are inextricably tied together.

2.1: Class Struggle and Communist Measures

The *Manifesto of the Communist Party*, though written for a particular group (the Communist League), at a particular historical moment (first printed in London a few weeks before the February Revolution in France, 1848), is incontrovertibly the most popular of Marx’s works, and has often been received as the paradigmatic statement of Marx’s mature, historical and class perspective. The obvious difficulty with approaching this work as an exemplar, however, is that Marx and Engels would see all analyses as bound to (and if done correctly, useful for) a particular historical moment, each moment requiring its own, particular analysis. Also, there is the simple fact that Marx and Engels themselves point out a certain “proved” limit to the *Manifesto* in their 1872 preface to the German edition (more on this below).

But there is good reason, on the other hand, to treat the *Manifesto* as an exemplar of Marxism; it introduces the interpretative framework of class struggle (providing a sweeping account of the revolutionary transition from feudalism to bourgeois capitalism – and generally reading political history and human “progress” in this light). It also grounds this struggle in the development of the means of production (productive forces) and the relations of production (“and thereby the whole relations of society,” 476), demonstrates how the hegemony of bourgeois productive relations has created the proletariat (and increasingly tends in this direction), connects overproduction and economic crises to the narrow confines of bourgeois

property relations, and discusses how the proletariat, though defined by its alienated and estranged (yet essential) relation in capitalist production, has organizational potentialities found in those relations and has in fact begun (by fits and starts) its own political organizational efforts. Finally, it lays out the political program of communists in relation to the proletariat and to the ideals held by bourgeois society (in Section II); and (in Section III) critically compares the orientation found in the *Manifesto* to “socialist” groups at the time (thereby establishing the point, in a different way, that political goals are grounded in the economic circumstances of particular political actors). Insofar as all this is contained in the *Manifesto* it was not problematic for Marx and Engels to state 25 years later in the preface to the German edition (1872) that “the general principles laid down in this Manifesto are, on the whole, as correct today as ever” (470). This work then does offer a paradigmatic example, not to be imitated (dogmatically or ahistorically), but to be critically updated through the analyses of developing productive and social relations.

With these general principles (embedded in a demonstration of their theoretic grasp), the proletariat’s critical and political perspective is, in general (for as long as capitalism exists), provided a justification.

To be a capitalist, is to have not only a purely personal, but a social *status* in production. Capital is a collective product, and only by the united action of many members, nay, in the last resort, only by the united action of all members of society, can it be set in motion. Capital is, therefore, not a personal, it is a social power. (485)

The “social” ideal of communism is to be seen as rooted in social facts *that have already been established* through capitalism, and this raises the (critical) question of whether these social facts have been raised to consciousness, and whether the conditions of society (which “condition” the

actual lives of the members of society) have been consciously and collectively guided. As Shlomo Avineri writes,

Marx sees the growing intensification of the need for cooperation, socialization, and solidarity, conditioned by the more and more complex forms of modern industrial production as internal evidence of capitalist society's transformation into a structure with man's social nature at its center. Complex production requires other-directedness despite the individualistic model of capitalist economic theory. (91)

However, the tremendous productive forces of capitalist production, the productive force set loose through the division of labor coordinated (dialectically) with the development of machinery and technology, is seen as tied to the exploitation of the proletariat. The producer, "compensated" by a wage, is dominated through the capitalist's private ownership of the means of production and the desperate, competitive circumstances of civil society. And, "no sooner is the exploitation of the labourer by the manufacturer, so far, at an end, that he receives his wages in cash, than he is set upon by the other portions of the bourgeoisie, the landlord, the shopkeeper, the pawnbroker, etc" (*Manifesto* 479). The capitalists' ownership of the product of production and the worker's payment of a mere wage also creates the conditions of the consumer (who must grapple with the price, quality, and availability of goods or necessities). With the private ownership of the most advanced means of production (which "has accomplished wonders far surpassing Egyptian pyramids, Roman aqueducts, and Gothic cathedrals" 476), and the (private) accumulation of capital, the capitalist achieves a fundamental hold and control over of the direction of the social productive forces. Bourgeois private property (reinforced by political economy's image of man as an acquisitive and competitive being) does not prevent the establishment of a thoroughgoing socialization of production - it actually achieves this despite, or rather behind the cover of, its individualistic philosophy - it only prevents or denies all of the participants of this social process from having an equal status in choosing the manner and aims

of production, guiding and directing the process of it, and sharing in the produced “goods” (for a neutral term between use/value) that result.⁵⁰

Marx sees that the unaddressed social domination takes a political form, “the bourgeois has at last, since the establishment of Modern Industry and the world-market, conquered for itself, in the modern representative State, exclusive political sway. The executive of the modern State is but a committee for managing the common affairs of the whole bourgeoisie” (475). Bourgeois political dominance is introduced almost axiomatically here, but the “proof” of this outlook can be seen as well established by Marx’s earlier works. The bourgeois (here identified with capitalists) that advanced the establishment of the political state also have their civil, social force assert itself as a political force. The state is viewed as a support to bourgeois social domination, and this support is acquired through their already established, social dominant position (and, as was seen above, with the support of other classes hoping the political re-organization would emancipate them). Again, no ground is discovered to view the state as a detached mediator for society or a neutral ground for “the people” to work out their differences; the state is mediated by the forces of society (presupposing and channeling conflicts and differences, including the estrangement and exploitation of the civil sphere).

50 That there are “ideal” relations inherent to the socialization of production should not be missed, and I argue that tracking the development of Marx’s democratic idea helps us see how an emphasis on deliberative and self-conscious management of social relations could/would fit a Marxist paradigm. A sense of this can also be found in Marxist-inspired criticism. “If society in the future really functions through free agreement rather than through direct or indirect force, the result of such an agreement cannot be theoretically anticipated. Proposals for the economy beyond those already at hand under state capitalism could eventually be useful. Contemporary reflection in the service of a transformed society should not disregard the fact that in a classless democracy plans cannot be forced on others through power or through routine, but must be arrived at through free agreement” (Horkheimer, “The Authoritarian State” 113-114).

The political solution for the proletariat then must focus on rearranging or reconfiguring the social forces, such that “society” (each human being) gains (equal) control of the social forces.

When, therefore, capital is converted into common property, into the property of all members of society, personal property is not thereby transformed into social property. It is only the social character of the property that is changed. It loses its class-character. (485)

Insofar as the goal remains for the civil/political divide to be superseded, and for the social forces to come under the control and direction of the members of society, the domination of the social productive forces by a few is identified as the primary sight for struggle. This struggle over the social forces (a struggle in the civil, economic sphere of private property) will inevitably entail a struggle in relation to the state, for the state has proved incapable of establishing a distance from the social forces. The state’s distance and separation proved to be a false “transcendence,” an “abstraction” from the private spheres that in fact presuppose the relations of civil society and perpetually manifest its dependence (for its determination or “content”) on it. The social struggle thus also takes on a political character, or, rather, what is revealed is that political struggles are always grounded in social struggles. “The history of all hitherto existing society is the history of class struggle”, and “every class struggle is a political struggle” (473, 481). The transition from an outlook focusing on the political state to an emphasis on the significance of economic relations is thus expressly announced at the beginning of the *Manifesto*, and throughout utilized and defended (though of course the defense is not expressed by a formal argument, but through an explanatory framework which is intended to reveal reality – a “revealing” which takes its most argumentative form in Section II by way of contrast to the Bourgeois frame of reference).

The brief expression of hope found in the *Economic and Philosophic Manuscripts*, through the characterization of the French socialist workers, is here replaced by a sweeping account of the development of workers' organization and action, leading to the development of trade unions against the bourgeois. It is this last development, the unionization of workers as workers and for workers' interests, which is the essential development for Marx. By coming to recognize their conditions, and organizing themselves to act to improve those conditions, the workers can come to appreciate the "class" perspective that Marx believes is essential to understanding social reality and achieving a social revolution. Once the class character of the workers' struggle is appreciated, the social organization and struggles that the workers take up can be seen as building to a political revolution.

The Marxian proletariat is not a crowd but a class, defined by its determinate position in the productive process, the maturity of its "consciousness", and the rationality of its common interest. Critical rationality, in the most accentuated form, is the prerequisite for its liberating function. In one aspect at least, this conception is in line with the philosophy of individualism: it envisions the rational form of human association as brought about and sustained by the autonomous decision and action of free men. (Marcuse, "Some Social Implications of Modern Technology" 152).

If a sufficiently broad and diverse workers' movement comes to appreciate with a theoretic understanding the causes of their conditions (grasp the structural relations that place them at a competitive disadvantage from the start, create the crises they suffer in the bourgeois economy, and lead to a disproportionate influence over the political power and direction of the state), the political character of the social movement will be appreciated.

The political force that lay dormant and unsuspected in the worker comes to be appreciated and fostered through the workers' organization and action (with theory helping to connect and guide the workers' struggles, preserve their insights, begin new analyses and ask new strategic questions, as well as retain an account of the sacrifices, endeavors, and betrayals of

the movement). The struggle to gain a better wage, better work conditions, at first for this factory, or this trade, is, eventually, to connect to all workers struggling under similar conditions, and ultimately all wage-workers as such. With the unified action of the workers the “private problems” suffered are to be addressed through collective, social action, and with this a paradigm of struggle is introduced which grasps the political significance of relations in the civil sphere, and thus the revolutionary character of what at first only took on the appearance of a struggle within civil society.

We have seen above, that the first step in the revolution by the working class, is to raise the proletariat to the position of the ruling class, to win the battle of democracy. The proletariat will use its political supremacy to wrest, by degrees, all capital from the bourgeoisie, to centralize all instruments of production in the hands of the State, i.e., of the proletariat organized as the ruling class; and to increase the total of productive forces as rapidly as possible. (*Manifesto* 490)

Surpassing piecemeal and intermittent efforts, which could provide only conditional and temporary gains *within the bourgeois economic structure*, the workers’ struggle is to culminate in their ascendancy to the “ruling class.” Democracy, which in “On the Jewish Question” was construed as the supersession of the civil/political divide by the political empowerment of the community, here is characterized by the producers gaining control over the means of production, the social management of social forces, which is seen as fulfilled through the workers’ political ascendancy. But rather than focus on the manner in which “the proletariat organized as the ruling class” is to play the role of the state (a missed move that will later become a focus for Marx, and will be dealt with below), what is prescribed are the sort of social policies that a ruling proletariat would have to put in place to begin a transition, a restructuring or “revolutionizing,” towards communism.

The communist content of the ten point program at end of section two has to be seen as steering towards communist society: not accomplishing it, but paving the way, or a “course in

transition” towards it. The proposals represent the kind of policies that was thought to be needed to fulfill the socialist possibility. Even though in the 1872 preface “no special stress is laid on these revolutionary measures,” due to what can be recognized as a Marxist a priori that practical strategies are to be suited to particular circumstances, if private property is to be overthrown there must be movement towards communal ownership. Though the particular policies proposed are not intended to hold for all times or in all circumstances, they give some flesh and blood to the communist ideal. Also, these policies (along with the emphasis on the proletariat as a “ruling class” while opposing classes still exist) make the point that a transition will have to occur from the given society, a revolution must transform society’s relations, structures, and institutions, and at this point attaining state power and authority is seen as part of the means to do this.

Several of the points – abolition of property in land, a “heavy” graduated income tax, abolishing the rights of inheritance, confiscating property of emigrants or rebels, centralization of credit, means of transport, and communication to the state - can be construed as contesting and seeking to destroy bourgeois economic relations and private property, and as means to “de-fang” the real, human bourgeoisie who may fight or contest the attempted transition. With other points - extending state controlled factories and productive instruments, utilizing manufacturing power in agriculture according to a common plan, an equal liability of all to labor, redistributing the population (seeking to end town/country distinctions, i.e. congested cities, poorly developed countryside), providing free education for all children (with education reframed to include “industrial production” - seeking an education that could combine theory/praxis, reapproaching education that in many ways suggests John Dewey’s limited experiments) - the more “positive,” constructive emphasis becomes apparent. The means to transcend private property are tied to the establishment of a social ideal.

But, the proposal to centralize communication, transportation, credit, the coordination of labor (which will now encompass the whole adult population, and school activities), the development and management of living arrangements, and opening state control of the means of the distribution of all goods (starting with income tax and ending inheritance, but apparently utilizing “adjusted” or “controlled” market conditions at first) inevitably leads to concerns or questions about the management or control of the state – the anarchists during Marx’s time (Bakunin notably) voiced just this concern.⁵¹ And with the most notable historical example of the Stalinist regime, this level of centralization under state control raises fears of totalitarianism, or the control of society by a political elite when Marxism is mentioned.⁵²

Even though Marx identifies the state after a proletarian revolution, as “the proletariat organized as the ruling class,” how this will practically or actually be set up becomes an essential question. And it must be noted that the lack of depth here, taken along with the concrete proposals above, allows for a reading of Marx that is willing to emphasize the control of the state *in the interest of* the proletariat, rather than the proletarian control of the state, thus providing room to justify a party which sees itself as representing the proletarian perspective, i.e., sees itself as capable of intuiting and instituting policies designed to carry on the transition to communism (of course *after* the masses reject the bourgeois, or any other rulership, and the professed communists establish their own political power). However, in the same 1872 preface to the *Manifesto* referred to above, Marx and Engels claim they have missed something that was

51 Of course Marx, 1874/75, had powerful responses to Bakunin’s accusation that “there will remain another proletariat which will be subordinated to this new domination, this new state,” but his responses at this point take advantage of insights that I don’t think he adequately worked out at the time of the *Manifesto*.

52 Habermas, in the spirit of this concern, gives us, “I designate state-socialist societies – in view of their political-elitist disposition of the means of production – as ‘post-capitalist class societies’” (*Legitimation Crisis* 17).

“proved” through the real historical case of the Paris Commune, “where the proletariat for the first time held political power”: “The working class cannot simply lay hold of the ready-made State machinery, and wield it for its own purposes” (470). What was found was that a democratic structure was sought by a proletarian revolution.

I would say that something *in principle*, or also a “general principle,” was missed here: the democratic focus of communism - the political concern which initially gave impetus to Marx’s analysis of economic relations, and was to find its “realization” through proletarian revolution. If the political power as manifested in the bourgeois state proved inadequate for the revolution begun by the proletariat, it must be that different forms of political power, relations which avoided or surpassed coercion, exclusion, and repression, were required. But how could Marx and Engels have missed this task earlier? And why did they need a real historical experiment to teach them this? I believe the “early Marx” knew better. Stressing this, both in relation to the *Manifesto*, but also in relation to the case of the Paris Commune is essential for understanding the idea of communism as it developed. But a place must also be found for the materialist perspective, found in all of Marx’s critiques of capitalist society and presupposed in the statement of concrete, communist proposals in the *Manifesto*, that the disastrous contradictions of capitalism are evident - can be seen, analyzed, predicted, etc. – that these contradictions are tied to the bourgeois relations of production and property, and thus that certain policies to end private property, establish common ownership and control of the means of production are inseparable from the pursuit of and transition to communism. It is the tension and difference between these two strains of Marxism that must be faced, and if possible, resolved. Even if this tension manifests itself only as a question of priority – whether the people, the vast majority (the proletariat) must first achieve political power (“to win the battle of democracy”) or

the political powers that be must first begin (if they are “truly” communist) instituting policies that are designed to create common ownership and control of production, there is still a great tension here, for the question then hinges on which comes first, which is more essential to the beginning of a communist revolution, and, perhaps, ultimately, its success.

2.2: The Politics of Class Struggle

Marx holds open for himself the possibility of retranslating the economic processes of capital utilization, which take place within the bounds of class struggle, into the social processes between classes – after all, he is the author of the *Eighteenth Brumaire* as well as of *Capital*. (Habermas, *Legitimation Crisis* 30)

The ideological aspect of the struggle for the transformation of the relations of production lies therefore, above all, in the struggle to impose, inside the complex of ideological state apparatuses, *new relationships of unevenness-subordination* (that is what is expressed, for example, in the slogan ‘Put politics in command!’), resulting in a transformation of the *set* of the ‘complex of ideological state apparatuses’ in its relationship with the state apparatus and a transformation of the state apparatus itself... Etienne Balibar reminds us that it is a matter of replacing the bourgeois state apparatus *both* with another state apparatus *and* with *something other than* a state apparatus. (Pêcheux 144 and note 5)

Almost immediately following the initial publication of the *Manifesto* there were revolutionary uprisings throughout Europe (no causal connection is asserted here – though of course Marx was writing for his times), and Marx participated in, closely watched, and thoroughly analyzed and reported on the struggles for political power that followed. France, whose classes were identified as being political idealists *par excellence* in his early work, and for that reason opened a door to proletarian revolution, from this point forward becomes a central focus. In numerous works (*The Class Struggles in France*, *The Eighteenth Brumaire of Louis Bonaparte*, *The Civil War in France*) Marx now develops a detailed view of the actual maneuvers and strategies of each class, and analyzes the partitions that form within the classes

(proletariat vs. lumpenproletariat, industrial capitalists vs. finance capitalists, etc.). These works critically depict the actions and measures tried on “the street” (campaigns, protests, armed struggle), in parliament (legislating and proposing legislation, electing or removing officials), through the utilization of state power (headed by the executive, and enforced by the militias, military, police, and supported by the courts), and the relation of internal, civil struggles to international conditions. What is attempted then with these works is to capture the complexity and nuance of political struggle, and so too the problems and role of the state machinery itself, while retaining and utilizing a class emphasis as an explanatory mechanism.

Marx does note that Louis Philippe, who would be overthrown by the 1848 February Revolution in France, was backed by the “finance aristocracy”—bankers, stock-exchange kings, railway magnates, owners of coal, iron mines, and forests—but a varied list of causes is enumerated in the *The Class Struggles in France*. An opposition, or unified front, was built around the exclusion from political power of the industrial bourgeoisie, the petty bourgeoisie, proletariat, and the peasantry, (with roughly 1% of France having the right to vote). There was a defrauding of the state through the speculators’ ready access to state credit. A famine occurred in 1847 caused by a potato blight and crop failures, which led to bloody conflicts (peasant rebellions crushed, hunger rioters executed); and a general commercial and industrial crisis in England (connected to railway speculation) forced the big French bourgeoisie to focus on local consumers, they set up “large establishments” (which drove out of business many small grocers and shopkeepers). Finally, there were the political examples - French foreign policy which, against public sentiment, supported Austria’s sacking of Poland (“incorporating” Krakow), and was against the liberals of Switzerland (who won their war of unification), and the French public experienced an “awakening” of revolutionary consciousness through the example of the Palermo

uprising against Naples. What began in February as a movement for electoral reform to break the political hegemony of finance (though only to expand voting rights among the “propertied” - perhaps inspired by the 1832 bill, that gave men in England the right to vote for a 10 pound payment), led to “the people” (primarily the Parisian proletariat) rising up to fight against a reluctant army. This was followed by the National Guard choosing not to intervene, the monarch fleeing, and a provisional government being put in place to establish a Republic. However, according to Marx,

By dictating the republic to the Provisional government, and through the Provisional Government to the whole of France, the proletariat immediately stepped into the foreground as an independent party, but at the same time challenged the whole of bourgeois France to enter the list against it. What it won was the terrain for the fight for its revolutionary emancipation, but by no means this emancipation itself. (*The Class Struggles in France Part I 4,5*)

The declaration of the Republic by the provisional government (already claimed by the bourgeoisie) actually required the threat of the proletariat. Francois-Vincent Raspail gave an ultimatum: a Republic in 2 hours or he would return with 200,000 men. The republic solved none of the class contradictions (no matter its claim of fraternity), thus any gains that the proletariat hoped for would have to come through their opposition, their struggle.

The *Provisional Government* which emerged from the February barricades necessarily mirrored in its composition the different parties which shared in the victory. It could not be anything but a *compromise between different classes* which together had overturned the July throne, but whose interests were mutually antagonistic. (*The Class Struggles in France Part I, 4*)

But it was the proletariat’s capacity for struggle at this moment that Marx calls into question, their organization (the “material”) and theoretic consciousness (“education”) was insufficient to the task. The workers, through a march of 20,000 (again to pressure “their” government), had instituted a permanent special commission to improve the lot of the working class. But the

commission had no real power, actually served to separate the proletarian representatives from the government, and asked for the organization of labor *under bourgeois conditions*.

Every party construed it [the Republic] in its own sense. Having secured its arms in hand, the proletariat impressed its stamp upon it and proclaimed it to be a *social republic*. There was thus indicated the general content of the modern revolution, a content which was in most singular contradiction to everything that, with the material available, with the degree of education attained by the masses, under the given circumstances and relations, could be immediately realized in practice. On the other hand, the claims of all the remaining elements that had collaborated in the February Revolution were recognized by the lion's share they obtained in the government. (*The 18th Brumaire* 22).

The “economic aid” that was provided by the government turned out to be sponsored workshops, which provided a minimum wage for unnecessary and useless earthworks. What Marx saw here was the creation of a farcical socialism, within bourgeois society, which could only make social planning and provision of labor appear to be an economic catastrophe. In fact, the “waste” outraged the petty bourgeoisie, struggling in the post-revolutionary economy, who were greatly hit by both the mass exodus of capital from France (which occurred to avoid possible “costly” - to private property - attempts to establish the “social republic”), and the domestic competition of the big bourgeoisie who remained and needed to establish a domestic market due to slumping export sales.

After the May government elections, the bourgeoisie consolidated their rule with the consent granted by universal suffrage, while also removing Blanqui, the most radical leader of the proletariat of the time, and thus demonstrated to Marx that the petit bourgeois and peasantry by no means saw political leadership in the proletariat, nor an opposition in the bourgeoisie. Next, the government made inclusion in the work programs more difficult, lowered the pay, and, on June 21, “ordered the forcible expulsion of all unmarried workers from the national workshops or their enrollment in the army” (*The Class Struggles in France* 15). The workers

answered this with an insurrection, which Marx considers as the first battle fought by the proletariat to annihilate the bourgeois order. They were violently put down (in part with the aid of the Mobile Guard, recently formed of young recruits from the poor and unemployed) - Marx estimates 3,000 were killed.

This defeat, for Marx, was a proof of the fundamental antagonism between the proletariat and bourgeois interests within the Republic. This was made most manifest by the move to what he calls “bourgeois terrorism”, which utilized the repressive apparatuses of the state after pushing conditions (for the proletariat) to a state of desperation through economic domination and control of the state. “The veil that shrouded the Republic was torn asunder” (*The Class Struggles in France* 15). In the *18th Brumaire* (30), in a critique that serves as a kind of update of *On the Jewish Question*, Marx notes that the republican constitution announced liberty of the person, press, speech, association, assembly (which today are often construed as fundamental democratic rights), of education, and religion as “absolute” rights of citizens, *but* the practice of each was allowed to be limited by law in the interest of “public safety” and insofar as they were deemed to collide with the rights of others. Even granting the value and adequacy of all these rights (which in their civil form Marx was by no means willing to do previously), their chimerical absoluteness is made manifest by their existence remaining contingent upon the acceptance by the legislators, executive (“realized” through the police and army), and judges of the law.

Marx, recognizing the unresolved class conflict of society (a conflict that expressed itself in bloodshed), could relativize or situate calls to “order” based on who’s order was in question, order to what end, and to be achieved by doing what. Insofar as the bourgeois controlled government positions through their dominant civil position, and remained perpetually threatened

by the proletariat—“Having constantly before its eyes the scarred, irreconcilable, invincible enemy – invincible because his (proletariat’s) existence is the condition of its (bourgeoisie’) own life” (*Class Struggles* 17)—even when retaining full respect “on the books,” the actual extent of constitutional rights was determined by those interested in the bourgeois order. The suppression of the practice or use (i.e., existence) of rights when advanced by the proletariat in their own interest was blatant.⁵³ By 1850, the “foundational”, constitutional right of universal suffrage was even abolished with a majority vote of the National Assembly, in response to the national election of representatives associated with the June 1848 uprising and socialism.

To make a more general point, the existence of political rights (and utilization of civil rights) was recognized as inseparable from and dependent upon those in political power. Ultimately, the call to order could even turn against the bourgeois republicans; so the state jobs that helped relieve the “surplus population” (in this case those bourgeois who were educated but couldn’t find a good job in civil society) also provided an obedient, large bureaucracy for Bonaparte. The same kind of control and suppression of proletarian propaganda and organization was utilized to suppress opposition to the executive coup, for “were not barrack and bivouac, sabre and musket, moustache and uniform finally bound to hit upon the idea of rather

53 “However the connection between economic and political freedoms has not always proved so secure in practice. As Marx, for example, argued in his theory of the Bonapartist state, when the freedoms of speech and association exercised by the propertyless came to threaten property and profits, capitalists would be only too ready to abandon free political institutions for ones that could more readily guarantee order and property, even if this meant leaving their own parliamentary representatives in the lurch. Freedom of profit for the few was not necessarily consistent with political freedoms for the many, as many examples from the twentieth century have subsequently confirmed” (Beetham, “Market Economy and Democratic Polity” 82-83). Of course to what degree the political institutions were free in the first place, insofar as the freedom of speech and association proved so vulnerable for the “propertyless” (workers), is a key question here. The “economic freedom” that is viewed as in conflict with “political freedom” is here the freedom to privately own the means of production (and thus employ, exploit, and profit from wage labor). A freedom *in* economic relations and connected with political freedom is the, non-contradictory or non-conflictual, conception that, I believe, Marx sought.

saving society once and for all by proclaiming their own regime as the highest and freeing civil society completely from the trouble of governing itself?" (*The 18th Brumaire* 34-35).

The lesson that is clearly drawn in *The Class Struggles in France* and the *18th Brumaire* is that the political emancipation promised by the institution of the Republic had its course determined by the struggles between the classes, and the political force offered by the state was ultimately a prize to be won for narrower interests, not the means to transcend such interests. The Republic did not provide the means to establish a universal, political community; it was itself hostage to the forces of civil society, until it made civil society its hostage. The centralized force that the state established provided a means to tie the community together, though the nature of the tie was to be determined by the winner of the contest between the classes, and, as was seen above, the contest, often violent, dictated the development of the oppressive organs and violent tendencies of state power. The class struggle not only was preserved (or developed) within the republican form of government and its rights, but also directly impacted the republicanism of the state.⁵⁴

Marx's undeniable focus on political matters (though not commonly associated with his analysis) found in the *Class Struggles in France* and *The 18th Brumaire* can also be seen through his charting of: the suppression and fall of the proletarian organizations (and their loss of

54 This also serves as confirmation of Marx's early point, demonstrated in his "Critique of Hegel's Doctrine of the State" (1.1), that the republican constitution participates in the same "political idealist" structure as the constitutional monarch (the republic is only an "open" expression of the contradictions of the political state – the state is democratic, not society). The (civil) conflicts and contradictions that are not solved with the republican structure, led, in the French case here discussed, to those with land and great wealth using state repression to put down demonstrations, demands, and elections asking for aid and equity, and this opened the possibility for the state (through its "repressive head," the executive) to reassert itself as *the* constitution. The movement from the constitutional monarch to the republic, and then back to the monarch is "smooth" and open, both ways, insofar as these movements occur without altering the political state.

political fighting will due a small return of economic prosperity); the brief rise and sharp fall out of parliament of the petit-bourgeois social democratic republicans following the suppression of the proletariat, and the dispersal by military force of their strategically impotent peaceful “march” of protest; the high but disappointed hopes and eventual violent suppression of the indebted, taxed, small property peasants; and finally, Bonaparte dissolving the power of parliament, thereby ending the “constitutional” republic while maintaining the full backing of finance capital through the state control of taxes and debt, thus resulting in a very similar configuration of power that spurred on the 1848 Revolution in the first place.

The hopes the proletariat had placed in their conception of a *social republic* were crushed by bourgeois opposition in the actual Republic (in the name of “property, family, religion, order”), and republicanism itself was soon to fall to an executive utilizing his authority. The problem then for the proletariat, and for Marx, was grasping a political structure that intervenes in the class division itself. Rather than create a political space where the classes are presupposed, and thus continue to oppose each other (no matter which at the time is dominant or in control of the state), the goal of a classless society requires the establishment of relations which could intervene in, and ultimately supersede, the class division itself. The state could not simply be claimed or won by the proletariat, it itself was part of the problem.

Every *common* interest was straightway severed from society, counterposed to it as a higher, *general* interest, snatched from the activity of society’s members themselves and made an object of government activity... All revolutions perfected this machine instead of smashing it. The parties that contended in turn for domination regarded possession of this huge state edifice as the principal spoils of victory. (*18th Brumaire* 122)

Noting that Marx is tracking the development of the centralization and specialization of the departments (coordinate with the developing division of labor in society) of the state in France from feudal times to the short lived republic which was just discussed, we should recall

Marx's earliest criticisms of Hegel's view of the state (1.1) and his concern for superseding the civil/political divide (1.2). Hegel, while granting the competition, contradictions, and desperation of civil society, believed the state can provide the "universal" or "general" standpoint for society. And thus the state legislature can express the will of the people, and the executive will be faithful in carrying it out. Marx, in his early writings, saw the state as wholly unable to resolve the conflicts of civil society because it presupposed them, and thus went on to analyze civil society itself. But, in later works (*Class Struggles, 18th Brumaire*), his focus has shifted from the civil struggle, which he now believes he can grasp with his conception of classes connected to the relations of production and productive forces, back to the state. A state that can tolerate or presuppose class divisions cannot provide the resolution of class divisions; what is sought is a political form (ultimately political relations) that in its very structure challenges, not simply channels, class divisions.

It is to me an historical curiosity that Marx waited for an actual case of a new political organization to provide the inspiration here. His early democratic commitments, his ideal of political decision making occurring amidst the members of society and through their social relations, his development of the view that estrangement occurs through human relations, taken along with his later insight into the need to free the workers, the producers of the social forces, to gain control of the course and products of production, should have provided some insight into the political form or political relations that should be sought or would be needed. In light of his criticism of utopian thinking (see section III, 3 of the *Manifesto*, for instance), of the inadequacy of drawing up ideal pictures of society with no real emphasis on the struggle (from present conditions) required to bring them about, it is perhaps to be expected that he would shy away from too much speculation in this case. But it also seems as if his criticisms, developed in

reference to his early “democratic idea” (chapter 1), have already made it quite clear that republican government, and any political constitutions pretending to be “over and above” their social presuppositions, and the class struggle in society, would have to prove inadequate. In addition to political structures that promised to represent the shared interests of the members of society (their common good), what was also needed was to give political force back to the individuals of society. The political structures that would be adequate to the task of worker emancipation would appear to entail that the political relations be found amongst the workers themselves. As was seen in Marx’s early works, the political is to gain a civil character, and civil society itself is to be suffused with political significance.

2.3: Political Relations for Communism

Rather than proposing a political form that would be suited to, and in fact realize or manifest his “dictatorship of the proletariat,” and thereby begin the process of dissolution of class divisions, Marx awaited the arrival of a brief, grand, and tragic political “experiment”: the Paris Commune of 1871. It is no small fact to note that Marx saw the French proletariat of 1848 as unprepared to succeed in bringing forward the revolution he thought would be required, both “materially”—organizationally and in the further development of the relations and contradictions of society—and “educationally”—in theoretic understanding of their class interests and the inevitable opposition of interests in the current society. However, Marx saw that the violent suppression of the Paris proletariat began to advance their education by pointing out the either open or suppressed conflict that existed between the bourgeoisie and the proletariat (an “axiom” asserted early on in the *Manifesto*). With this lesson in hand, Marx could declare at the end of

section 1 of *The Class Struggles in France* and in light of the June defeat, “The Revolution is dead! Long Live the Revolution!” And yet, there was one more, bloodier lesson to be learned:

...the parody of the empire was necessary to free the mass of the French nation from the weight of tradition and to work out in pure form the opposition between state power and society. (*18th Brumaire* 130-131)

Imperialism is, at the same time, the most prostitute and the ultimate form of the State power which nascent middle-class society had commenced to elaborate as a means of its own emancipation from feudalism, and which full-grown bourgeois society had finally transformed into a means for the enslavement of labour to capital. (*The Civil War in France* 631)

Louis Bonaparte, playing the part (farcically for Marx) of his great predecessor and uncle under different material conditions and different social relations, but still as the fully empowered executive of a huge state machinery, eventually, after utilizing all avenues to exploit home resources and revenues (through utilization of taxes and state credit), made the move for foreign conquest, and further exploitation.⁵⁵ Insofar as the French peasants and proletariat remained nationalist, and thus obedient to the directives of the state authority (the emperor of France) they did not focus on being exploited workers and indebted peasants, and thus did not acknowledge the role their own state had played in reinforcing and perpetuating their oppressed conditions. The disastrous result of the Franco-Prussian war would open the eyes, and recover the memory of the French working class. The failed Republic, leading to the failed empire (for the second time, should we say “comically” for such a bloody endeavor?), brought the question of a new state and a new politics to the forefront. And, as Marx predicted, the solution to this question was not ventured merely due to a theoretic curiosity, but also as a practical necessity. The

55 For one example of the impact of changed conditions on the “same” policy, Marx notes in the *18th Brumaire* (124-128), that the peasantry, the great majority of France, in the case of the first Bonaparte received the, revolutionary (at the time) opportunity to be an independent land holder over and against the feudal lords, while by the time of Louis, the emperor’s support of private land holding was support of the large, capitalist landowner, and entailed state enforcement of collection on the debt and taxes of the struggling, competitively poorly situated, peasant.

workers of Paris realized that an attempt must be made to break from the senseless cycle of their delusion and oppression.

After the defeat and capture of Louis Bonaparte (and much of the army with him), Paris found itself under siege by Prussian forces. The inhabitants of Paris (two million at the time) readied themselves by expanding the National Guard, a civilian militia that numbered at that point hundreds of thousands. The militia members elected their own leaders (including republicans and socialists alike), and began to take steps to form their own Central Committee. By January an armistice was made between defeated France and the new German Empire. Though Prussian forces were given a ceremonial occupation of Paris in the treaty (leading the Parisians to seize 400 canons before their advance), Marx notes that the armed Parisians earned the respect of the Prussian forces, thus quashing any ideas of revenge for previous French aggression. The spark that set off the Commune was thus not foreign force, but the threat of the same old oppressive force of previous French governments. In February, a Monarchist majority was elected in the New National Assembly (the “party of order” prior to Bonaparte’s coup), and Adolphe Thiers, the head of the new provisional government, wishing to assert his control over Paris (and no doubt threatened by their burgeoning self-organization) on March 18 ordered troops under General Lecomte to seize the 400 canons. The soldiers arriving in Paris exhausted and deflated from the failed imperial campaign, fraternized with the Parisians, and a general (rumored to have ordered the soldiers to fire on the National Guard and civilians) was dragged off his horse and later shot (along with another despised General). Thiers, along with as many regular forces, police and state officials as he could marshal, fled Paris and established the government in Versailles. The Central Committee was the only remaining government presence

in Paris and it arranged for elections to be held on March 26. The political vacuum in Paris was filled by the Parisians themselves.

How the Parisians maintained their political significance after the elections (or, rather, had their political will expressed, but not solely manifested through them) is the central question here. Marx's analysis thus focuses on the structures and relations that were adopted to handle the "work" formerly done by republican and imperial governments. Municipal councilors were chosen by universal suffrage (which had no class restrictions, but still excluded women) and these were to be responsible and revocable at short terms, with the Commune as a whole to be "a working, not a parliamentary, body, executive and legislature at the same time"⁵⁶. The problem of delegating the power to decide on matters of public concern, the problem of delegates not being bound to specific commissions or instructions and of deciding according to particular interests (identified by Marx in his early critique of Hegel) is thus addressed through the direct

56 Not denying the lack of progress evident in the continued sexist voting restriction against women, the Commune still provided ample examples of progress (admittedly accomplished through their own efforts in the environment of the Commune) in the women's struggle for liberation. "Women, in particular, were active and organized on an unprecedented level. As well as nursing, running ambulance stations and soup kitchens and sewing uniforms, they organized activities which fly in the face of the traditional role assigned to women, such as speaking in political forums, organizing women's battalions and advising the Commune on work and education reforms... This is despite the sexism prevalent in the working class at the time, which saw women denied the vote in the elections to the Commune itself. Refusing to be silenced, the women demanded and got an organization that could "harness the energy of the people for resistance". This was the Union des Femmes, the women's arm of the Commune... One of the Union's more significant contributions was the collective organization of work. They converted unused factories into workshops that produced cartridges, sandbags and uniforms for the Commune's army, the National Guard. As no profit was made, the women were paid triple the going rate. They also shortened working hours, provided childcare and eliminated repetitious work. These workshops were among the first places in the world to introduce equal pay between men and women... Most significantly they gave the *unions libres* (relationships outside wedlock) the same status as marriage by awarding women in these relationships the same pension given to wives whose husbands died fighting in the National Guard... Notions of illegitimacy were also abolished, and divorce - in a country dominated by Catholicism - was recognized for the first time. These reforms were the beginnings of sexual freedom for women. (Colleen Bolger, "Women in the Paris Commune").

oversight of the government by the governed. The people's continuous power to remove their officials helped assure government accountability, i.e., a government that truly pursued the aims of the people. The distinction Marx makes between parliamentary bodies and the working one he sees here, is between the members of government who debate to constitute or discover the "public good," compared to government as an instrument (and an adjustable one at that) of the public, i.e., the people, itself.⁵⁷ How or in what way public debate and decision (which, minimally, would be required to decide on electing and removing municipal councilors and to provide specific commissions) is to manifest itself in the long run (in a stable, long-term society), how the discussion, debate, and decision of the people is secured in the social relations themselves, or given an institutionalized or customary place, is not dealt with, and no doubt the brief existence of the Commune, and its restricted (by Versailles' and Prussian arms) space, could only provide the suggestion, not the answer here. Still, Marx saw that the Commune "supplied the Republic with the basis of really democratic institutions" (634).

Consistent with acknowledging the merely functional or instrumental role of government (government work is viewed as only a part of the total social labor), the "dignity" of government (the majesty or stateliness of the state) was also to be dissolved.⁵⁸ The ideological force of the

57 I here disagree with Lenin, *State and Revolution*, that the political relations established by the Commune were necessary primarily because of the military cliques and bureaucracy developed in the state machinery, for I hold that uncoerced, deliberative relations are essential to both proletarian liberation and *the existence of their freedom as such*: free productive relations will always require democratic relations. Thus I also disagree with Lenin that these democratic political relations are *only* a means (even if necessary) of a transition from capitalism to socialism – I will develop more on the substance of this disagreement in my final chapter.

58 It should be considered if the Frankfurt School's critique of "instrumental reason" (an efficient rationality operating within a horizon of prescribed ends and aims) presupposes not only that the means of production are privately owned, but that the state/politics retained its "heavenly" or removed status, thus adaptive instrumentalism under forms of social domination is what truly proves devastating. The instrumental view of the political (or politics being made as the "work" of the people) would then be a means of liberation, not domination.

political state, an early concern for Marx, is challenged here. A large step in this direction was already taken with the first decree of the Commune: the army was suppressed, and the National Guard, the armed people, established as the force of the state (we might note that Marx saw here a post-war fact being turned into an institution). The police, who were made responsible to and revocable by the Commune complimented this measure. Thus, the first monopoly to be broken was the state monopoly on violence; it was established that the people would decide on the legitimate use of force. Public service was also brought back to earth (stripped of its aura of authority or exceptional status) by giving only a workman's wage for any position - a simple and ingenious additional "structural" mechanism to help assure that government officials will concern themselves with the workers' interests. As also noted by Marx, this, along with the dissolution of a state military, greatly limited the parasitic element of a costly state.⁵⁹ The project of disenchantment of government authority (again consistent with the view of government as a social tool or mechanism) is continued by the magistrates and judges themselves being made "elective, responsible, and revocable" (632). Rather than valuing the

59 The "socialist" consciousness and concerns that targeted the economic relations of society more broadly, and which were manifest in the leaders and members of the Commune at the time, can best be appreciated by looking to the records of statements. From Stuart Edwards' *The Communards of Paris, 1871*, I have selected: "What makes the Revolution of the nineteenth century so distinctive is that it is based on the theory that wherever a product exists the producer should be fully compensated" (E. Vaillant, "The debate in the commune on control of theatres" 152). "To the people the Commune does not merely signify administrative autonomy; above all it represents a sovereign authority, a legislative authority. It stands for the entire and absolute right of the community to create its own laws and political structure as a means to achieving the aims of Revolution. These aims are the emancipation of labour, the end of monopolies and privileges, the abolition of bureaucracy and the feudalism of the industrialists, speculators and capitalists, and finally the creation of an economic order in which the reconciliation of interests and a fair system of exchange will replace the conflicts and disorders begotten by the old social order of inaction and laissez-faire" ("Proposal for the organization of women's work from a printer member of the Commission of Labour and Exchange" 124). The necessary connection between socialist "economic" relations and democratic "political" relations, which perhaps is not established here, will be defended below.

sanctity of legal decisions and decision makers, emphasis is placed on the people's judgment of those decisions and the deciders themselves; law is not made a privileged domain of judicial or scholarly precedent, or, rather, participation in "legal discourse" is opened to the public. And the most explicit example of the withdrawal of ideological force from the state was the end of state endorsement of the Church (here the preservation of a "civil" right - the separation of church and state - is seen as a means to have religious institutions directly judged and supported, if they so choose, by the populace). Interestingly, the removal of state supervision and control of the schools was instituted. In *Critique of the Gotha Program* Marx does not deny that public funding and general standards can be set, but the spirit of the Paris Commune reform is also indicated, "the state has need, on the contrary, of a very stern education by the people" (540). Ultimately, the government was not to have any hold on people's perceptions, but merely be subject to them. "The great social measure of the Commune was its own working existence. Its special measures could but betoken the tendency of a government of the people by the people" (639).

These were the political relations that both the newly assembled Thiers' government and the Prussian forces could see as a "common enemy" (a challenge to both political states): each perceiving an enemy of their enemy in the other became fast friends. Paris was cut off from the surrounding countryside (to prevent the spread and institution of this example), bombarded, sacked, and many of the prisoners and survivors (men, women, and children) were executed wholesale; 30,000 (or more) were killed.⁶⁰

60 From Lissagaray's *History of the Paris Commune of 1871* we find numerous records of cold, calculated violence, which presages that of the atrocities of the 20th century. "Near the Park Monceaux a husband and wife were seized, and ordered to march forward towards the Place Vendome, a distance of a mile and a half. They were both of them invalids and unable to walk so far. The woman sat down on the kerbstone, and declined to move a step in spite of her husband's

2.4: Late Critique and the Projection of Communism

Marx's critique in 1874/1875 of Lassalle and Bakunin offers us insights into his late conception of communism. His desire to set apart and continue to recommend his (and the first International's) way of conceptualizing and approaching contemporary social/political struggles required further critical efforts, but also lead him to offer novel positive constructions. The critical work could not be adequately presented without more being said on the economic and political relations he thought would be required to start a transition to communism. The positive claims he makes here should not prove surprising, if his project has been consistent, though it is building and deepening. Development can be seen here – we should not deny that even further insights are added. The *Critique of the Gotha Program* offers more on the socialist economic relations that were also developed in the *Manifesto*, but in many ways doesn't advance an alternative to the critique of the state found in Marx's early writings, whereas the document

entreaties that she would try. She persisted in her refusal, and they both knelt down together, begging the gendarmes who accompanied them to shoot them at once if shot they were to be. Twenty revolvers were fired, but they still breathed, and it was only at the second discharge that they finally sank down dead. The gendarmes then rode away, leaving the bodies as they had fallen. (*Times*, 29th May.)” (Appendix, XXXIV). “On the 26th of last May we formed part of the column of prisoners who had left the Boulevard Malesherbes at eight o'clock in the morning in the direction of Versailles. We stopped at the Chateau of La Muette, where General Gallifet, after having dismounted from his horse, passed into our ranks, and then making a choice, he pointed out to the troops eighty-three men and three women. They were taken away along the talus of the fortifications and shot before us. After this exploit the General said to us: ‘*My name is Gallifet. Your journals in Paris have sullied me enough. I take my revenge.*’” (Appendix, XXXV) “The victims died simply, without fanfaronade. Many crossed their arms before the muskets, and themselves commanded the fire. Women and children followed their husbands and their fathers, crying to the soldiers, ‘Shoot us with them!’ And they were shot. Women, till then strangers to the struggle, were seen to come down into the streets, enraged by these butcheries, strike the officers and then throw themselves against a wall waiting for death... What, then, will this justice say when those shall be judged who methodically, without any anxiety as to the issue of the combat, and, above all, the battle over, shot 20,000 persons, of whom three-fourths had not taken part in the fight?” (Ch. XXXII, The Versaillese fury).

“After the Revolution: Marx Debates Bakunin,” further develops and applies the political insights that Marx garnered from his analysis of the Paris Commune in *The Civil War in France*. Taking these works together we get a good idea of Marx’s project of Communism; the relations and structures envisioned provide guidance and direction for political struggle (and do so by further elucidating the goals of struggle that Marx holds).

When critiquing the call in the Gotha Program (528) for a fair and equal distribution of the “proceeds of labor,” Marx points out that if we assume communal ownership of the instruments of labor and co-operative regulation of labor, the entire social venture has certain operational or structural presuppositions – “deductions” – which he says are an “economic necessity.” But by looking at what is included here, we garner insight into his idea of “truly human” economic relations. These do not separate realistic concerns about production from respect for human dignity and development (which requires the eradication of the conditions of exploitation and alienation). The deductions are: any costs for reproducing or expanding production (with no mention of *how* production is decided, more on this below), reserve or insurance funds against accidents or natural disasters, funds for those unable to work, costs for administration not related to production (here still the “administration of people”– with the promise it will cost far less in the proposed society than the state-capitalist one – more on this below), and funds for the “common satisfaction of needs” – here including schools, health services, etc. (with the note that this will grow with the development of the conditions for a communist society). Only *after* these are provided does Marx move on to consider a discussion about distribution to individuals. Thus, he wants to factor in (since this is missed by the Gotha program) that social production has presuppositions, but he also adds social provisions

(exemplifying a “social value” orientation) tied to the open acknowledgment and arrangement of communal ownership and cooperative production.⁶¹

When considering distribution to individuals, we then come to Marx’s famous distinction between a first and second phase of communism. The first phase, emerging from capitalist society, and thus “economically, morally and intellectually, still stamped with the birth marks of the old society from whose womb it emerges” (529), will grant each producer a claim on the common social products equivalent to the amount of labor time he or she expended.⁶² One would think this equivalence (of claim relative to labor expended) would be Marx’s “ideal” for claims on social production due to his labor theory of value, but he accuses even this theory of being bound to “bourgeois right.”⁶³ For, “[t]his equal right is an unequal right for unequal labour” (530). Marx notes we are unequally endowed mentally and physically, and thus can do more or less work in the same amount of time. He adds that some have families, others do not, and thus different workers require more or less. In essence, the problem is we are different, yet

61 The “social value” is manifest: “what the producer is deprived of in his capacity as a private individual benefits him directly or indirectly in his capacity as a member of society” (529); thus “insurance” takes the form of the services and funds necessary to provide care and aid for the members of a society, rather than an individual’s legitimate claim to services. After all, the progress towards Marx’s communist society can be charted (in part) by the development of institutions that provide for the *common* satisfaction of needs. The import of this point will be developed in my final chapter.

62 Again we should note that production is seen as already underway; how the producer participated in deciding the course of it (chose what will be produced, how much, in what amount of time, in what manner--what kinds of work, intensity, risk, etc.--with what resources, etc.) is not mentioned here. Marx, commenting on the Gotha program simply presupposes “co-operative regulation of the total labor.”

63 For a succinct statement of the labor theory of value we can look to *Capital, Volume 1*. “We know that the value of each commodity is determined by the quantity of labour materialized in its use-value, by the labour-time socially necessary to produce it” (293). We can ask if Marx is now (in the *Critique of the Gotha Program*) more optimistic than he was in the *Manifesto*. This optimism may be based on his belief that the workers now know that capital is based off of surplus labor time, that product/value labor created which they will not receive a share of. This education of the worker would then be a background assumption of a theoretical victory that is here presupposed.

this mode of distribution acknowledges us equally *as workers*. We receive here further insight into how far Marx desires to focus our attention and concern on *real human beings*, to undercut all reified standards and deal with the real details and difficulties of individual lives (further nuances here will be returned to in chapters 3 and 5). On this point, he is even willing to grant that the identity of each as a worker is itself limiting (so we are to be liberated *as workers*, but also from *only* being workers).⁶⁴

64 Related to this, Hannah Arendt, in *The Human Condition*, claims she has discovered a “fundamental contradiction” in Marx’s works. “The fact remains that in all stages of his [Marx’s] work he defines man as an *animal laborans* and then leads him into a society in which this greatest and human power is no longer necessary. We are left with the rather distressing alternative between productive slavery and unproductive freedom” (91). To establish this point, she references *Capital Vol. 3* (Ch. 48, Sec 3), “‘the realm of freedom begins only where labor determined through want and external utility ceases,’ where ‘the rule of immediate physical needs’ ends,” (90), and the *German Ideology* (Vol. I, Ch.2, Sec. 6) where she quotes “the communist revolution...does away with labor” (332).

A longer, less selective quote from *Capital Vol. 3* (from the very same paragraph referenced), makes it clear that Marx’s realm of freedom does not exist without production (as if Marx conceived of freedom as a Kantian noumenal existence). “In fact, the realm of freedom actually begins only where labour which is determined by necessity and mundane considerations ceases; thus in the very nature of things it lies beyond the sphere of actual material production. Just as the savage must wrestle with Nature to satisfy his wants, to maintain and reproduce life, so must civilised man, and *he must do so in all social formations and under all possible modes of production*. With his development this realm of physical necessity expands as a result of his wants; but, at the same time, the forces of production which satisfy these wants also increase. Freedom in this field can only consist in socialised man, the associated producers, rationally regulating their interchange with Nature, bringing it under their common control, instead of being ruled by it as by the blind forces of Nature; and achieving this with the least expenditure of energy and under conditions most favourable to, and worthy of, their human nature. But it nonetheless still remains a realm of necessity. Beyond it begins that development of human energy which is an end in itself, the true realm of freedom, which, however, *can blossom forth only with this realm of necessity as its basis. The shortening of the working-day is its basic prerequisite.*” (Italics mine)

And one page before her quote from the *German Ideology* we find, “From the above it is clear that the real intellectual wealth of the individual depends entirely on the wealth of his real connections. Only this will liberate the separate individuals from the various national and local barriers, bring them into practical connection with the production (including the intellectual production) of the whole world and make it possible for them to acquire the capacity to enjoy this all-sided production of the whole earth (the creations of man). *All-round* dependence, this primary natural form of the *world-historical* co-operation of individuals, will be transformed by

The Marxist critique of (bourgeois) right found here is, “Right by its very nature can consist only in the application of an equal standard; but unequal individuals (and they would not be different individuals if they were not unequal) are measurable by an equal standard in so far as they are brought under an equal point of view, are taken from one *definite* side only...” (530). Here, to be “fair” to each as a worker (contributing labor-time), would still be unfair to each as a human being, given their different capacities, circumstances, needs, etc. In other works (in *Capital* and the *Economic and Philosophic Manuscripts*, for instance) the fairness – in capitalist society - of treating each as a free and equal market member (one expression of the freedom of civil society) is revealed as unfair due to some owning the means of production and others having only their own labor as a significant marketable value. But here, “right” is seen “by its nature” as a mode of conceptualization which does not sufficiently take up difference; instead it is seen as giving standards of evaluation to apply, *no matter certain differences*. Whether this is true of right *as such* (true of its “nature”) is a fundamental question for Marxism – must a Marxist leave all “rights language” behind, or is a set of rights sensitive to relevant differences

this communist revolution into the control and conscious mastery of these powers, which, born of the action of men on one another, have till now overawed and ruled men as powers completely alien to them.” It is impossible to see an *unproductive* freedom here.

As I argue in this section (and in chapter 5), it is only by taking account of Marx’s desire to transform political and economic relations, his “democratic” point about the need for society’s members to consciously and deliberately guide their relations, and his “materialist” point of the great productive forces set loose by machinery and the division of labor, and his critique of private property and the endless, senseless, and enslaving logic of capital (the infinite aim of the production of profit) that one can properly interpret what Marx, the supposed theorist of *animal laborans*, could mean by “doing away with labor” – not the end of production, but achieving collective and conscious control of production to finally transcend necessity, and achieve human development and fulfillment.

possible/available?⁶⁵ I pursue the intuition that bringing a Marxist standpoint to the more recent grand liberal theories of John Rawls and Jürgen Habermas aids us in answering this question.

Marx adds his own characteristic “material” limitation to right consciousness, “Right can never be higher than the economic structure of society and its cultural development conditioned thereby” (531). Novel conceptions or articulations of right would seem then to follow and depend upon the developments of society, not guide or bring about those developments.⁶⁶ But this does not prevent Marx from stating the ideal of the “higher phase” of communist society as, “From each according to his ability, to each according to his need” (531). Marx does note, prior

65 I have mentioned some of the difficulties and complexity of retaining norms for Marx in my introduction (0.3). Steven Lukes, in *Marxism and Morality*, efficiently sums up a broad variety of interpretations of Marx’s view on justice: 1) Marx thought the relation between capitalist and worker was just (e.g. the Tucker-Wood thesis that conceptions of justice are articulated in relation to (and in support of) established modes of production); 2) Marx thought the relation was unjust (e.g., the Husami, Cohen thesis whereby exploitation is revealed in the supposedly “free” relations); 3) Marx thought it was both just and unjust (e.g., the Gary-Young thesis whereby “just” means from the standpoint of a “free”, market exchange, but unjust from the standpoint of production and the exploitation of surplus-labor); 4) Marx thought it was neither just nor unjust (e.g., the Richard Miller thesis, because “justice” itself is an unfit category for political recommendations or for scientific analysis). Lukes simply grants that each perspective has a place: “What Marx offers is a multi-perspectival analysis in which capitalism’s self-justifications are portrayed, undermined from within, and criticized from without, and then both justification and criticism are in turn criticized from a standpoint that is held to be beyond justice” (59). Lukes adds that Marx critiques *bourgeois* right as ideological, but offers positive values through his commitment to “human emancipation.” His “moral” outlook is construed then as anti-deontological or “a form of consequentialism that is long-range and perfectionist” (142). But the latter part of Lukes’ work (chapter 6), is dedicated also to showing the dangers of such a viewpoint (a theoretic development of a critique of a means-ends rationale, which is seen as capable of supporting violent, oppressive, “Stalinist” or totalitarian measures, and is similar in structure to the paradigmatic critique of deontologists and Kantians of a strictly utilitarian perspective). He ends his work with the question, “Can a theory of justice and rights be developed which incorporates the insight and vision of Marxism’s conception of freedom?” (149) I believe the answer here is “yes,” and in the course of this work I wish to demonstrate why and in what way this can be said.

66 Marx appears here to be granting Hegel that a philosophy of right, “as the *thought* of the world, it appears only at a time when actuality has gone through its formative process and attained its completed state...the owl of Minerva begins its flight only with the onset of dusk” (*Elements of the Philosophy of Right*, 23). But in granting this he thus sees reason in rejecting a “right consciousness” as revolutionary.

to stating this, the sort of “material” developments that he thinks would have to take place to achieve this transcendence of bourgeois right: only “after the enslaving subordination of the individual to the division of labour, and therewith also the antithesis between mental and physical labour, has vanished; after labour has become not only the means to life but life’s prime want; after productive forces have also increased with the all-round development of the individual, and all the springs of co-operative wealth flow more abundantly” (531). But in imagining the conditions that would be tied to the ideal, does the ideal, at least for the reader who is not living in this higher phase of communist society, or even in the first phase, become one of the guiding means or motivation for those conditions? Can’t we say that even the transformation of the “material conditions,” from enslaved and alienated to desirable and fulfilling, seems to require not just further (industrial) development (for capitalism does this even with its uneven and exploitative production and crisis cycles) but also the development of new, chosen forms of association, that is, new social relations?

Habermas’ criticism in *Knowledge and Human Interests*, of the introduction of Marx’s *Critique of Political Economy* (1857) is quite close here:

Consequently no matter how we look at it, distribution is dependent on the institutional framework, that is on the property order, and not on the form of production as such...But the distribution inherent in production, the institutionalized relation of force that establishes the distribution of the instruments of production, is based on a structure of symbolic interaction. (Ch. 3, note 14)

On returning to Marx we find, in the *Critique of the Gotha Program* (1875) “Any distribution whatever of the means of consumption is only a consequence of the distribution of the conditions of production themselves...If the material conditions of production are the co-operative property of the workers themselves, then there likewise results a distribution of the means of consumption different from the present one” (531-532). First come co-operative

property relations (here Marx can agree with Habermas), and then distribution of the means of production and consumption follow from these.⁶⁷ However, what exactly is entailed or required for co-operative property relations, the pre-conditions for and relations involved in production being cooperatively managed, is not sufficiently developed here, thus essential details are lacking.

One such missing detail is seen in Marx's claim that, "with the abolition of class distinctions all social and political inequality arising from them would disappear of itself" (535). The trouble is that co-operative property relations (communism, the end of classes) would seem to require establishing new forms of political equality or social power (and these, to be consistently "materialist," would need to be realized in relations and institutions that intervene in and incorporate economic relations). The effects of alienation, exploitation, and oppression must be counteracted and redressed, and the social powers, opportunities, and responsibilities that are to be established for each member of society must begin to be created and "possessed" by them. Marx does note, "freedom consists in converting the state from an organ superimposed upon society into one completely subordinate to it" (537), adding that to be socialist one must treat the existing society (or any future one) as the *basis* of the existing state. But these are the insights that he had as early as *Contribution to the Critique of Hegel's Philosophy of Right* (1.1) when he stated his "democratic idea," and these were the insights that led him to discover his class analysis. At this late date, however, holding co-operative property (communism) as an ideal, we

⁶⁷ Stressing the fact that both stages of communism mentioned would function with varying degrees of co-operative property relations (with "progress" charted by ever expanding, socially managed and shared services) is one way to understand how the transitional steps are connected. The "deductions" already mentioned in the first stage would be what each would want as equal partners in the now openly acknowledged social "venture," and these deductions already point to identifying the members of society as more than workers earning their share; the seed for the provision of human need and human flourishing ("all-round development") is present.

still need an answer to what the social relations must be to fulfill this (or begin the transition towards it).

Marx offers in *Critique of the Gotha Program*:

The question then arises: what transformation will the state undergo in communist society? In other words, what social functions will remain in existence there that are analogous to present functions of the state? This question can only be answered scientifically, and one does not get a flea-hop nearer to the problem by a thousandfold combination of the word people with the word state. Between capitalist and communist society lies the period of the revolutionary transformation of the one into the other. There corresponds to this also a political transition period in which the state can be nothing but the *revolutionary dictatorship of the proletariat*. (538)

What is stressed here is that the dictatorship of the proletariat will precede even the first stage of communism. But, as was mentioned above (2.1), Marx and Engels acknowledged in the 1872 Preface to the German Edition of the *Manifesto* that the political relations involved in establishing the proletariat to political power were more complex than they first thought, and we should turn to the *Civil War in France* (the Paris Commune) for guidance. Marx's assertion, in *Critique of the Gotha Program*, that there is a "scientific" way to answer this is no doubt referring to the fact that every country has particular economic relations, and a different state, different institutions, ideals and rights, etc. (see his critique of the inaccurate abstraction in the Gotha program of the "present-day state," 537). Thus, any transition from a current state in a particular society to a communist one would raise unique questions and difficulties for each population.⁶⁸ But even this "scientific" outlook still cannot answer the question, transition to

⁶⁸ In the *Manifesto* we find, "Though not in substance, yet in form, the struggle of the proletariat with the bourgeoisie is at first a national struggle. The proletariat of each country must, of course, first of all settle matters with its own bourgeoisie" (482). The "form" of the nation-state, with its particular government agencies (powers), laws, and traditions are acknowledged as a kind of first boundary to the "universal" (in substance) proletarian struggle. This passage of the *Manifesto* is later referred to in *Critique of the Gotha Program* (pg. 533), where it also pointed out that "to be able to fight at all, the working class must organize itself at home *as a class* and

what? Though mocked by Marx, how the “people” and the “state” can be combined (Marx’s early challenge of tying the civil with the political) remains the question.

In the excerpt *After the Revolution: Marx Debates Bakunin*, we find Marx quoting and responding to Bakunin’s *Statehood and Anarchy*:

(B) “Can it really be that the entire proletariat will stand at the head of the state?”

(M) “Can it really be that in a trade union, for example, the entire union forms its executive committee? Can it be that there will disappear from the factory all division of labor and difference of functioning stemming from it? And in the Bakunist arrangement “from bottom to top” will everyone be at the “top”? In that case there will be no “bottom.” Will all members of the township in equal measure supervise the general affairs of the “district”? In that event there will be no distinction between township and district.

(B) “There will be forty million Germans. Will all forty millions really be members of government?”

(M) “Certainly, because the thing starts with self-government of the township.”
(544 – 545)

Proletarian control of the state entails that each be involved politically but does not exclude functionally necessary, even “hierarchical” distinctions, when taking into account the difference between the range of decisions of non-elected individuals, representatives of a township, and a district. The *Civil War in France* is again the place to find a more detailed analysis of how the local, regional, and national are to be interconnected, but, what is of note here is that Marx stresses that only by considering the changes in economic relations (those that must be sought,

that its own country is the immediate arena of struggle”, while it is also pointed out the “present-day national state” (Germany is his case) is economically on the “world market”, and politically in a “system of states”. What I wish to make apparent here is that the political question, the proletarian struggle for political supremacy (when organizing in a nation), is a task inseparable from establishing the relations that start to realize co-operative ownership, production, and instituting the social (value) orientation mentioned above. Marx’s rare, undialectical distinction between form and substance is thus called into question. This can be compared to a statement in his early *Critique of Hegel’s Doctrine of the State* which I believe correctly represents the dialectical relation. “In democracy the *formal* principle is identical with the *substantive* principle. For this reason it is the first true unity of the particular and the universal” (88).

“coercively” when necessary, by the proletariat “organized as the ruling class”) can one find how political representation is proposed to lose its forms of domination.

(B) “This dilemma has a simple solution in the Marxists’ theory. By popular administration they [that is, Bakunin] understand administration of the people by means of a small number of representatives elected by the people”

(M) “The ass! This is democratic nonsense, political windbaggery! Elections are a political form, even in the smallest Russian township and *artel*. The character of elections depends not on these designations but on the economic foundations, on the economic ties of the voters amongst one another, and from the moment these functions cease being political (1) no government functions any longer exist; (2) the distribution of general functions takes on a business character and involves no domination; (3) elections completely lose their political character.” (545)

The end of the political is announced in the *Manifesto* with the end of classes, “When in the course of development, class distinctions have disappeared, and all production has been concentrated in the hands of the vast association of the whole nation, the public power will lose its political character. Political power, properly so called, is merely the organized power of one class for oppressing another” (490). What is acknowledged though, when critiquing the anarchist Bakunin, is that the “vast association of the whole nation” requires (and can’t avoid) electoral and representative institutions (even complex ones, as suggested in *The Civil War in France*). However Marx views these forms of organization as “non-political” ones, *only* insofar as the class distinction between the voters is ended (i.e., with the realization of communal ownership and co-operative production). The electoral and representative structure is thus seen as expressing domination, or not, insofar as the economic relations between citizens are free or retain elements of domination. A brief indication of this relation is made in *The Civil War in France* with, “The political rule of the producer cannot coexist with the perpetuation of his social slavery” (635). With the end of classes it is thought that the tasks of the government (the

“general functions”) will be nothing more than a social “business” venture.⁶⁹ But the trouble here again is that the economic relations themselves cannot be free without the right kind of political or at least social (to use a neutral term) relations that realize (or enable) communal ownership and co-operative production in the first place.

Conclusion:

Insofar as Marx saw domination and exploitation continuing in the modern Republics, his early “democratic” focus led him to an analysis of economic relations as an attempt to find an effective and realistic ground for human emancipation. But as Marx came to develop the program of communism, according to which economic relations are communal and co-operative, he saw that new political relations and institutions were part of the solution. This could have been anticipated from his early construal of the problem of bringing together civil and political relations, which is to result in the members of society self-consciously managing their social relations. However, Marx’s “praxis” orientation also required that the transformation to communism was possible (or the possibilities should be sought) from present conditions or potentialities; here he is often represented as placing his focus solely on economic relations, but, as we have seen in his analysis of Germany and France, political and state institutions, civil struggles, and ideology or ideals are also part of the “totality” of relations. However, his truly

⁶⁹ This point about a disenchanted view of government work is made with the surprising use of an analogy to corporate business practices in *The Civil War in France*: “Instead of deciding once in three or six years which member of the ruling class was to misrepresent the people in Parliament, universal suffrage was to serve the people, constituted in the Communes, as individual suffrage serves every other employer in the search for the workmen and managers in his business. And it is well known that companies, like individuals, in matters of real business generally know how to put the right man in the right place, and, if they for once make a mistake, to redress it promptly. On the other hand, nothing could be more foreign to the spirit of the Commune than to supersede universal suffrage by hierarchic investiture” (633).

“revolutionary” stance entailed an organized and conscious social (“class”) struggle to serve as the transformative impetus. This lead to the questions: what demands are placed on realizing the first conditions of the transition to communism (often called the “socialist” stage), and what would begin to establish communal ownership and co-operative production?

As I have tried to show, both the political and the economic questions must be asked together (though the answer to both is not usually well developed in any one work of Marx’s) since they are really inseparable. I believe Marx’s works establish the fundamental interrelation of the economic and the political, which is essential in his critique of bourgeois republics, but, what I have also claimed is this political-economic relation is then unavoidable in articulating the goal of a communist society. My emphasis throughout has been on articulating the political and economic ideal of communism, rather than (what I believe to be an improper or “vulgar Marxist”) attempt to reduce political questions to a “purely” economic perspective.⁷⁰

The problem nonetheless remains that Marx himself did not develop a clear, positive statement of the economic and political unity involved here, a realized democracy is communistic and communist economic relations require democratic relations. In dedicating himself to revealing the limitation of the Republican “representative” political institutions (1.1; 1.2), with the corresponding shortcomings of civil rights - the civil/monadic articulation of equality and liberty (1.2), along with the “democratic rights” (speech, assembly, petition, etc.)

70 “For Marxism proper, there is no relationship between economy and politics, no ‘metalanguage’ enabling us to grasp both levels from the same neutral standpoint, although, or, rather, *because* – these two levels are inextricably intertwined. ‘Political’ class struggle takes place in the very midst of the economy (recall that the very last paragraph of *Capital 3*, where the text abruptly stops, tackles class struggle), while, at the same time, the domain of the economy serves as the key enabling us to decode political struggles. It is no wonder that the structure of this impossible relationship is that of the Möbius strip: first, we have to progress from the political spectacle to its economic infrastructure; then, in the second step, we have to confront the irreducible dimension of the political struggle at the very heart of the economy” (Zizek, “The Prospects of Radical Politics Today” 247).

limited by the supposed universal state in the name of “public interest” (2.2) – as well as the ideological aspects of the freedom of the market and the fairness of the wage-contract (and, ultimately, the presupposition and defense of private property) (1.4), and, more generally, in developing his class perspective of the history of human societies (2.1), Marx draws the too broad, and unnecessary conclusion that all talk of right, freedom, and equality is ideological, in the negative sense, and that “politics” as such is tied only to class domination. So we find Marx representing and responding to a criticism of communism in the *Manifesto*,

There are, besides, eternal truths, such as Freedom, Justice, etc., that are common to all states of society. But Communism abolishes eternal truths, it abolishes all religion, and all morality, instead of constituting them on a new basis; it therefore acts in contradiction to all past historical experience.’

What does this accusation reduce itself to? The history of all past society has consisted in the development of class antagonisms, antagonisms that assumed different forms at different epochs.

But whatever form they may have taken, one fact is common to all past ages, *viz.*, the exploitation of one part of society by the other. No wonder, then, that the social consciousness of past ages, despite all the multiplicity and variety it displays, moves within certain common forms, or general ideas, which cannot completely vanish except with the total disappearance of class antagonisms. (489)

However, I believe Marx’s development of communism from his early democratic idea, and his critical insights, allow an articulation of social/economic relations which themselves require and condition democratic relations and institutions, thus allowing and providing a space for not obviously ideological expressions of such norms as freedom, equality, and justice. The transitional phases of communism first articulated in the *Manifesto* and later developed in the *Critique of the Gotha Program* offer insight into the economic relations that must be established *along with* the “political” relations and representative framework suggested in his analysis of the Paris Commune in *The Civil War in France*. I believe definite demands can be articulated from these works, and these “demands” do not merely offer a critical standpoint to apply to *all* conceptions of right, justice, and freedoms of the past, but also suggest an alternative conception

of rights, equality, justice, and freedom. In the following chapters I will move to consider two 20th century liberal theorists who are often conceived as moving further than Marx in this normative domain, but in granting that they have discovered constructions not developed, anticipated, or sought by Marx (and even in many cases respond to his challenges), the possibility of a critical incorporation of their viewpoints into a Marxist standpoint will be entertained.

Part II: Liberal Freedom and Equality

Chapter 3

Rawls: A Conception of Rights and Freedom

3.1: Rawls: Demands of Justice

A Theory of Justice can be placed historically in the tradition of utopian liberal political economy of the late nineteenth and early twentieth centuries. One could characterize it briefly, even brusquely, as a philosophical *apologia* for an egalitarian brand of liberal welfare-state capitalism. And yet the device of the bargaining game and the veil of ignorance, while preserving the political, psychological, and moral presuppositions of such a doctrine, raise the discussion to so high a level of abstraction that the empirical specificity needed to lend any plausibility to it are drained away. What remains, it seems to me, is ideology, which is to say prescription masquerading as value-neutral analysis. (Wolff 195)

It is perhaps less controversial to construct a critique of John Rawls from a Marxist perspective than to explain where or how *A Theory of Justice* may fit into the development of Marxism. It may be that, as Marxists claim, Rawls is simply a regressive (“bourgeois”) or improperly informed thinker, bound within ideological limits which can be surveyed and critiqued from a more realistic and adequate standpoint. However, insofar as I see certain key unanswered or open questions in Marx’s communist idea – the need for an expression of this “idea” that makes clear the connection between free and equal political and economic relations, and the kinds of rights, powers, assurances, and provisions that will exist for each in such a society, I believe it is fruitful to turn to theorists such as John Rawls who have attempted to make such concerns the focus of their project.

Rawls's approach, I believe, should not be viewed as wholly antithetical to Marx’s, though his normative focus might be seen as introducing an insurmountable divide between them. Both saw true limitations in the current forms of “democratic” life and were working to

formulate a critical outlook from and for modern societies.⁷¹ “The central ideas and aims of this conception [of justice] I see as those of a philosophical conception for a constitutional democracy” (*Preface For The Revised Edition (of A Theory of Justice)*, xi). In Rawls’s case, his most famous work, *A Theory of Justice*, presents just what the title suggests, a new theory of justice. The normative construction presented does not simply presuppose cherished or self-evident values (which would allow the work to be viewed as ideologically naïve or entirely lacking self-consciousness). Nor does it simply repeat norms found in political documents or common public appeals (which could then be construed by Marxists as a too quick or limited presentation of ideals, motivated by or unconsciously reflecting dominant class interests). Rather, a novel but relevant construction of political ideals is seen as the end or goal of the project.

Rawls tries to advance to a fuller, more complete, and more comprehensive view of what is entailed by the notions of freedom and equality – a view that he sees as presupposed, stated, and utilized in liberal democracies – and believes he can resolve the most fundamental tensions or problems of priority of our values. I believe that by looking not just at the liberal, democratic values Rawls defends, but at the kinds of tensions that he wishes to resolve and the compromises he reaches, insight can be gained into the problem or viability of retaining norms when construing and justifying communism.

71 In what follows, though Rawls uses the term “democratic” often, it should be kept in mind that he usually equates this with Republican political institutions. I argued that Marx’s “democratic idea” (1.1) provided a standpoint which distinguishes democratic relations from any political state (monarchical or republican), but I also argued (2.4) the relations involved or demanded by this “idea” (even when later articulated or developed as “communism”) have yet to be clearly expressed. My final chapter will indicate what is involved here.

3.2: A Return to Social Contract Theory

My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau, and Kant...the guiding idea is that the principles of justice for the basic structure of society are the object of the original agreement. They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association. (*A Theory of Justice, Revised Edition* 10).

Indeed, no sense can be made of the notion of that part of an individual's social benefits that exceed what would have been their situation in another society or in a state of nature...There is no question of determining anyone's contribution to society, or how much better off each is than they would have been had they not belonged to it, and then adjusting the social benefits of citizens by reference to these estimates. (*Political Liberalism* 278-279)

Rawls recovers the social contract tradition without retaining a concrete picture or historicized conception of a state of nature composed of pre-political individuals. Instead, the fact(s) of current social relations, the embeddedness of individuals in modern society is the starting place of his concerns. But insofar as we live in society, and cannot come to any realistic/useful conception of ourselves outside it, how can we come to a critical standpoint? Rawls's insight is that the social contract perspective can still offer, if properly thought out or construed, the standpoint from which social relations can (and should) be normatively critiqued. He believes that questions concerned with the justification or legitimacy (justice) of society or the relations found within it can only be answered insofar as we can conceive of the principles of association that any individual would choose if offered an opportunity to make uncoerced proposals that will prove acceptable to others who are similarly free.

Rawls imagines a contracting situation or condition, his "original position" ("OP" below), composed of equal parties, free to agree to what they want, in which these "individuals" (supposed stand-ins or representatives of any one of us) are asked to agree to principles which will serve as the legitimating grounds for society to order its "basic structure." This emphasis

will be viewed as relevant to Marx's critical perspective, but also to the question of normatively construing communism, insofar as Rawls is concerned with evaluating the adequacy of "the political constitution and the principal economic and social arrangements" and insofar as these are seen to result in a distribution of "fundamental rights and duties and determine the division of advantages from social cooperation" (*Theory* 7). The precepts the parties in the OP agree to will decide which existing social arrangements are legitimate and what is required to realize the ideal of legitimacy expressed in them. The equality of these parties is seen as insured by Rawls's famous "veil of ignorance," where no one in the OP is aware of their particular psychological and social circumstances (or particular material conditions). The freedom of each in the OP is seen as secured by the standard that no principles are "agreed to" or result from this thought experiment without it being imagined that each's uncoerced agreement can be secured – a "rational," self-interested choice in the OP (measured in terms of a set of "social primary goods"), bound by the constraint of the veil of ignorance, is thought to result in principles that would meet this standard.⁷²

In rough, the principles Rawls argues would be selected from the OP (the first given priority over the second, *if* a choice must be made between realizing them) are: 1) each has a right to the most extensive system of equal liberties compatible with the same for all; 2) a) all and any material inequalities in society are justified only insofar as they are needed to aid or improve the conditions of the "worst off" (Rawls's famous "difference principle") and, b) offices and positions are open to all, with a fair equality of opportunity. These formal principles (which he admits can and must be subjected to "reflective equilibrium" in relation to "considered judgments") are to provide a ground for constructing a picture of what a legitimate (just) society

⁷² The complexities raised by assuming generally desired "socially primary goods" will be considered in 3.3.

would look like, from which a comparison can be made to the actual, thereby revealing the injustices of existing societies.

It is perhaps not too controversial to assume that the OP standpoint is hardly intuitive or common, at least not at first or when considered in a certain formal, theoretic light. Many have difficulty conceiving of a responsibility to humanity as an abstract potential which will find form and material reality in the variety of circumstances formed by that aggregate which will be our particular body and social circumstances.⁷³ I say “finds” not “chooses,” because Rawls’s emphasis is on acknowledging the role of contingent or “external” factors on our formation, and thus we are here viewed in a “passive” role. What should be made explicit is that a notion of social construction is needed here, along with some form of biological determinism or “boundedness.” Rawls sees the veil of ignorance as essential for “fairness”; his reasoning must be construed as presupposing or relying on two basic claims: 1) the fact of the utter contingency (and moral irrelevancy, when considering whether it is deserved) of the circumstances each human being finds itself in at birth and even while developing; 2) that society is a social cooperative venture.⁷⁴

⁷³ Michael Sandel’s communitarian critique of Rawls almost wholly relies on rejecting such a conception in favor of concrete or real relations.

⁷⁴ R. G. Peffer in *Marxism, Morality, and Social Justice* likewise has developed a project of critically “fitting” Rawls to Marx. But in defending Rawls (371-372) from critics who view his individual in the OP as being bourgeois “egoists” or “utility-maximizers,” Peffer goes on to speak of how Rawls’s OP individual is to “act” as a “Kantian legislator in the universal kingdom of ends,” how they don’t (because of the veil) know whether they have a real predilection to utility maximization or not, and they are supposed to be concerned with their “highest capacities” (sense of justice, rational pursuit of the good). I think the better answer, fitted to Rawls’s accomplishment with the construction of the OP, is that the actual person who sees the (moral) reasons to put on the veil and enter the OP situation, and accept the consequences/implications (and thereby submit to the “constraints of justice”), has already given up on an individual or egoist standpoint. “I have said that the original position is the appropriate initial status quo which insures that the fundamental agreements reached in it are fair” (*Theory, Revised* 15). Given the (at first) apparent closeness of Peffer’s project and my own, problems

The veil of ignorance captures a fundamental, though admittedly general fact that is essential to focusing Rawls's normative reflections. The consideration of the facts of social construction (through social institutions or relations), biology, and psychological propensities or capacities leads Rawls to conclude that this construction of each must be taken up *as a responsibility* which has been too much neglected or ignored. Here, if anywhere, I find Rawls's radicalism, in his emphasis on the justice of "background structures" (economic, social, and political), and it is from this standpoint that I believe continuity with Marx's project can be established. Marx, after all, in the *Critique of the Gotha Program* (2nd phase of communism) expresses a concern for taking account and being supportive of human differences (which he sees as due to our varied capacities, needs, and circumstances), and stresses the importance of a theoretical and practical focus on economic or social relations to address the difficulties raised. However, establishing such a link (which is clear and useful) between Rawls and Marx is itself, by no means, intuitive or uncontroversial; in what follows, I will try to trace out and discuss the most controversial elements involved.

3.3: Rawls's Kantianism and Marxist Critique

My suggestion is that we think of the original position as in important ways similar to the point of view from which noumenal selves see the world... They must decide, then, which principles when consciously followed and acted upon in everyday life will best manifest this freedom in their community, most fully reveal their independence from natural contingencies and social accident... The description of the original position resembles the point of view of noumenal selves, of what it means to be free and equal rational beings. (*Theory, Revised* 225)

The original position may be viewed, then, as a procedural interpretation of Kant's conception of autonomy and the categorical imperative within the

and parallels I have with his view in chapter 9 on Rawls will be returned to throughout this chapter.

framework of an empirical theory...The person's choice as a noumenal self I have assumed to be a collective one...the principles chosen must be acceptable to other selves...I have assumed all along that the parties know that they are subject to the conditions of human life...they are situated in the world with other men who likewise face limitations of moderate scarcity and competing claims. (*Theory, Revised* 226)

Rawls attempts, through the original position, an interesting tight-rope walk between Kant's noumenal world and the empirical world. The noumenal self was supposed by Kant to be one standpoint a rational being could take in regard to himself and others ("the concept of an intelligible world (i.e., the whole of rational beings as things in themselves)", *Grounding* §458), as compared to viewing himself as bound by causality, "pathological" motivations, desires, pleasures, pain, etc. For Kant, human freedom and dignity is conceived through this notion of our noumenal existence *separate from* the empirical world and our empirical selves (generally, our human constitution, particularly our individual, psychological propensities). What Rawls's OP construction is to provide is a conception of this noumenal self set free *in* the empirical world, with equal respect given to each noumenal being by taking account of the empirical circumstances we find them in.

The notion of an intelligible individual identity is retained by Rawls (represented by the veil of ignorance) to make the point that present psychological dispositions, and social and political relations, must be considered arbitrary or fortuitous (viewed as "natural contingencies and social accident"), without denying this (or any) individual's interest in the conditions that it finds itself in, as an empirical being. But, his theory requires that society be re-structured or re-ordered such that any individual can see if and why they can accept the social arrangements established, so that the communal or social arrangements can be justified to each and every concrete, empirical member of society. We can consider then if this modified Kantianism adequately deals with Marxist critiques of Kant, such that Rawls's standpoint can be viewed as

in some way amenable or useful for Marxism. Considering two kinds of Marxist criticism of Kant will help us consider the significance of Rawls's adjustments.

In the *German Ideology* we find,

The characteristic form which French liberalism, based on real class interests, assumed in Germany we find again in Kant. Neither he, nor the German middle class, whose whitewashing spokesman he was, noticed that these theoretical ideas of the bourgeoisie had as their basis material interests and a *will* that was conditioned and determined by the material relations of production. Kant, therefore, separated this theoretical expression from the interests which it expressed; he made the materially motivated determinations of the will of the French bourgeois into *pure* self-determinations of the "*free-will*", of the will in and for itself, of the human will, and so converted it into purely ideological conceptual determinations and moral postulates. Hence the German petty bourgeois recoiled in horror from the practice of this energetic bourgeois liberalism as soon as this practice showed itself, both in the Reign of Terror and in shameless bourgeois profit-making. (*The German Ideology* 210)

And Georg Lukacs develops well another slant from Marx's critical framework:

The individual can never become the measure of all things. For when the individual confronts objective reality he is faced by a complex of ready-made and unalterable objects which allow him only the subjective responses of recognition or rejection. Only the class can relate to the whole of reality in a practical revolutionary way... For the individual, reification and hence determinism (determinism being the idea that things are necessarily connected) are irremovable. Every attempt to achieve 'freedom' from such premises must fail, for 'inner freedom' presupposes that the world cannot be changed. Hence, too, the cleavage of the ego into 'is' and 'ought', into the intelligible and the empirical ego, is unable to serve as the foundation for a dialectical process of becoming, even for the individual subject... The intelligible ego becomes a transcendental idea (regardless of whether it is viewed as a metaphysical existent or an ideal to be realized). (193-194)

The Marxist critique of normative perspectives is often expressed through criticisms of Kant.

One kind of critique, represented in the Marx quote above, sees Kant's moral outlook (his subjective transcendentalism) as an expression of a middle-class, "petit-bourgeois" outlook. The ideal is of an individual who manages his own affairs within a free space that is equally protected for others. Kant's categorical imperative informs us that acting on the motivation to respect the

moral law and rationality is what makes us free (or characterizes our freedom), and in our shared capacity to act according to such a motivation, along with the same respect given which is due to us, we find our equality. The moral demands found here are: not making exceptions of ourselves, i.e., by avoiding doing “non-universalizable” actions; developing our rational capacities; and respecting the autonomy of rational beings - who are never to be used as mere means, but are to be viewed always also as ends-in-themselves, and, thus, insofar as possible, also deserve assistance in the pursuit of their legitimate aims.

Behind this ideal, the “white-washing,” Marx finds a man of moderate wealth (store owner, small capitalist, small inheritance, etc.) who enjoys his “independence,” thinks others would/must enjoy it similarly, and certainly thinks it wrong for anyone to interfere with it. But, it is held that this individual standpoint (and the expression of its ideal) is a result of a historical or social process of development which ties it to the developing relations and social productive forces of the bourgeoisie. The absurdity of the moralizing of Kant is revealed for Marx by the fact that the political and economic ascendance of bourgeois interests horrified and outraged their own ideal sense. They either did not know the real content of their values or did not foresee the implications of them (what can be developed “really,” in society, under or in the name of them).

A second criticism, represented by the Lukacs quote, is that Kant’s individual, moral standpoint is itself disempowered and accommodating to social facts. The formulation of “oughts” is viewed as the expression of a dissociated and impotent consciousness. The demands that are placed on the world are external to it (and thus formal in their content), the conception and grasp of the means are lacking, and the good intention, the “good will,” is really all that is sought. The individual who was created by the development of social forces is here unable to

find a standpoint that can gain control of social forces. Insofar as he has a moral consciousness the “horror” can be perceived, but little to nothing can be done, except for his individual best.

When considering the first criticism of Kant, viewing his morals as an expression of petit-bourgeois ideology, we can note (3.1) how Rawls tries to re-appropriate social and political conditions within the normative outlook. Where Marx observed the political and economic domination of the bourgeoisie as revealing the limitation and danger of the normative outlook of “free-will,” Rawls responds to this development by attempting to include political and economic relations themselves (as parts of the “basic structure” of society) into the formulation of what is meant by (or the conceptual extent of) a free and equal person. This is the import and originality of Rawls’s modified Kantianism; the normative outlook is not intended to stand away from the world (allowing empirical relations to run their course, come what may), but, by having concrete, empirical content and implications, is to be used to intervene in the world. In this case, the norms are to be self-conscious in regard to the connected empirical relations, not “shocked” by their practical implications.

This brings us to Lukacs’s criticism of the impotency of Kant’s individualistic, “good-will” standpoint, which, at best, provides a transcendental “ought” to be imposed on the world (in consciousness, without taking into account the means to realize the norms in practice). I have already noted in the first section that Rawls wished to develop a normative framework from which society, as it is, is to be judged – no doubt there is an “ought” here. But the bite of this critique would depend on *to whom* (or to what actual group/s) Rawls’s standpoint is appealing, and whether the content of Rawls’s appeal (his principles of justice) provide means to make real and sufficient interventions and gains. For, whether or not you agree with Lukacs’s belief in the

potency of the proletarian standpoint, his point remains that a social critique which cannot marshal the social forces to make change is a helpless perspective.

This call for a “practical focus,” I believe, is addressed by Rawls in two ways: 1) he writes to “enlighten” the population or the government; 2) he writes to further refine legitimate demands for public appeals in liberal democracies.⁷⁵ The first standpoint, what I see as his “enlightenment perspective,” builds off his early conception of *A Theory of Justice* as part of a “theory of rational choice” (page 16 of the original *and* page 15 of the last revised edition); the second standpoint is found in *Political Liberalism*, where his principles of justice are to be seen as carefully constructed expressions of shared and valued liberal norms (so as to win “overlapping consensus” of diverse cultural groups). I call the first standpoint an enlightenment perspective because it seems to rely on a conception of a “rational agency” that is awaiting new insights; it could also be called “scientific” if we retained a commitment to view political philosophy as a contributing part in the progress of the social sciences (perhaps more readily acceptable in Germany as a social *Wissenschaft*).⁷⁶ In this case, to be known is equated with

75 Peffer also notes that, if taking up the concern at all, Rawls seems to rely on “enlightened leadership” or “pressure from below” as transitional means (413). But Peffer protects Rawls from “leftist critics” by saying this disagreement is of “*not* a moral but, rather, an empirical nature and thus does not affect the acceptability of his core moral theory.” As will be developed below, I believe this tactic to separate Rawls’s “core moral theory” from empirical questions is untenable, even when considering Rawls’s own handling of the OP, and essentially dismisses anything like Lukacs’s critique of “impotent” (and irresponsible?) moralizing. I think we must deal with these difficulties to understand the relation of norms and values to a reality rife with exploitation, oppression, and (productive/liberating) possibility, i.e. contradictions.

76 In characterizing the construction of his original position, from which his principles of justice are deduced, Rawls muses, “One argues from widely accepted but weak premises to more specific conclusions. Each of the presumptions should by itself be *natural and plausible*; some of them may seem innocuous or even trivial... Thus it seems *reasonable and generally acceptable* that no one should be advantaged or disadvantaged by natural fortune or social circumstances in the choice of principles. It also seems *widely agreed* that it should be impossible to tailor principles to the circumstances of one’s own case” (*Theory, Revised* 16, italics mine). The “naturalness” or “reasonableness” of these orienting judgments (or, rather,

being appreciated, accepted, and realized - thus either a whole community of “empowered critical citizens” is assumed, or Rawls is simply addressing what he assumes is a well intentioned, sophisticated, and capable government.

The second standpoint utilizes a somewhat relativized appeal to western, liberal, democratic values. The abstract notion of an enlightened and empowered audience (“the people” or their government) that is being taught is replaced by viewing his principles as simply contributing or adding to (making further “self-conscious”) current liberal political consciousness. This political consciousness is composed of “certain fundamental ideas seen as implicit in the public political culture of a democratic society” (*Political Liberalism* 13). In this latter case, by becoming “more realistic”, we even find Rawls willing to adapt or compromise his (ideal) principles. This problematic contraction will be more directly addressed below.⁷⁷

Both these standpoints raise difficulties for using or “fitting” Rawls to Marx. The enlightenment appeal to “reason” was historicized and identified by Marx as an appeal to the burgeoning bourgeois standpoint, occurring during the development of capitalist economic

presuppositions) by Rawls was immediately called into question by his early critics right and left (Robert Nozick, Sandel, Robert Paul Wolff, etc.); my only claim here is the assumption by Rawls that he could speak for what is generally acceptable to “reason” was a naïve assumption shared by enlightenment thinkers. In *Political Liberalism* (53, note 7) Rawls claims he was “simply incorrect” to see his theory as part of a theory of rational decision, rather, rational choice was one part of his theory. But he claims here that the OP uses a theory of rational decision only in an “intuitive way”, relying on a political conception of justice to give an account of “reasonable” principles of justice. To what degree this doesn’t again fall into the same error of assuming a “reason” without a concrete standpoint will be considered below.

⁷⁷ In addressing (what he calls) liberal *and non-liberal* societies in his *Law of Peoples*, Rawls can be seen as once again attempting to be “realistic”, and thereby hedging in his principles even further. Again Peffer has his own criticism here (376), he sees Rawls’s use of “overlapping consensus” as requiring his principles to be submitted (and modified to) an absurdly strong demand that “all segments of a democratic liberal society” be capable of agreeing to them, *including* the “ruling class.” Peffer does not note Rawls’s inevitable revisions here (see below), and does not consider that this move is endemic of Rawls’s incapacity to incorporate (or take seriously) a class divide, thus his “practical” move required him to instead capitulate to the status quo.

relations and the dissolving of feudal land relations. This insight led Marx to draw a general conclusion about such appeals to reason,

For each new class which puts itself in the place of one ruling before it is compelled, merely in order to carry through its aim, to present its interest as the common interest of all the members of society, that is, expressed in ideal form: it has to give its ideas the form of universality, and present them as the only rational, universally valid ones. (*The German Ideology* 68)

Now, I don't believe this excludes aspects of Rawls from being applied to Marx, but what still must be demonstrated is whether or to what degree Rawls's standpoint (his OP and his principles) provides self-consciousness and practical criticism of bourgeois relations, such that his norms can be amenable and useful to the Marxist project.

After all it is noted in the Marx quote above that a rising class is "compelled, merely in order to carry through its aim" to express itself as the common interest and in ideal form as "rational and universally valid." As the Lukacs critique of Kant pointed out, for a Marxist, carrying through their aim has to be a fundamental concern, so the task of developing the conceptual or discursive points which justify the Marxist project is central to praxis. I do not see here an ideological subterfuge (or that at least is what I argue), for the proletarian standpoint is not supposed to merely provide another class rule, but transcend the division of society into exploited and exploiting classes – there is supposed to be a "common," "general," or "universal" victory here, at least for the vast majority who are currently exploited and oppressed.

The second standpoint presents the difficulty that an "overlapping consensus" presupposes common political norms or values, and thus no essential divide and opposition of interests (bourgeois/proletarian or otherwise) as Marx assumes; or what is perhaps worse for Marxists, "rights" are not seen as tied to interests. As was noted, Rawls supposes that he can find a common fund of public political ideals in liberal societies,

This public culture comprises the political institutions of a constitutional regime and the public traditions of their interpretations (including those of the judiciary), as well as historic texts and documents that are common knowledge... In a democratic society there is a tradition of democratic thought, the content of which is at least familiar and intelligible to the educated common sense of citizens generally. Society's main institutions, and their accepted forms of interpretation, are seen as a fund of implicitly shared ideas and principles. (*Political Liberalism* 13-14)

Rawls subsequently presents his own take of what ideas and ideals are fundamental from this public culture, “that of society as a fair system of cooperation, from one generation to the next,” “citizens as free and equal persons,” and “a well-ordered society as a society effectively regulated by a political conception of justice” (*Political Liberalism* 14). But even when granting the fact of common institutions (political, economic, etc.) and political culture (known figures, speeches, judicial decisions, etc.) – presuppositions that Rawls hedges with his notion of an “educated” common sense - the Marxist challenge can still be raised that these institutions may not be experienced similarly and the political culture appreciated (cherished or criticized) depending on who you are (what your situation is and how you perceive it) in that “same” public culture. The adequacy of the content of Rawls’s public, political ideas is still then very much in question, it cannot be simply granted that a “general” or “universal” standpoint can be derived from a particular political culture.

Again, this is not to say that Marxism cannot be aided by such theoretical work, or that Rawls's theory is not the kind that can be applied to Marx’s outlook (or that Rawls should not have attempted to construct political ideas), but only that concerns and interests that Rawls presupposes *must first be made clear* in order to answer the question of whether it is tenable to apply Rawls’s standpoint to Marx. It can be asked if Rawls’s standpoint is even consistent with Marx’s concerns, and then, also, whether Rawls contributes something novel and practically

useful for the Marxist perspective. For it should be noted that to discover coherence with Marx also would open the way for Rawls's standpoint to be fitted to Marxist praxis.

3.4 Rawls's Abstraction

Rawls's fundamental insight appears to be that only insofar as society is organized to develop each person, and in such a way that the worst positioned are raised up as far as possible through the design and utilization of social mechanisms/institutions can a "concern" for equal rights and freedom be truly said to be fulfilled or realized.⁷⁸ Rawls's "worst off," a constant or fixed target for redistribution based on perpetually identifying those members of society with the least social primary goods, is a powerful concept insofar as it attempts to give social justice to each as a human being in society *and* identifies each as a social construct of a society's "basic" (economic/political) structure. But, Rawls's conception of what is "due" to each is based on his (admittedly evolving) conception of what is required to treat a human being as "free and equal." To work out the demands of a just social structure required Rawls to clarify his notion of the "dignity" (social/political) of a person:

We use the characterization of the persons in the original position to single out the kind of beings to whom the principles chosen apply. After all, the parties are thought of as adopting these criteria to regulate their common institutions and their conduct toward one another; and the description of their nature enters into

⁷⁸ Inequalities, if they exist, are justified only insofar as they are needed to raise or improve the conditions of the "worst off." Whatever suggestions or indications that Rawls makes as to what kind of inequalities are relevant here are to be viewed as mere proposals (or illustrative possibilities) which are to be settled by empirical confirmation; nothing here is thought to be a matter of principle. Which inequalities are "justified" is to be determined by seeing what the worst off do in fact accept or see the need for (presupposing knowledge of what is desired, and the most efficient means to realize them). But, the question of whether this "acceptance" of inequality by the worst off is to in fact (procedurally) occur, or whether it is only to be "imagined" (by whom?) that the inequalities would pass such a check is by no means a minor matter. I will return to these points in this and my final chapter.

the reasoning by which these principles are selected. (*Theory, Revised* 442, original 505)

The means that have to be marshaled to achieve justice, the path which is open due to Rawls's (abstract) notion of society as a cooperative venture, require a target; his conception of a person worthy of "self-respect" is supposed to provide the content needed.

Moral persons are distinguished by two features: first they are capable of having (and are assumed to have) a conception of their good (as expressed by a rational plan of life); and second they are capable of having (and are assumed to acquire) a sense of justice, a normally effective desire to apply and to act upon the principles of justice, at least to a certain minimum degree. (*Theory, Revised* 442)

Rawls distinguishes between the human faculties of the "reasonable" and the "rational," consistent with Kant's *Groundwork*, which is also consistent with seeing concerns for one's "good," and what is "just" in relation to others, as being separate forms of discourse, admitting different standards of evaluation. And despite the "certain minimum" commitment mentioned here, Rawls assumes justice is the highest, or most important social principle (intro of *Theory*). The good that each wants and expects is made subject or subordinate to claims of justice, and then, quite cleverly, harnessed by Rawls to create the content he needs, *after* being bound by the "fair" veil of ignorance. Before considering your interest you are asked (to be fair) to put on the veil, *only then* are you asked to choose social principles to advance your individual interest. Peffer is correct to note, "Rawls' theory...stresses both mutual concern and respect for persons and is, thus, committed to the value of individual well-being as well as the value of individual autonomy" (374). By incorporating a concern for our good Rawls is introducing empirical elements, and thus is moving away from a too formal Kantianism and closer to Hegel and Marx.

Regardless of what an individual's rational plans are in detail, it is assumed that there are various things which he would prefer more of rather than less. The primary social goods, to give them in broad categories, are rights, liberties, and opportunities, and income and wealth...it (justice as fairness) does not look behind the use which persons make of their rights and opportunities available to

them in order to measure, much less to maximize, the satisfactions they achieve... Everyone is assured an equal liberty to pursue whatever plan of life he pleases as long as it does not violate what justice demands... It is worth noting that this interpretation of expectations represents, in effect, an agreement to compare men's situations solely by reference to things which it is assumed they all normally need to carry out their plans. This seems the most feasible way to establish a publicly recognized objective and common measure that reasonable persons can accept. (*Theory, Revised* 79-81)

Rawls claims that there are some things we all know we do not (rationally) want to lose, things it wouldn't hurt having and we would be better off having. The first principle captures the "good" of 1) creating the greatest extent of liberty that can be shared by all. The second principle captures the good of 2) equally distributed provisions with inequalities, if they exist, desirable for, and thereby justified to, the worst off, and 3) the utilization of resources to create a fair competition for limited or unequal positions.⁷⁹ Thus, he thinks rights and liberties are the "stuff" the first principle claims we (rationally) know we want for ourselves, and because of the veil of ignorance, for anyone. The second group of primary goods would be those that are useful for pursuing pretty much anything (within the bounds of justice) one likes. And, last, a fair equality of opportunity would have to be realized by an actually existing (*de facto*) fair competition for positions.

79 In *Political Liberalism* (308-309) Rawls claims he identifies five kinds of goods: a) basic liberties; b) freedom of movement and free choice of occupation against a background of diverse opportunities; c) power and prerogatives of offices and positions of responsibility; d) income and wealth; e) social bases of self-respect. However, I see "freedom of movement" as connected to what are often still referred to as "negative liberty" concerns (thus part of a). "Freedom of occupation," the kinds of power and prerogatives of office and positions of responsibility that are legitimate and desired (the issue here, not who will hold the position, or how this will be determined, but whether a position should exist in the first place) are "positive liberty" concerns, so also part of a. And, I have difficulty seeing what else (for Rawls) could be the "social bases of self-respect" other than the realization of his principles, so nothing additional is given here as a social provision (though the importance of our "self-esteem" is acknowledged - *Theory* §67, *Political Liberalism* Lecture II 81-82). I will return to consider the relation between justice and concerns for self-respect and self-esteem in my final chapter.

To identify the primary goods we look to social background conditions and general all-purpose means normally needed for developing and exercising the two moral powers and for effectively pursuing conceptions of the good with widely different contents... In a democratic culture we expect, and indeed want, citizens to care about their basic liberties and opportunities in order to develop their moral powers and to pursue their conceptions of the good. We think they show a lack of self-respect and weakness of character in not doing so. (*Political Liberalism* 75-77)

Apparently, if you don't share this concern for your liberties and the pursuit of your good, in a democratic culture, there is something wrong with you; you lack "self-respect" and betray a "weakness of character." After all, Rawls does take his judgment when constructing the OP as basic and reasonable, and he sees his principles as preferred or selected by the OP, which was itself a product of (Rawls's) reflective equilibrium. All of this is based off an "idea" of democratic culture and how members of it would judge those who didn't agree with his notion of primary goods (all three kinds)⁸⁰. But, positively, we can note there is here a vision of a society securing each's liberty and rights, realizing equal competition over (justified and unavoidable) limited powers/positions/opportunities, and, thereby, securing and developing the "faculties" that apply to an individual choosing what is good, and making sure each has the same chances to do so.

When seen as rights, liberties, and opportunities, and as general all-purpose means, primary goods are clearly not anyone's idea of the basic values of human life and must not be so understood, however essential their possession. We say instead that, given the political conception of citizens, primary goods specify what their needs are – part of what their good is as citizens – when questions of justice arise. (*Political Liberalism* 188)

Rawls supposes that if someone were to ask you, what does it take to make being a citizen in your (liberal, democratic) society any good, what do you "need" to make it good, you would come up with the social primary goods he has in mind. Your conception of "needs" that

⁸⁰ The import of a "democratic culture" is obviously central to my concerns, Rawls's full meaning of this will be considered when I consider his republican commitments (3.4).

come up when you think of justice would be among the primary goods as well. However, the power of this conceptual abstraction (seeing the person due equal liberties and rights behind every materialized position or particular place in society) does not inform us of the real conditions of inequality which can (or will) be designated as unjust oppression. The difficulty is that taking our freedom and equality as a potentiality in each of us to be fulfilled, and as the foundation for human respect and justice misses (or doesn't yet bring into focus) the actual, real situated individuals who are to be given the respect due to each. The "worst off" is, if you like, an entire social investigation still to be done. Rawls's *A Theory of Justice* doesn't inform us about the real injustices of any particular society, it only attempts to systematize the values of certain liberal societies (or enlighten the public or government, see 3.2), and gestures towards social investigations that would be needed to reveal the nature and mechanisms of the actual injustices that exist in light of these constructed values. Essentially, Rawls's constructively presented normative values still need to be further immersed in reality.

This is frankly expressed when Rawls starts to consider how his principles will apply to the economic "basic structure".

It is essential to keep in mind that our topic is the theory of justice and not economics, however elementary. We are only concerned with some moral problems of political economy... Certain elementary parts of economic theory are brought in solely to illustrate the content of the principles of justice. If economic theory is used incorrectly or if the received doctrine is itself mistaken, I hope that for the purposes of the theory of justice no harm is done. But as we have seen, ethical principles depend upon general facts and therefore a theory of justice for the basic structure presupposes an account of these arrangements. (*Theory, Revised* 234)

Rawls wishes to distance himself from having to claim to be an expert (he can even be "incorrect" or "mistaken") about economics or, for that matter, about any concrete social issues (for the "basic structure" is to include fundamental political, economic, and civil relations); he is

a philosopher of justice, not a social scientist after all. His rationale is that his principles are to be applied to economic relations, whatever they may be, to make them just (or make sure that they are already just). His discussions about economic arrangements are then only to be taken as an example of the kind of thinking that must be done to flesh out or “apply” his theory.

The trouble is that Rawls also grants that his “ethical” (justice) principles could not be formulated without bringing some knowledge of “general facts” into the OP. The principles that are to be applied to the basic structure (whatever the particular facts here may be) cannot be formulated without being generated in relation to some facts which are brought in (or taken for granted) in the first place. Rawls’s representative person, concerned about realizing his good in the OP, can only begin to formulate principles which will structure society if they have, minimally, some “general” (and, presumably, sufficiently accurate) notions of the society they will (do) live in. “But Rawls’s imputation to the players of a knowledge of the basic facts of society makes no sense at all unless they *are* able to make rough probability estimates of the workings of a given society” (*Understanding Rawls* 164). With the veil on, but still granting a motivation about realizing your (primary) good, Rawls also needs to bring in “facts” (social content) to see just what would be the fundamental concerns (and priority of them) of such a person. But, the dividing line between where we discuss liberty or equality in general or in principle, and where we concern ourselves with applying these principles in concrete or particular cases seems to rest on Rawls’s own judgment of when we have gone “far enough” in bringing in facts to realize or explicate the principles.⁸¹

81 Kenneth Baynes also discusses and critiques this key moment in Rawls's construction of his theory. “Most importantly, there is the question of who decides what is suitably general or morally irrelevant information. Two replies are open to Rawls: He could argue that “we” who must find principles of justice for the basic structure must decide among ourselves, in a suitable manner, what is general and what is morally irrelevant information...The other interpretation –

Thus, I cannot agree with the orientation and approach of Peffer's *Marxism, Morality, and Social Justice* which leads him to claim, "We need to ascertain in abstraction from any empirical information regarding socialism, capitalism, etc., whether the Difference Principle or a principle calling for a more strict form of equality should be adopted" (394). Even for Rawls certain "general" empirical claims were essential for formulating his principles, and I believe the very meaning or import of his principles are, inevitably, connected to empirical judgments.

The stakes of Rawls's ambiguity (or reliance on stipulation) between discussing issues of relevance to justice *in principle* or "merely" in application, I believe is directly connected to the question of whether or in what ways Rawls can be read to favor (or even require) socialism over capitalism. I believe Rawls's theory is often viewed as powerful because it is seen and presented (in §42 of *Theory* for instance), as addressing *both* forms of economic relations, but this can also be viewed as a weakness insofar as the question of making a choice between them is seen as a fundamental or unavoidable. Again, the strength of Rawls may be that his outlook makes clear that both socialism and capitalism, as economic orders, must still be justified in relation to demands of justice (with differing characteristic weaknesses found in each); but on the level of principle (of formulating principles of justice which will then be used to critique economic

the one, I think, that is closer to Rawls' position in *A Theory of Justice* – is that deciding what information should be given to the parties is relatively uncontroversial and can be done by the philosopher alone" (*The Normative Grounds of Social Criticism* 60). Baynes ultimately criticizes Rawls here from a Habermasian inspired discourse perspective, and thus favors the first "reply." But I believe this in fact does not modify Rawls's theory, or recover or emphasize some essential aspect of it (which is my intention), but rejects Rawls in favor of Habermas. Trying to develop Rawls's norms for a socialist standpoint, my criticism notes the "leeway" Rawls used in stipulating what is a general fact, and what too particular (or not "morally relevant" – relevant in the OP when constructing his principles), and thus asks us to be more careful to include facts about coercive and exploitative relations in the OP, rather than make all such "facts" an object of an open-ended deliberation, done in a "suitable manner." As will be developed in chapters 4 and 5, what in fact makes for a "suitable" public discourse is a problem that itself leads to robust stipulations about social relations.

relations), this indifference appears to suppose that the economic facts that are required to differentiate capitalism from socialism are not the kind of “general” facts that are required to give (sufficient) substance to the formulation of principles in the OP. Rawls seems to desire a normative standpoint that does not obviously prejudge (by ruling one out on principle) the dispute over economic relations; instead he wants to provide a standpoint that could be viewed as further structuring and (justly) containing economic relations.⁸²

But, in his preface for the revised edition of *Theory* (xiv-xvi) we find Rawls distinguishing a “property-owning democracy” from a “welfare state,” and noting that only the former is to be held in the same (presumably high) regard as a “liberal socialist regime” (which gets no discussion/formulation). What is of interest is what Rawls finds (in principle) limited about a welfare state: “the aim is that none should fall below a decent standard of life, and that all should receive certain protections against accidents and misfortune – for example

82 Rawls tried to maintain this “indifference” to capitalism and socialism throughout his life. In *Political Liberalism* he states this again, this time in reference to concerns about the content of his (1st principle) emphasis on liberty. “Two wider conceptions of the right of property as a basic liberty are to be avoided. One conception extends this right to include certain rights of acquisition and bequest, as well as the right to own means of production and natural resources. On the other conception, the right of property includes the equal right to participate in the control of the means of production and natural resources, which are socially owned. These wider conceptions are not used because they cannot, I think, be accounted for as necessary for the development and exercise of the moral powers. The merits of these and other conceptions of the right of property are decided at later stages when much more information about a society’s circumstances and historical tradition are available” (298). The “later stages” are for application of the principles *after* the veil begins to be lifted (*Theory* 174-175), first the constitutional stage dealing with liberty and requiring knowledge of “feasible just constitutions,” then the legislative stage bringing in the “full range” of general economic and social facts, then, finally, applying rules to particular cases by judges and administrators, and “the following of rules by citizens,” which requires “complete access to all facts.” If these stages are to come after the principles are chosen, and after the veil is lifted (to whatever degree), it is assumed reflective equilibrium has come to an end in relation to principles (otherwise these facts would have to be admitted to be relevant to the initial stage of formulating the principles of justice). Or we can grant Rawls the point that reflective equilibrium continues, but this would lead to Baynes’s view that there should be instead recourse to open-ended debate/discussion and not a commitment to developing a well worked out conception of justice.

unemployment compensation and medical care,” but “such a system may allow large and inheritable inequalities of wealth incompatible with the fair value of the political liberties, and large disparities of income that violate the difference principle” (xv). In contrast, a property-owning democracy, “tries to disperse the ownership of wealth and capital, and thus to prevent a small part of society from controlling the economy and indirectly political life itself...the emphasis falls on the steady dispersal over time of the ownership of capital and resources by the law of inheritance and bequest, on fair equality of opportunity secured by provisions for education and training, and the like, as well as on institutions that support fair value of political liberties” (xiv, xv).

With these distinctions, concerns can perhaps be raised about how much Rawls is really gathering and working from “basic” intuitions, given the fact that the (in principle) *unacceptable* welfare state focus is not even realized in the liberal, “democratic,” U.S., where the two major political parties “struggle” over whether and to what degree they fund unemployment insurance or place restrictions on the *private* costs (individual burden) of health care, while concurring on bank(er) bailouts. But the greater question is, when factoring in the divide Rawls perceives between a welfare state and a property-owning democracy, to what degree his distinction between a property-owning democracy and a liberal socialist state is a distinction without a difference? Or, worse, is Rawls, by continuing to claim indifference between a (highly modified) private property economy and a (liberal) socialism trying to put off or avoid the question of whether his ideals introduce, reinforce, and require a revolutionary perspective?⁸³

83 Peffer defends Rawls from critics who see him as “conservative” (only discussing in detail civil disobedience) by arguing this is a “false charge” (413). He notes Rawls states, “when a society is regulated by principles favoring narrow class interests, one may have no recourse but to oppose the prevailing conception [of justice] and the institutions it justifies in such ways as promise some success” (*Theory* 353). Peffer continues, “If this is added to Rawls's statement

I think any discussion of the reactionary, *apologetic*, or revolutionary aspects of Rawls turns on appreciating the content and application of his most radical thesis, the difference principle. The difference principle requires that the only inequalities that are to (legitimately) exist are those which are necessary to raise the conditions of the worst off, i.e., the only justification for inequality is that the worst positioned in society would truly be even worse off without those inequalities. “The (difference) principle, properly interpreted, does not claim that inequalities are justified *because* of the maximin criterion but, rather, that *if* any inequalities are justified, this is the case only because they meet this criterion” (Peffer 381). We can note that

that “in certain circumstances militant action and other kinds of resistance are surely justified,” (*Theory* 367-368) we have a recipe for revolt.” But this does not help when asking, do Rawls’s own principles favor, apologize for, or insufficiently critique narrow class interests? Wolff’s *Understanding Rawls* (205-207) frames these concerns in relation to applying Rawls’s principles to three “possible sets of social arrangements”: 1) U.S. corporate capitalism – a powerful state, large public sector, very wide divergences of income, and only formal democracy (share in power determined by your relative economic strength); 2) #1, but with state enforced taxes and redistributions to greatly narrow “distribution” inequalities; 3) a democratic socialist state (state ownership of major concentrations of capital) with inequalities similar to #2. He sees Rawls’s principles as favoring (equally or indifferently) 2 and 3 over 1, but notes that Rawls’s perspective doesn’t raise the point that “the political power of corporate capitalism will stand in the way of significant redistributions of income, unless some way can be found to protect the profit position of corporations,” listing (corporate) strategies like “extracting a surplus from abroad” or “forcing the burden of redistribution onto the politically unorganized and ineffective sectors of the middle income brackets” (small businesses, non-unionized workers). Wolff’s point is that the democratic socialist alternative, as difficult, distant (or romantic) as it may appear at first, is the realistic option when choosing between 2 and 3, “we may lay to rest the myth that income redistribution (which is required by Rawls’s principles) can be achieved painlessly, cooperatively, harmoniously, and within the present framework of private enterprise” (206-207, parenthetical emphasis mine). I think Rawls’s preface to the revised edition of *Theory* can be seen as an attempt to deal with criticisms like Wolff’s; we see Rawls completely rejects 1, and by focusing on the need of “dispersing ownership” moves beyond 2 (which is concerned only with income, not ownership) and either falls back to a (reactionary) petit-bourgeois ideal of (small business) ownership and management, or suggests the need of equal ownership and management of (share and participation in, and decision over) concentrations of capital, which Wolff equates with “democratic socialist state ownership.” I agree with Wolff challenging Rawls in this direction, but I think how this state ownership is democratic (and what is the “state” in this case) returns to my question; what is entailed by (what is the realization) of this “democratic socialist” (Wolff) or “liberal socialist” (Rawls) ideal?

the difference principle doesn't require or immediately defend inequality (of any particular kind, or at all), but sets out the supposedly *only* legitimate reason for allowing any kind of inequality to exist. Peffer thus concludes there is nothing innately apologetic (about the existence of "social classes" or "social strata") to be found in Rawls's Difference Principle, "It is only in conjunction with certain empirical beliefs that his moral theory will reach any of these conclusions" (381). Again, I agree that the problem or difficulty (or fundamental ambiguity) does lie in the application of this principle, but, I further hold, this *does reflect* upon the adequacy, weight, or import of the principle itself.

Is the difference principle simply asking "us" to use it as a check to guide any kind of effort (however small) that concerns changing the distribution of (non- rights, non-liberty) goods? This I would see as a social-democratic, incrementalist, and highly conservative (non-revolutionary) reading of this principle. Or, does it demand of us (society) to first achieve a condition of equality, where any still existing "worst off" can be given a truly empowered voice to approve of any inequalities that are still thought to be needed? This I see as a revolutionary reading of the difference principle, one which places the emphasis on eradicating all obvious, known oppressive inequalities in order to move to the work of fine-tuning social arrangements (discovering where inequality is still sought and justified, if at all)⁸⁴. But which reading of the "application" of the difference principle does Rawls offer us?

Next, we may consider a certain complication regarding the meaning of the difference principle. It had been taken for granted that if the principle is satisfied, everyone is benefited. One obvious sense in which this is so is that each man's position is improved with respect to the initial arrangement of equality. But it is

84 This (normative) demand to first eradicate oppressive inequalities I believe is well emphasized in the early claim by Marx (referenced in section 1.3), "The criticism of religion ends with the doctrine that *man is the highest being for man*, hence with the *categorical imperative to overthrow all conditions* in which man is a degraded, enslaved, neglected, contemptible being..." ("Towards a Critique of Hegel's Philosophy of Right: Introduction" 35).

clear that nothing depends upon being able to identify this initial arrangement; indeed, how well off men are in this situation plays no essential role in applying the difference principle. We simply maximize the expectations of the least favored position subject to the required constraints. As long as doing this is an improvement for everyone, as so far I have assumed it is, the estimated gains from the situation of hypothetical equality are irrelevant, if not largely impossible to ascertain anyway. (*Theory, Revised* 69)

In this case, Rawls throws out the need to have or introduce a conception of equal relations to grasp the *meaning* or *import* of the difference principle. But this reading of the difference principle would have us focus instead on finding any (however small) reduction of inequality that could raise the condition of people in the worst off conditions (with the apparently added proviso that now “everyone” should gain), rather than asking ourselves which inequalities, *if any*, are permissible. This reading of the difference principle is obviously an incredibly luke-warm (even cold) incrementalist proposal; corporate philanthropy would even fit in here! But, as is typical with Rawls’s works, we don’t find only one interpretation of his claim.

In a reasonable society, *most simply illustrated in a society of equals in basic matters*, all have their own rational ends they hope to advance, and all stand ready to propose fair terms that others may reasonably be expected to accept, so that all may benefit and improve on what everyone can do on their own. (*Political Liberalism* 54, italics mine)

In this case a “reasonable society” (which, as will be seen, bears tremendous normative weight for Rawls) is most easily conceived (or “illustrated”) by presupposing equality in “basic matters.” This background of equality, found in the actual social conditions, is where the (free, “fair”) proposals by each to all take place; equality in basic matters is the condition in which debate, discussion, and decision about social/public matters is fairly done.”⁸⁵ The trouble, of course, is defining which forms of equality are “basic matters,” noting it was thought that the

⁸⁵ We can also note Rawls stresses here fair relations (and even social benefit) by each acting “on their own”. This can be compared to the “curious” fact that the great social sacrifices of the French Revolution instituted an individualist standpoint (see 1.2). This standpoint also can be related to Rawls’s negative liberty focus when discussing his first principle (see 3.4).

difference principle (along with the equal liberty already stipulated in the first principle) was to give us a conceptual construction that provided the test for dealing with inequalities.⁸⁶ But this returns us to the question of whether or not the difference principle is to be understood (in meaning, import, and application) against some already understood conception of equality – for as a *principle of justice* it is fully intelligible that grasping its meaning would also entail having a sense of its (practical) demands. I fear Rawls never became clear (or decided) about this issue, and even, sensing the difficulties, backed away from it altogether. I am by no means suggesting that a fully formulated picture of an equal society is needed here (in this case I do ascribe to the Marxist critique of the efficacy of utopias). But, certain “basic facts” about what conditions are (or have proved) degrading, exploitative, and coercive must be granted, and thus can be included as general facts in the formulation of his principles. By doing so I believe we are in fact introducing a conception of equality as both a baseline demand, and also the starting place for further elucidation of our principles.

To follow up on this concern about establishing the content of equality, I am especially concerned by what I see as Rawls later backing away from the difference principle (which I see as the truly radical part of his theory), and even the principle of fair equality of opportunity, because they are held as not “constitutional essentials” in *Political Liberalism*. Rawls here

86 Pinning Rawls down on this point is extremely difficult. We even find him trying to incorporate essential moral concerns on the (theoretical) level of “considered judgments with fixed points ... (that) stand in the background as substantive checks” (i.e. what he takes to be moral/political presuppositions or “a prioris” of contemporary liberal, democratic culture), “such as the condemned institutions of slavery and serfdom, religious persecution, the subjection of the working classes, the oppression of women, and the unlimited accumulation of vast fortunes, together with the hideousness of cruelty and torture, and the evil of the pleasures of exercising domination” (*Reply to Habermas* 431). Such fixed judgments are taken as acknowledged, understood, and respected, but do Rawls’s principles really incorporate or reflect the insights here? And, we should also ask of him, where does his philosophical developments advance our understanding about the, no doubt fundamental, issues involved?

defends his first principle of justice “by reference to political values that can provide a public basis of justification” as a “matter of enormous importance even if it (his new political conception of justice) has little to say about many economic and social issues that legislative bodies must regularly consider” (*Political Liberalism* 229-230). In this work, he even goes so far as to say that debates about social and economic inequalities allow for “wide differences in reasonable opinions, complex inferences and intuitive judgments, complex social and economic information about topics poorly understood” (229, note 10).

Rawls’s shift in *Political Liberalism* to articulating norms which he sees capable of achieving “overlapping consensus,” taken along with his assertion of the debatable and uncertain nature of establishing facts about social or economic equality, I see as introducing a fundamental political skepticism (also conceptualized by his “reasonable” appeal to grant certain “burdens of judgment”) which favors conservative judgments, questions the reach (or “truth” discovering ability) of the social sciences in essential areas of their domain, and does not acknowledge Marx's analysis of the exploitation of wage labor *inherent* to capital accumulation. Perhaps Rawls made these concessions to make his political construction easier to swallow for some of his staunch opponents (thus trying to secure the sort of overlapping consensus which he sees as needed to validate and make relevant his theory). However, taking ideals seriously must also entail taking on the struggle to defend the methods and means that we have to attain social facts. Holding as debatable or making “political” questions that in fact refer to empirical social conditions favors (or at least can’t hurt or threaten) those “best off.” I believe Rawls is not conceding to (or giving place to) facts here, but instead is not aware of the fact that he is speaking within a limited ideological standpoint; in this case the “burden” is on him.

3.4: Rawls's Republicanism

Given Rawls's late (over)emphasis on his first principle, I wish to point out that Rawls in fact leaves open to debate what "political liberty" is or entails. As mentioned above, in *Political Liberalism* Rawls backs away from the difference principle, and even from the principle of fair equality of opportunity (though he concedes these are relevant to questions of "basic justice") in favor of his 1st principle, securing an equal system of political liberties for all. Even if we accept his new emphasis on equal liberty, when looking back to the OP construction, Rawls doesn't provide a conceptual focus that settles the debate about the content (meaning) of "freedom" or "liberty." The equal system of liberties that is to be established would seem to require a clear conception of what liberty *is* to have any bite, and if there are many "parts" to this conception, a clear prioritizing or ordering would seem to be needed (unless we find cause to reject this method of relation).

When Rawls considers the possible implications of the first principle (a detailed conception of what would compose the equal system of liberties), we find (in *Theory* §37) a discussion recalling Benjamin Constant's distinction between the ancients' view of liberty (presented by Rawls as establishing majority rule or concerned with "political liberty") and the moderns' (represented as a concern for freedom of conscience and the person or "civil liberty"). Rawls claims, "One of the tenets of classical liberalism is that the political liberties are of less importance than liberty of conscience and freedom of the person," also appealing (in note 16) to Isaiah Berlin's work (*Four Essays on Liberty*), rather than going into details or introducing his own argument.⁸⁷ He then claims (still in §37) that we are not forced to choose a side, but can

87 Peffer offers a defense of Rawls here: "On the explication of the notions of "moral good" and "nonmoral good" given in chapter 4, moral autonomy (like virtue, right, justice, and the fulfillment of duty) is a moral good, while autonomy in the latter sense (like physical health,

strike a balance between our conceptions of liberty when creating a system of liberties to be shared equally by all. However, the application of the first principle (and ultimately its use or value) would seem to require some definite decisions or focus. Instead, Rawls apparently presupposes and generally accepts the kinds of civil and political liberties current in western republics,

These basic liberties require some form of representative democratic regime and the requisite protections for the freedom of political speech and press, and freedom of assembly, and the like. Liberty of conscience and freedom of association are to secure the full and informed and effective application of citizen's powers of deliberative reason to their forming, revising, and rationally pursuing a conception of the good over a complete life. The remaining (and supporting) basic liberties – the liberty and integrity of the person (violated, for example, by slavery and serfdom, and by the denial of freedom of movement and occupation) and the rights and liberties covered by the rule of law – can be connected to the two fundamental cases by noting they are necessary if the preceding basic liberties are to be properly guaranteed. Altogether the possession of these basic liberties specifies the common and guaranteed status of equal citizens in a well-ordered democracy. (*Political Liberalism* 335)

We can compare this list to Constant's,

First ask yourselves, Gentlemen, what an Englishman, a French-man, and a citizen of the United States of America understand today by the word 'liberty.' For each of them it is the right to be subjected only to the laws, and to be neither arrested, detained, put to death or maltreated in any way by the arbitrary will of one or more individuals. It is the right of everyone to express their opinion, choose a profession and practice it, to dispose of property, and even abuse it; to come and go without permission, and without having to account for their motives or undertakings. It is everyone's right to associate with other individuals, either to discuss their interests, or to profess their religion which they and their

pleasure, happiness, security, comfort, community, and self-realization) is a nonmoral good... It is clear that Rawls' strategy of the original position is designed to ensure *moral autonomy* of the parties. But if we construe moral autonomy as above, then there is no basis to assume Rawls would be inconsistent in *not choosing* participatory autonomy as a value or principle" (397). It is by no means clear to me that Rawls's concern for political justice excludes a focus on such "goods" as security and self-realization, and that these goods have no "moral"/normative character (at least no less than negative liberty concerns). I think Peffer's distinction (between moral and non-moral goods) begs the question here far more than provides a useful explanation of Rawls's standpoint. And, I believe, Peffer does not consider the essential ties between negative and positive liberty concerns (more on this below).

associates prefer, or even simply to occupy their days or hours away in a way which is most compatible to their inclinations or whims. Finally, it is everyone's right to exercise some influence on administration of the government, either by electing all or particular officials, or through representations, petitions, demands to which the authorities are more or less compelled to heed.

What have we gained with Rawls's emphasis on liberty? What is striking here is that Rawls (1993) agrees with Constant (1816) in almost every way about "our" (modern) notion of liberty, except of course when taking into account Constant's assertion of the right "to dispose of property, and even abuse it." It must be remembered that property issues (dealing with material goods, luxuries, "wealth") were to be dealt with by the 2nd principle (difference principle), but what was required or demanded (by right) was by no means obvious when looking at Rawls's specific claims, and Rawls even later backs away from the difference principle (argued in 3.3). More importantly, Constant's inclusion of the right to private property in his conception of liberty is misleading, for his argument for the value of (or modern emphasis on) civil liberties, *along with limited, representational, political liberties*, depends on an assumed (general?) interest in private, "commercial" dealings. For Constant, it is because of the development and cherishing of commercial interests and "private pleasures" that the moderns find civil liberties as an adequate conception of their freedom.

What we see in Constant's arguments in support of commerce and private property is that the value and emphasis on civil liberties *depends upon* the value each (modern) individual finds in their (protected) private sphere, "each individual, occupied with his speculations, his enterprises, the pleasures he entertains or hopes for, does not wish to be distracted from them other than momentarily, and as little as possible" (web). Constant viewed the development of modern commercial relations as connected to civil relations that were not well developed and not appreciated in ancient times, and these modern relations are argued to offer us the primary sphere

of gratification. The distinctive features of modern commerce for Constant are instructive (numbered for reference, not ordered): 1) the abolition of slavery (“among the European nations”) which “deprived the free population of all the leisure which resulted from the fact that the slaves took care of most of the work,” thus the “free men must exercise all professions, provide for all the needs of society”; 2) “commerce confers a new quality on property, circulation,” “without circulation, property is merely usufruct [whereby another can be granted the use of your property, so long as they preserve and do not alter it]; political authority can always effect usufruct, because it can prevent enjoyment; but circulation creates an invisible and invincible obstacle to the actions of social power” (“individuals carry their treasures far away; they take with them all the enjoyments of private life”); 3) (modern) commerce, “by creating credit, it places authority itself in a position of dependence,” “power threatens; wealth rewards; one eludes power by deceiving it; to obtain the favors of wealth one must serve it: the latter is therefore bound to win”; and, to sum up, we are given a revealing comparison along with a “hopeful” speculation, 4) “War and commerce are only two different means of achieving the same end, that of getting what one wants. Commerce is simply a tribute paid to the strength of the possessor by the aspirant to possession... It is experience, by proving to him that war, that is the use of strength against the strength of others, exposes him to a variety of obstacles and defeats, that leads him to resort to commerce, that is to a milder and surer means of engaging the interest of others to agree to what suits his own. War is all impulse, commerce, calculation. Hence it follows that an age must come in which commerce replaces war. We have reached this age.”

Since Constant (1816), there is much that has been said in relation to these sorts of observations on modern commerce. In *Capital Volume 1*, chapter 6, we find Marx discussing the

“free laborer,” who is not a slave, as a precondition of (modern) capitalism. The (modern) laborer’s freedom is discussed by noting that he “owns” his own body and sells on the commodity market his labor-time; this laborer is also “free” of ownership of the means of production and sufficient means to live off of to not resort to wage-labor. The conditions of such laborers explains Constant’s “free men” who *must* exercise all professions to satisfy need (“of society” says Constant – but in fact the freedom from sufficient property drives some to compete for wage-labor, and the division of labor is developed and imposed by the owners of the means of production who develop modern industrial production to maximize profit). We too often take for granted this analysis of a class divide, but the “need” for it was clear in relation to Constant’s liberal assertion that “a mass of human beings now exists, that under different names and under different forms of social organization are essentially homogeneous in nature,” which makes the positions in economic relations a nominal distinction.

The modern development of Constant’s “circulation” of property, which transcends national boundaries (or particular “political authority”), was analyzed by Lenin in *Imperialism: The Highest Stage of Capitalism* as developing into the global reach of modern financial capital investment. Thus capital (rather than “unprofitably” being invested into improving the conditions of the working class) is exported “overseas” for, “(i)n these backward countries profits are usually high, for capital is scarce, the price of land is relatively low, wages are low, raw materials are cheap” (63). For Lenin the motive for colonialism is discovered through this analysis (and this same motive can be connected today to the “neutral,” according to the economic terminology, practice of “outsourcing”). And we can still see the “carrying of treasures away” with money being put into secret Swiss or offshore accounts to evade “political” tax codes.

As was noted in my previous chapter (1.2), a critical standpoint on Constant's observation that wealth has achieved dominance over (political) authority is taken up early by Marx in "On the Jewish Question" which notes that civil (private), finance power dominates the political ("communal," social) power, and the modern "democratic" republic, with its emphasis on civil rights, offers a political form for this to occur. Thus the assertion in the *Manifesto* that, "The executive of the modern State is but a committee for managing the common affairs of the whole bourgeoisie" (475).

Constant's hope for peace to come from commerce echoes Kant's (1795) *To Perpetual Peace*, where we are told, "financial power may be the most reliable in forcing nations to pursue the noble cause of peace (though not from moral motives); and wherever in the world war threatens to break out, they will try to head it off through mediation, just as if they were permanently leagued for this purpose" (125). However, the continuity between war and commerce (guided by the same interest of "getting what one wants") noted by Constant, with the promise that peaceful commerce will replace war as a result of the "calculation" that this avoids unnecessary "obstacles and defeats," opens the possibility of calculations, depending on the circumstances, that could very well see the reason for war (international or civil). Thus we find Marx in the *Civil War in France*,

Imperialism is, at the same time, the most prostitute and the ultimate form of the State power which nascent middle-class society had commenced to elaborate as a means of its own emancipation from feudalism, and which full-grown bourgeois society had finally transformed into a means for the enslavement of labor by capital. (631)

And Lenin's *Imperialism*,

To the numerous "old" motives of colonial policy, finance capital has added the struggle for the sources of raw materials, for the export of capital, for "spheres of influence", *i.e.*, for spheres for profitable deals, concessions, monopolist profits and so on; in fine, for economic territory in general...when the whole world had

been divided up, there was inevitably ushered in a period of colonial monopoly and, consequently, a period of particularly intense struggle for the division and the redivision of the world. (124)

From Constant (1816) to Lenin (1916), in a century, European (“modern”, commercial) war, international and civil, continued, culminating in the First World War. This is by no means an exhaustive, or even up to date, critique of Constant’s praise of commerce, but it should be noted that even 100 years ago there was sufficient material to undercut Constant’s rosy perspective.

Constant himself introduces a perspective on and argument from changing historical conditions (in commercial relations, the constitution of civil society, the size of the state, etc.) to defend an emphasis on modern, civil liberties, and a representative state structure, over ancient (democratic) political liberty; but further analysis of developing historical conditions has and can be used to critique Constant’s assertions. It must be recalled that it was from the supposed enjoyment of private, commercial interests that the value and emphasis on civil liberties was to be appreciated by the “moderns,” but Marx’s emphasis on a continuing class divide and wage-worker exploitation and alienation, taken along with the devastation of finance imperialism, brings a different “calculation” into account.

However, Constant also holds that political liberty, as practiced by the ancients (and theoretically set out and defended for the “moderns” by Rousseau), would be impracticable in the modern, commercial nation state. He argues that “the size of a country causes a corresponding decrease of political importance allotted to each individual,” “personal influence is an imperceptible part of the social will which impresses on the government its direction,” and with the end of slavery, the “free” worker also doesn’t have time for politics (and certainly not the public square discussions of the 20,000 free Athenians). For commerce “does not leave in men’s lives intervals of inactivity,” “each individual, occupied with his speculations, his

enterprises, the pleasures he obtains or hopes for, does not wish to be distracted from them other than momentarily, and as little as possible,” and commerce “inspires in men a vivid love of individual independence,” “every time collective power (government) wishes to meddle with private speculations, it harasses the speculators... does it (“our own business”) more incompetently and expensively than we would.” Constant notes the lack of free-time (not for leisure, but politics) typical of the modern “commercial” worker, but, as a palliative for this fact, talks of the ceaseless activity of commerce from the (bourgeois) speculator’s perspective, the time we “moderns” lose for direct political participation (debate, discussion, decision) is supposed to be more than made up for by immersion in our private “enterprises” and “pleasures.” Again, we even find a new, modern sense of “individual independence” from the development of these commercial conditions. And, though we, individually, have an “imperceptible” influence on the government, we are much more concerned with limiting the government’s role in our private space than channeling the forces of “collective power.”

Of course, asserting the Marxist notion of a class divide and noting his analysis of capitalism introduces a different perspective on these points as well: the M-C-M+ logic of capitalism (invest money in production to make more money) is the logic of the owner of the means of production who purchases labor-time (as one commodity amongst the other means) to derive surplus value (that value “added” to the product by labor which is not reimbursed in a wage or other worker “benefits”). With this is found an open-ended, limitless aim (to amass greater capital) and a ceaseless (re)productive cycle (the result M+, becomes the next M), as well as a desire (for the capitalist) to have the wage-worker work longer (greater absolute labor-time), and for a lesser wage (greater relative labor-time), with no additional benefits, increasing both

the amount of work done individually and the “need” for it.⁸⁸ Only some may be too busy to be bothered with politics due to their immersion in their “speculations,” the wage-worker is busy (with the “pleasure”) of seeking work, and working to pay the rent and put food on the table. The “imperceptible” influence on the state by the individual makes sense from the workers’ standpoint; whether the individual capitalist has such a limited role in politics seems to depend on the amount of capital they may possess and their private (“free”) whim, but, taken as a class (concerned with the protection of private property, and the maintenance of the conditions of production of capital), their influence and role in the state is the norm (see my analysis in chapters 1 and 2, and the analysis of Habermas’s *Legitimation Crisis* in my chapter 4).

The need or desirability for “collective power” or government to “interfere” with the private, individual space is argued by Constant to depend on how well things are going there and how well “government” can really do; I believe this far he is right. The critical points I just added were directed at indicating a “need” to transcend the liberal civil relations, the consequences of which are seen as not fulfilling and stabilizing the supposed broad satisfaction (and even are argued to bring about broad devastation). The Marxist notion of *praxis*, of theory addressing and speaking to need (“the root of man,” see 1.3) is enabled by Constant’s argument from the supposed pleasures in “private” society that are used to justify “civil” commerce (private property), and which were taken along with the establishment of republican, representative government.

88 This analysis, directed at Constant’s claims, does not even include the necessity (dictated by the development of capitalism) for more and more capital to be amassed to remain competitive (investing in machinery, technology, and trained personnel), while at the same time creating through this drive of capital accumulation the conditions for the drop of the rate of profit, overproduction, and thereby economic crisis. Thus, even those “fortunate” enough to be overworked may very well find that they will be out of work through their labor.

The other point we should consider is that there are other forms of government possible, other ways to realize and marshal collective power, than a clumsy, “incompetent,” “expensive,” interfering government, or an authoritarian one, which in the name of the people and law extends its totalitarian power everywhere (represented in Constant’s work by Rousseau, Abbe de Mably, and the French Terror, as the alternative “bogey”).⁸⁹ As I noted in my section 2.3, the Paris Commune served as a fundamental historical case for Marx. “The political rule of the producer cannot co-exist with the perpetuation of his social slavery. The Commune was therefore to serve as a lever for uprooting the economical foundations upon which rests the existence of classes, and therefore of class-rule” (*Marx-Engels Reader* 635). I believe it is by understanding the essential or unavoidable connection of the political relations found in the Commune to communist economic relations that a proper picture is offered of a “governance” which can be truly said to be an expression of “collective power.” Becoming clear on this is the challenge raised by my earlier chapters on Marx and the task of my last chapter, a challenge which I believe dismisses the “specters” summoned by Constant to scare us away from considering a political alternative to representative, republican government, and an economic alternative to private property “commerce” (i.e., capitalism).

⁸⁹ It also can be noted that Constant wanted to de-emphasize another “modern” possibility for government that others were speaking of at the time, that in some ways anticipated the imperialist developments from republican, civil relations, and eerily anticipates the Frankfurt school’s critical survey of the implications of the preponderance of instrumental reason and positivism (or the manipulative potential found in Michel Foucault’s “governmentality”). “I do not draw from the evidence I have put before your eyes the same conclusions that some others have. From the fact that the ancients were free, and that we can no longer be free like them, they conclude that we are destined to be slaves. They would like to reconstitute the new social state with a small number of elements which, they say, are alone appropriate to the situation of the world today. These elements are prejudices to frighten men, egoism to corrupt them, frivolity to stupefy them, gross pleasures to degrade them, despotism to lead them; and, indispensably, constructive knowledge and exact sciences to serve despotism more adroitly. It would be odd indeed if this were the outcome of forty centuries during which mankind has acquired greater moral and physical means: I cannot believe it.”

Not wanting to appear to go too far in praise of private, civil liberty, Constant notes our limited political liberties are also indispensable as a guarantee of our individual liberty.⁹⁰ For, after all, “the people who, in order to enjoy the liberty which suits them, resort to the representative system, must exercise an active and constant surveillance over their representatives, and reserve for themselves, at times which should not be separated by too lengthy intervals, the right to discard them if they betray their trust, and to revoke the powers which they might have abused.” And, there is even a positive, intrinsic value to our (limited) political liberty, which “by submitting to all the citizens, without exception, the care and assessment of their most sacred interests, enlarges their spirit, ennobles their thoughts, and establishes among them a kind of intellectual equality which forms the glory of the people.” The few representatives delegated the task of making law and executing it are, after all, not to be too trusted, and, lucky for us, our watch-dog political status is a “spiritually ennobling” endeavor. The trouble is that “the representative system is a proxy given to a certain number of men by the mass of the people who wish their interests to be defended and who nevertheless do not have the time to defend them themselves.” The “wish” of the mass of people to have *their interests* defended appears to remain a mere wish if “their” representatives cannot be trusted unless the

90 Peffer does note, “Rawls seems to demand political democracy not as a matter of principle but, rather, on the grounds that adherence to it is the best way to ensure that other principles of social justice are met” (399). Peffer then offers his own considerations of the possible arguments for seeing the “intrinsic value” of participatory democracy. But it is important to connect this demotion of political liberty to a mere instrumental value to its historical roots. This is the curious reversal noted by Marx in *On the Jewish Question* (discussed in 1.2), where the great (social) sacrifices required by the French Revolution seemed only to be aimed at establishing individual, egoistic rights, as evident in the (constitutional) theory. This “curiosity” was explained by Marx to be understandable when one realizes that the bourgeois in France called upon the peasantry and workers to help overthrow Feudal relations (with both bourgeois and peasants finding a common enemy, and a common struggle, against the nobility – discussed in 1.3). However, the results of the “victory” here would come to reveal class divisions amongst the moderns as well.

people have the time to “surveille” them, and without such time for politics how are they to achieve their “intellectual equality” and “glory”? Who then is watching over these representatives? Constant, again, is all too honest, “poor men look after their own business; rich men hire stewards.”⁹¹

It appears that we are forced to look to Berlin in the hopes of discovering sound reasons for Rawls’s emphasis on negative liberty in his articulation of his first principle of justice. When we turn to consider Isaiah Berlin’s influence on Rawls we can note that *A Theory of Justice* may very well be construed as answering a challenge offered, not just by alternative political/moral theories such as utilitarianism or intuitionism, but also a certain skepticism:

91 I think there is another revealing similarity between Constant and Rawls when one considers Constant’s late emphasis on positive liberty, *after* stressing individual liberty and noting the undesirability and impossibility of (ancient) democratic sovereignty in modern (nation-state, commercial) conditions. Again in Constant we find: “It is not to happiness alone, it is to self-development that our destiny calls us; and political liberty is the most powerful, the most effective means of self-development that heaven has given us . . . Therefore, Sirs, far from renouncing either of the two sorts of freedom which I have described to you, it is necessary, as I have shown, to learn to combine the two together . . . Institutions must achieve the moral education of the citizens.” Rawls can be seen to make a similar positive liberty emphasis in *Political Liberalism*. By noting the development and affirmation of our two moral powers (our “rational” ability to self-critically set and pursue our own plans in life; and the development of our “reasonable” sense of justice and reciprocity - Lecture 2, Section 1) that a just basic structure, or a “well-ordered society”, would provide, Rawls sees that justice concerns do address a standpoint that is concerned with the citizens participation and acceptance of their social institutions and relations. But, my concern is with identifying the forms of liberty (the practices, powers, opportunities) which should and would be found in a society such that a “rational and reasonable” citizen could find good reason to endorse their social relations. I believe the question of the content of what would be involved in a “well-ordered society” or a just basic structure is still at issue then. However true the point of the socialization and self-actualization of the individual through social institutions, one can also note the problem of forms of degradation and alienation that also can be found in relations, and thus note that we can seek forms of mobilization (which already are active, positive forms of establishing a new ethos, see 1.4 and 2.1), and reconstitution of relations and institutions, such that more or greater forms of participation are sought so that more stable and reinforcing (just) relations are established. This concern about reinforcement and “stability” is also stressed by Rawls in *Political Liberalism*, but in this same work he took away the bite of his difference principle, and thus, I believe, allows for a great deal of instability by withdrawing from strong equality or equity concerns as well (see 3.3).

If we wish to live in the light of reason, we must follow rules or principles; for that is what being rational is. When these rules or principles conflict in concrete cases, to be rational is to follow the course of conduct which least obstructs the general pattern of life in which we believe. The right policy cannot be arrived at in a mechanical or deductive fashion: there are no hard-and-fast rules to guide us; the conditions are often unclear, and the principles incapable of being fully analyzed or articulated... The notion that there must exist final objective answers to normative questions, truths that can be demonstrated or directly intuited, that it is in principle possible to discover a harmonious pattern in which all values are reconciled, and that it is towards this unique goal that we must make; that we can uncover some single central principle that shapes this vision, a principle which, once found, will govern our lives – this ancient and almost universal belief, on which so much traditional thought and action and philosophical doctrine rests, seems to me invalid, and at times to have led (and still to lead) to absurdities in theory and barbarous consequences in practice. (*Four Essays On Liberty*, Introduction, lv-lvi)

It appears Rawls did believe certain moral “deductions” could be made, and principles determined which would elucidate a “vision” which could be guiding or “governing,” without falling into absurdity or barbarism. But, though he questioned and transcended Berlin’s perception of an inherent limit on our moral, principled thinking, Rawls placed Berlin’s conception and emphasis on negative liberty into the system he had the “audacity” to construct.⁹²

92 Other direct influences of Berlin on Rawls can be seen, “But if I curtail or lose my freedom, in order to lessen the shame of inequality, and do not thereby materially increase the individual liberty of others, an absolute loss of liberty occurs. This may be compensated for by a gain in justice or in happiness or peace, but the loss remains, and it is a confusion of values to say that although my “liberal”, individual freedom may go by the board, some other kind of freedom – “social” or “economic” – is increased” (*Four Essays On Liberty* 125-126). Of course, Rawls identifies liberty as itself a concern of justice, but we see an intuition here that leads Rawls to separate the two principles of justice (and prioritize the first, a second deontological moment, after imposing the deontological conditions of the OP). Also, Berlin claimed, “It is important to discriminate between liberty and the conditions of its exercise. If a man is too poor or too ignorant or too feeble to make use of his legal rights, the liberty that these rights confer upon him is nothing to him, but it is not thereby annihilated... liberty is one thing, and the conditions for it are another... useless freedoms should be made usable, but they are not identical with the conditions indispensable for their utility” (liii, liv). Here we discover the motivation for Rawls’s problematic distinction between liberty and its “worth” or “value.” “Freedom as equal liberty is the same for all; the question of compensating for a lesser than equal liberty does not arise. But the worth of liberty is not the same for everyone. Some have greater authority and wealth, and therefore greater means to achieve their aims” (*Theory, Revised* 179). I believe both of these

While both sorts of freedom (positive and negative) are deeply rooted in human aspirations, freedom of thought and liberty of conscience, freedom of the person and the civil liberties, ought not to be sacrificed to political liberty, to the freedom to participate equally in political affairs. (*Theory, Revised* 177)

Benjamin Constant tells us it is private pleasures, the bustle of commerce, modern enjoyments, that give the value and emphasis to civil rights. We learn from Isaiah Berlin that there is a precaution to take here, not something to realize, but a certain need for protection, from the threat of totalitarian intervention. And so a standard is set for *at least a little guaranteed liberty*.

The most eloquent of all defenders of freedom and privacy, Benjamin Constant, who had not forgotten the Jacobin Dictatorship, declared that at the very least the liberty of religion, opinion, expression, property, must be guaranteed against arbitrary invasion. Jefferson, Burke, Paine, Mill compiled different catalogues of individual liberties, but the argument for keeping authority at bay is always substantially the same. We must preserve a minimum area of personal freedom if we are not to 'degrade or deny our nature' ...but whatever the principle in terms of which the area of non-interference is to be drawn...liberty in this sense means liberty *from*... 'The only freedom which deserves the name is that of pursuing our own good in our own way', said the most celebrated of its champions. (Berlin 126-127)

Berlin develops the distinction between positive (political) and negative (individual) liberty. It can be thought that his point, similar to Constant, is one of emphasis, reasons for preference (and as will be seen there is great deal of evidence for this weaker claim), but one also finds suggestions that negative liberty can be equated with "freedom" as such, that it is definitive to the dignity of our "nature," for "a being who is prevented by others from doing anything at all of his own is not a moral agent at all, and could not either legally or morally be regarded as a human being" (161).

The trouble is that this way of construing the (absolute?) value of negative liberty falls into the kind of pitfalls Berlin himself wished to avoid. And such an absolutist defense of

moves prove limiting for Rawls, and the solution to the problems here is found by taking on these points together. This will be developed in Chapter 5.

negative liberty is carried through by a critical demolition (or demonization) of positive liberty – and thus the categorical raising of the status of negative liberty utilized a fundamental lowering or distrust of political liberty. What Berlin presents is his own dialectic of (positive liberty) enlightenment,

The ‘positive’ sense of the word ‘liberty’ derives from the wish on the part of the individual to be his own master... ‘I am my own master’; ‘I am slave to no man’; but may I not (as Platonists or Hegelians tend to say) be a slave to nature? Or to my unbridled passions? Are there not so many species of the identical genus ‘slave’ – some political or legal, others moral or spiritual?... This dominant self is then variously identified with reason, with my ‘higher nature’, with the self that calculates and aims at what will satisfy in the long run, with my ‘real’, or ‘ideal’, or ‘autonomous’ self, or with my self ‘at its best’... the real self may be conceived as something wider than the individual... as a social whole... this entity is then identified as being the ‘true’ self which, by imposing its collective, or ‘organic’, single will upon its recalcitrant ‘members’, achieves its own, and therefore their, higher freedom... Once I take this view, I am in a position to ignore the actual wishes of men or societies, to bully, oppress, torture them in the name, and on behalf, of their ‘real’ selves... This is the argument used by every dictator, inquisitor, and bully who seeks some moral, or even aesthetic, justification for his conduct. (132-133)

The struggle to have control over (and find realization in) our empirical conditions leads to an identification with the “dominant” part of ourselves. Finding limitations in our individual powers, we discover (come to consciousness of) the power of the “social whole,” but insight into these stages of development gives the “reason” (excuse) to forcibly intervene (coerce) those who reject what *we* believe is required for “real,” “true” liberation – and so justification for domination arises from a positive notion of liberty (fear of the totalitarian “specter” has been revived). These developments (though “not always by logically reputable steps,” 132), show positive liberty as not simply less desirable, but as a threat, and the “protection” from this threat is defense of and emphasis on negative liberty. With the threat, the fear of totalitarian intervention, emphasis no longer has to be placed on the valued experiences found within the civil (negative) domain, no analysis of the actual pleasures and the enjoyments (or lack) found

there is needed, negative liberty's value is merely negative, merely an antidote and check on "positive" interventions in one's life.

Where Berlin sees the dangerous tendency of the conception of positive freedom as "splitting of personality in two: the transcendent, dominant controller, and the empirical bundle of desires and passions to be disciplined and brought to heel" (134), negative liberty can be noted to have its own brand of audacity in relation to "empirical" attributes, insofar as the value of negative freedom can be construed negatively ("freedom from"). You should be grateful not for what (good) you have, but what (evil) you don't have, i.e., it could be worse. Here the conception of the danger avoided provides the value; negative liberty, with Berlin's kind of defense, is a reactionary value (its "positive" content is derived through the criticism of the evil totalitarian), similar to Nietzsche's conception in his *Genealogy of Morals* of the "good man" defining himself in relation to his resentful judgment of the "evil" noble. The danger with this form of valuation is whether one has accurately construed the alternative, whether the danger is real or imagined (or propagandized, etc.), for, for this "good", the focus is to be on the good to be found in your conditions *when considering how much worse they could be*.

In the case of negative liberty, it is held, "liberty in this sense is principally concerned with the area of control, not with its source" (129). The straightforward, Marxist critique (voiced by Marx as early as *On the Jewish Question*) is that certain individual "areas of control" (i.e. private ownership of the means of production) which are currently defended have led to social domination. To answer his critics Berlin is forced to acknowledge this in his Introduction (though in a form reminiscent of Nietzsche's naturalization of power in the *Genealogy*, the "fable" of the birds of prey and the lambs in essay 1, section 13):

Advocacy of non-interference (like 'social Darwinism') was, of course, used to support politically and socially destructive policies which armed the strong, the

brutal, the unscrupulous against the humane and the weak, the able and ruthless against the less gifted and the less fortunate. Freedom for the wolves has often meant death to the sheep. The bloodstained story of economic individualism and unrestrained capitalist competition does not, I should have thought, today need stressing. (xlv)

A more nuanced but equally essential point, developed by Marx in *The 18th Brumaire* (discussed in 2.2) in relation to workers being assaulted and killed when protesting/striking with the constitutional (paper) “right” to speech and freedom of assembly, is that there is no meaningful understanding of an individual right (or free space for individual choice/action) without the political power or social influence needed to defend and maintain that “area of control.” There is no realistic concern about any “area of control” found in society without also a concern about the “source,” i.e., power/social forces, that create and maintain it. After all, the bourgeois right to private property is very much “realized” through the political power of the state (courts, prisons, police, military) and Constant demonstrated quite well why the man of “commerce” would be satisfied with the representational system. Berlin, again, tries to recover some of these points in his introduction:

For what are rights without the power to implement them? I had supposed that enough had been said by almost every serious modern writer concerned with this subject about the fate of personal liberty during the reign of unfettered economic individualism...a situation in which the enjoyment by the poor and weak to spend their money as they pleased or to choose the education they wanted...became an odious mockery. All this is notoriously true. Legal liberties are compatible with extremes of exploitation, brutality, injustice. The case for intervention, by the state or other effective agencies, to secure conditions for both positive, and at least a minimum degree of negative, liberty of individuals is overwhelmingly strong. (xlvi)

Of course the trouble is whether “the state” (an insufficiently situated reference which Marx criticizes quite well in his *Critique of the Gotha Program*) or “other effective agencies” (an even vaguer mysticism) steps in to address the problems here. But the trouble with hopes of such interventions is that they appeal to those who are not suffering from a deficit in positive liberty to

use their political power to empower those who are oppressed and exploited. It is suggested that those suffering from “brutality” and “injustice” are to appeal to those who are in power to give them more power (and a *minimum* degree of negative liberty!), rather than propose strategies for the oppressed and exploited to “secure conditions” to establish their own power and areas of control.⁹³

And, holding negative liberty as necessary to avoid “degrading or denying our nature,” as a precondition of moral nature, etc. also gives reasons for intervention, it also postulates something like a “higher” or “true” nature that can be denied or realized; minimally, there are also (empirical) conditions to be fulfilled here (including, but not only, the “negation” of authoritarian reach). Though not requiring “logically reputable steps,” it can be seen how a move can be made in the direction of requiring (coercive) interventions to create the conditions for negative freedom as well (regardless of the wishes of a “deluded”/unfree populace).⁹⁴ Berlin himself offers us, “Each concept (negative and positive liberty) seems liable to perversion into the very vice which it was created to resist” (xlvi). Emphasis on negative freedom has appeared equally open to a dialectic of domination, the value of this freedom (its point of emphasis and

93 Berlin’s primary focus on defending negative liberty no doubt prevented him from developing considerations on establishing and maintaining positive liberty, but we can see indications of his thoughts on this matter as well, “What makes this country [Great Britain] comparatively free, therefore, is the fact that this theoretically omnipotent entity [King of Parliament] is restrained by custom or opinion from behaving as such (declaring guilt without trial, punishment under retroactive law, torture, massacre of minorities, etc.). It is clear that what matters is not the form of these restraints on power – whether they are legal, or moral, or constitutional, but their effectiveness” (166 note 2).

94 “The domination of this (negative) ideal has been the exception rather than the rule, even in the recent history of the West. Nor has liberty in this sense often formed a rallying cry for the great masses of mankind. The desire not to be impinged upon, to be left to oneself, has been a mark of high civilization both on the part of individuals and communities...its decline would mark the death of a civilization, of an entire moral outlook” (129). Or, again, “It seems unlikely that this extreme demand for liberty has ever been made by any but a small minority of highly civilized and self-conscious human beings” (161).

place) cannot be derived simply in contrast and as antithetical to positive freedom. What is distinctive to each needs to be looked into, and whether a more adequate and complete conception of liberty can be reached (through a dialectical analysis or relation of positive and negative liberty) should be considered.

Fortunately, Berlin also offers reasons for his preference and emphasis on negative liberty, while still maintaining there is a value and place for positive liberty. We are told, “There is no necessary connection between individual liberty and democratic rule. The answer to the question ‘Who governs me?’ is logically distinct from the question ‘How far does government interfere with me?’ It is in this difference that the great contrast between the two concepts of negative and positive liberty, in the end, consists” (130). So we find the value of negative liberty is held as a distinct concern from the value of positive liberty. We are even told, “What I am mainly concerned to establish is that, whatever may be the common ground between them, and whichever is liable to graver distortion, negative and positive liberty are not the same thing. *Both are ends in themselves*. These ends may clash irreconcilably” (xlix, italics mine).

The trouble is that when Rawls appeals to Constant and Berlin to justify his own emphasis on civil/individual liberty, assuming my critique of Constant holds up, we are faced with the difficulty of discovering for Rawls a principled reason for preference and emphasis on negative liberty over positive liberty *within* the articulation of his first and “higher” principle (thus noting his ordering of liberty over distributive justice will not help here). We should consider the reasons for choosing between these two “ends in themselves,” and whether, though they “may” irreconcilably clash, there is some way to have or emphasize both (the concerns raised above would certainly suggest we look to this possibility).

Berlin is not specific about the complete set of liberties he would see as fundamental to negative liberty (generally he lists thinkers of the liberal tradition instead, Mill and Constant perhaps most frequently, and as quoted above, points out they have varying lists), but he does offer his own guiding principles (or meta-perspective):

For Constant, Mill, Tocqueville, and the liberal tradition to which they belong, no society is free unless it is governed by at any rate two interrelated principles: first, that no power, but only rights, can be regarded as absolute, so that all men, whatever power governs them, have an absolute right to refuse to behave inhumanely; and, second, that there are frontiers, not artificially drawn, within which men should be inviolable, these frontiers being defined in terms of rules so long and widely accepted that their observance has entered into the very conception of what it is to be a normal human being, and, therefore, also of what it is to act inhumanely or insanely; rules of which it would be absurd to say, for example, that they could be abrogated by some formal procedure on the part of some court or sovereign body. (165)

Berlin appeals to what he sees as a fundamental notion of absolute rights, which identifies for us a frontier of human action that it would be inhumane or insane of us to allow to be crossed or intervened on by others (because of their power, or in the name of procedure, or sovereignty).

Our notion of inhumanity is derived from our notion of rights, and thinking of these rights is inseparable from our (historically developed) conception of a “normal human being”.⁹⁵ And for Berlin the rights that are “so long and widely accepted” (the ones that define what it means to be

95 Though we have seen evidence for Berlin defending negative liberty in a deontological (Kantian) fashion (as pre-requisite to be considered a legal or moral agent), he generally resists such Kantianism (it smacks of the “absolutism” he so despises and fears). Instead we find, “As for the question of what in fact are the values which we regard as universal and ‘basic’ – presupposed (if that is the correct logical relation) by the very notion of morality and humanity as such – this seems to me a question of a quasi-empirical kind. That is to say, it seems to be a question for the answer to which we must go to historians, anthropologists, philosophers of culture, social scientists of various kinds, scholars who study the central notions and central ways of behavior of entire societies, revealed in monuments, forms of life, social activity, as well as more overt expressions of belief such as laws, faiths, philosophies, literature” (liii). How such a suggestion doesn’t lead back to *emphasizing* the insights of Hegel who looked to art, religion, philosophy (*Phenomenology of Spirit*) the study of culture, societies, legal forms (*Philosophy of History, Philosophy of Right*), and then, naturally, to *appreciate* Marx’s emphasis on economic relations, and the development of dialectical materialism I leave to the reader to consider.

a “normal” human being) appear to be the kinds of rights listed within the liberal tradition (and re-summarized by Rawls) which Berlin credits with defending the very notion of rights.

So Marx’s critique of the egoistic aspect of civil rights (as found in *On the Jewish Question*) jeopardizes our very humanity? Or wasn’t his point that we need to conceive of our “humanness” not through the individualistic lens of the bourgeoisie (not reify their particular self-consciousness), but that we must emphasize that our social nature is an essential attribute to our human nature?⁹⁶ Again, we find the *18th Brumaire* not making the point of throwing out all our rights as bourgeois (to be surpassed, overcome, etc.), but, instead, pointing out that highly valued rights (again, freedom of speech, of assembly, etc.) are crushed in the interest and defense of the particular bourgeois right to private property. The question then is, can we conceive of “inviolable rights” that are connected to the expression of our social nature, such that there must be granted and protected a “frontier” to set loose our social possibilities, and are these rights consonant with or do they alter or challenge our “normal” conception of what it is to be human (and to be treated humanely, or with dignity, etc.)? The latter point also raises the question of

96 Berlin does grant, “Marx and his disciples maintained that the path of human beings was obstructed not only by natural forces, or the imperfections of their own character, but, even more, by the workings of their own social institutions, which they had originally created (not always consciously) for certain purposes, and which thereupon became obstacles in their creators’ progress...until enough men reached a social stage that alone enabled them to understand that these laws and institutions were themselves the work of human minds and hands, historically needed in their day, and later mistaken for inexorable, objective powers, could the old world be destroyed, and more adequate and liberating social machinery substituted” (143). But he construes (143-144) Marx’s notion of “freedom” as understanding and “willing” what is “necessary.” And he opens this essay with the claim, “That is why those who put their faith in some immense, world-transforming phenomenon, like the final triumph of reason or the proletarian revolution, must believe that all political and moral problems can thereby be turned into technological ones” (118). He goes on to caution, “what is certain is that these forces, unless they clothe themselves in ideas, remain blind and undirected” (120). Similarly look at Habermas’s critique of “praxis philosophy” (1.4, note 31). This again makes central my question of whether the goal/end of communism entails or requires political (democratic) relations, and thus, inescapably, has its own normative dimension.

whether there are true breaks between the liberal and communist traditions, or whether dialectics offers means to resolve differences through the creation of new conceptions, new forms of understanding that arise from the perceived conflicts and contradictions. Here, what is “new” can be seen as answering to the problems, needs, and contradictions of the moment, but also arising from and speaking to the “long and widely accepted” notions (see 0.1). It must also be considered whether it is not only the overcoming of (destructive/divisive) difference that is sought, but also the allowing for, providing for, and the flourishing of “differences,” rather than domination achieved through them; seeking conditions to enable individuality, not merely to “permit” it (whatever the conditions). Chapter 5 will follow up on concerns raised here.

The trouble with developing a dialectical approach to positive liberty when coming from Berlin is that his concern was primarily critical (see above), not constructive. Referencing Constant’s critique of the Rousseau-inspired Jacobins of the French Revolution, Berlin reminds us, “Democracy may disarm a given oligarchy, a given privileged individual or set of individuals, but it can still crush individuals as mercilessly as any previous ruler,” (163-164). He even further de-emphasizes the value of positive liberty by claiming, “Indeed, it is arguable that in the Prussia of Frederick the Great or in the Austria of Josef II men of imagination, originality, and creative genius, and, indeed, minorities of all kinds, were less persecuted and they felt the pressure, both of institutions and custom, less heavy upon them than in many an earlier or later democracy,” (129, note 3). In reply, we can marshal the much-maligned Rousseau, who, prior to the French Revolution, could not be so cavalier about monarchies: “To see what this (royal) form of government is in itself, we need to consider it under princes who are incompetent or wicked, for either they come to the throne wicked or incompetent, or else the throne makes them so” (*On the Social Contract*, Bk. III, chapter VI). And note that Marx thought it essential in his *Critique*

of Hegel's *Doctrine of the State* to reveal that both monarchy and the republican constitution were non-democratic, i.e., created a "political state" (an elite sub-group of society, elect(ed) and privileged, who made "politics" their special domain), leading to his *18th Brumaire* which provides a decisive historical demonstration of the point that Republican constitutions (containing, but not resolving the class divide) remained open to sliding into despotic tyranny (see 2.2). Certainly there is much to consider here, but Berlin is not dedicated to this task.

Peffer, not searching for a connection between liberty and equality offers instead, "But egalitarians – even "moderate" ones – would agree with Isaiah Berlin that "liberty is not the only goal of men... To avoid glaring inequality of widespread misery I am ready to sacrifice some, or all, of my freedom... I should be guilt-stricken, and rightly so, if I were not, in some circumstances, ready to make this sacrifice" (382). Egalitarianism is offered as an alternative perspective and value, which, given certain worst-case scenarios, provides good reason to *give up on* liberty. The stronger, and more essential question is not asked, whether political liberty is an essential component of equality?

However a (dialectical) path is at least admitted or indicated when, in responding to his critics (again in the introduction to his *Four Essays on Liberty*), Berlin is forced to take into account other possibilities,

The case for social legislation or planning, for the welfare state and socialism, can be constructed with as much validity from considerations of the claims of negative liberty as from those of its positive brother; and if, historically, it was not made so frequently, that was because the kind of evil against which the concept of negative liberty was directed as a weapon was not *laissez-faire*, but despotism. The rise and fall of the two concepts can largely be traced to the specific which, at a given moment, threatened a group or a society most: on the one hand excessive control and interference, or, on the other, an uncontrolled 'market' economy. (xlvi)

Here it is indicated that even socialism has a place of emphasis for both positive and negative liberty. What is hoped is that we do not have to keep justifying one-sided or limited values that do not so much set us free, but free us (or some of us) from one hardship (despotism), only to drive us to the next (*laissez-faire*). What is hoped is that we can learn from the shortcomings and horrors of our history, that we can articulate values that not only guide us away from (and ultimately prevent) the worst possibilities, but also bring out what is good or desirable for humankind.

Rawls himself utilizes a critique that is concerned with a too one-sided (incomplete) formulation of values. In his criticism of libertarianism, warning us of its “abstraction” (and granting this is a correct objection *made by Hegel, Marx, and socialists*), he cautions us against a “purely formal” and “impoverished form of liberalism” (*Political Liberalism* lviii, and, again, in *The Law of Peoples* 49-50). He claims what libertarianism lacks is the right *combination* of liberty and equality – resulting in no reciprocity (no respect for fair terms of cooperation which are to result in fair distribution of goods), and no limit on “excessive” social, economic inequalities. Rawls then indicates that the right kind of stability in society (with a publicly/politically involved citizenry; which avoids the political domination of the wealthy) can only be found if certain institutions exist – public financing of elections and public access to information related to policy, a “certain” fair equality of opportunity, especially in education and training, a “decent” distribution of income and wealth, society as the employer of last resort, and assured basic health care.

These proposals are equaled (and surpassed, I think) in Rawls’s texts only in *Theory* (§36, §43) where, putting to the side and leaving open the possibility of the justice of a socialist system, Rawls proposes a variety of government agencies or background structures which would

be required to be put in place to avoid the injustices of a free market or capitalist system (injustices which result from monopoly control of wealth and prices, insufficient means for life/prosperity through unemployment or a too low wage, etc.). But in *Political Liberalism* (lix), he adds “we are discussing not what the principles require but listing essential prerequisites for a basic structure within which the ideal of public reason, when conscientiously followed by citizens, may protect the basic liberties and prevent social and economic inequalities from being excessive.” In *Theory* the OP was to give us principles of justice which would guide us in determining the correct and required background structures for a just society, but in *Political Liberalism* it seems the background structures which would avoid an “impoverished” or “formal” liberalism are not deduced from the principles, and thus are not “constitutional essentials” of justice.

I believe, at no point should it be thought that equal liberties can be secured without also a focus on the equality of material possibilities (and vice versa); the realization of liberty cannot be seen as separable from (and thus certainly not “higher order” than) the task of combatting unjust inequality (a critical and practical confrontation with coercion, exploitation, and oppression). As I will argue in the last chapter, our conception of liberty or freedom should be viewed as intimately tied to our conception of equality. Peffer offers *separate* discussions and defenses of political democracy and social and economic democracy, and rather than committing to the (connected) accomplishment of full political liberty and equality states, “that everyone’s *security rights* and *subsistence rights* must be respected” (385). Rather than a commitment to the struggle for human equality and emancipation, appeals for *minimum* respect and care are made. It is forgotten that the disempowered and exploited, for a lack of power and equality, have suffered their abuses. As argued above, Rawls does not appear to have a decided view on the

content of his emphasis on liberty, and he often simply remains within the horizon of current (and quite traditional) republican freedoms. Thus, I wish to move to a theorist who is more well known for normative innovations in regard to liberty, and later return to what gets integrated from Rawls that is of use in normatively construing Marx.

Part II: Liberal Freedom and Equality

Chapter 2

Habermas: The Extent of Liberty

4.0: Introduction

For Habermas, the distinction between questions of justice and questions of the good life is ultimately a distinction that must be drawn within discourse itself – depending on whether or not the conflict involves a generalizable interest. At the same time, or so I want to argue, the general social conditions necessary for realizing the possibility of practical discourse, including the various competencies associated with a communicative model of autonomy, should also be considered a matter of justice... Issues of justice or “the right” relate to the guarantee and provision of those basic rights and resources necessary for securing the equal autonomy of citizens within a political community. (Baynes 142-143, 68)

As we saw in my last chapter, Rawls allowed that his principles remain open to liberal socialism, but did not construe them as requiring socialism (or necessarily connecting with it). But, I argued that to keep his distance from this connection he had to construe economic relations (and exploitation) as matters that his principles of justice would apply to, rather than as facts that would have to be incorporated into the explication (or meaning) of his principles. This allowed him to later back away from more radical interpretations of his difference principle, essentially making questionable or debatable particular forms of exploitation and inequality. I also argued that Rawls’s first principle of justice (concerned with the equality of liberty), though it becomes his emphasis in later works, insufficiently captured the full range of liberty (essentially focused on or prioritized negative liberty). I thus turn to Habermas, a key disputant on the “issue” of liberty with Rawls, to develop more fully what can be said here. Although, Habermas’s standpoint can also be seen to be split between more radical and conservative readings, we must consider whether there is a more consistent interpretation, one which gives greater place (or respect) to even his values and insights.

In what follows we consider: 4.1) Habermas's tracking and development of a public discourse ideal from bourgeois conditions; 4.2) The presumption that public discourse has material grounds or presuppositions; 4.3) The analysis of welfare-state-capitalist societies as a "compromise" developed through a clash of organized interests, but also as societies which instituted "formal democracy" instead of realizing "substantive democracy"; 4.4) Some further indications in Habermas's work of a demand for robust and concrete public discourse through his critique of "mass" society, and a suggestion of the potential of a "post-modern" society; 4.5) The introduction by Habermas of a state-legal-discourse perspective which provides a rationale to view his discourse ideal as a mere "thought experiment", thus denying demands for public, and broadly structured discursive relations; 4.6) The coherence and tenability of the state-legal-discourse perspective is analyzed, and grounds are sought for the resurgence of the more radical political, public discourse standpoint.

4.1: The Ideal of Public Discourse

In *The Structural Transformation of the Public Sphere* (1962) Habermas tracks the ideal of "public discourse." This ideal is initially situated in its petty bourgeois origins, first referring to a republican "democracy" for white, wealthy or sufficiently propertied, male citizens, who felt their debate and criticisms constituted the content of the public sphere. Habermas demonstrates how enthusiasm for public discourse dwindled among the political, intellectual, and economic elite as soon as salary workers, those lacking formal "education," and women wished to acquire equal voting rights and thus extend the ideal by having the standard for participation disregard one's sex, education, and the degree of control over or extent of private property. "The liberalist interpretation of the bourgeois constitutional state was reactionary: it reacted to the power of the

idea of a critically debating public's self-determination, initially included in its institutions, as soon as this public was subverted by the propertyless and uneducated masses" (*The Structural Transformation of the Public Sphere* 136). However, Habermas argues that the ground for rejecting this liberal, elitist reactionary movement was also embedded in the notion of public discourse, which provided notions of political rights.

The clichés of "equality" and "liberty", not yet ossified into revolutionary bourgeois propaganda formula, were still imbued with life. The bourgeois public's critical public debate took place in principle without regard to all preexisting social and political rank and in accord with universal rules. These rules, because they remained strictly external to the individuals as such, secured space for the development of these individuals' interiority by literary means. These rules, because universally valid, secured space for the individuated person; because they were objective, secured a space for what was most subjective; because they were abstract, for what was most concrete. (*The Structural Transformation of the Public Sphere* 54)

The notion of a universal standpoint arrived at through public consideration and debate, and an abstraction from (or disregard of) the particular rank or social standing of the individual, provided values to challenge the bourgeois' (white, male, propertied, educated) exclusive control. In the early days of the liberal public sphere Habermas noted that the legally exclusive (propertied, male) political public sphere was supplemented by a literary public sphere where "female readers as well as apprentices and servants often took a more active part... than the owner of private property and family heads themselves" (56). Socialist texts such as the *Manifesto*, when first published, were in fact participating in this literary public of the excluded. Thus, there was in many ways an alternative public sphere, with a wholly different composition than the official "political public," which served as the communicative space for critique and dissent of the political public sphere itself. Direct "theoretic work," as well as art, which also can be a fundamental means of communication for those who are politically excluded and oppressed (while also fulfilling other purposes – even "art for art's sake"), was broadly and

effectively communicated without this communication counting as “public discourse.” There was in this separation in composition of the “official” public sphere from the “unofficial” an almost structural inevitability that there would be developed critiques of bourgeois (“official public debate”) ideology. Thus, it was not so much that the liberal political public sphere provided the space for its own self-criticism, but by propagating an ideal of discourse and criticism, while at the same time excluding vast members of the population from political discourse and decision, the liberal political public sphere provided both the ideal (and ideology) and (exclusive) relations that would reveal its own limitations.

The very same universality and abstraction that could be used to provide a cover or apology (an “ideology,” in the negative sense of the word) for the rising bourgeois social and political power, pointed or remained open to a more radical, democratic reading; there was an ambiguity at the heart of bourgeois public discourse ideology.

If ideologies are not only manifestations of the socially necessary consciousness in its essential falsity, if there is an aspect to them that can lay a claim to truth inasmuch as it transcends the status quo in utopian fashion, even if only for purposes of justification, then ideology exists at all only from this (bourgeois) period on. (88)

In 1.1 I pointed to the contract tradition, starting with Hobbes’s arguments for the rationality of the absolute monarch, as introducing the notion of an appeal to the rational evaluation of the subject to justify the relations of society. With revolutionary challenges to feudal relations (the relations of property and power in the state) social relations were seen to stand or fall insofar as the interests of the members of society were met. Without accepting Louis Althusser’s first principle (“1. that there is no practice except by and *in* an ideology”), for to do so would be to not attempt to “periodize” the concept of ideology (unless “practice” was itself periodized), we can look to his second principle to see an elaboration on the interrelation between the notion of

ideology and the autonomous subject, “2: there is no Ideology except by the subject and for subjects.” The misleading character of ideological perspectives was identified with the conceptualization of a subject that could be “autonomous” or rationally pursue its own interests. Slavoj Žižek offers a Marxist interpretation of the period where is found ideology and the notion of the subject that seeks (and is acknowledged as seeking) a justification for social relations (relations to the state and property): “ideology proper emerges only with the division of labour and the class split, only when the ‘wrong’ ideas lose their ‘immediate’ character and are ‘elaborated’ by intellectuals in order to serve (to legitimize) the existing relations of domination – in short, only when the division into Master and Servant is conjugated with the division of labour itself into intellectual and physical labour” (*Mapping Ideology* 19).⁹⁷ The “free laborer” (owner of labor-power) was told that the preservation of property, and the “free market” was in *their* interest as well.⁹⁸ But, of course even the “educated” intellectual can serve an interest outside his immediate (class) origin, see Marx’s own (round-about) confession of his origins as one of the “bourgeois ideologists, who having raised themselves [himself] to the level of

97 Habermas also offers a historic moment or conditions for the emergence of ideology, and, similarly links ideology to claims that still express disguised forms of social power. “Only when contexts of meaning and reality, when internal and external relationships have been unmixed, only when science, morality, and art are each specialized in *one* validity claim, when each follows its *own* respective logic and is cleansed of all cosmological, theological, and cultic dross - only then can the suspicion arise that the autonomy of validity claimed by a theory (whether empirical or normative) is an illusion because secret interests and power claims have crept into its pores . . . Critique becomes ideology critique when it attempts to show that the validity of a theory has not been adequately dissociated from the context in which it emerged; that behind the back of theory there lies hidden an inadmissible *mixture of power and validity*, and that it still owes its reputation to this” (*The Philosophical Discourse of Modernity* 115-116).

98 Locke’s *Second Treatise of Government* is the exemplary case of bourgeois ideology presenting itself as the “common good”. Even the property qualifications for voting rights and to serve as a representative were “justified” insofar as it was believed that all had an interest in the preservation of “life, liberty, and property.” Thus those who were “drudges” and servants and excluded from the state were thought to still have their “interests” or reason served by (rational) propertied representatives.

comprehending theoretically the historical movement as a whole...goes over to the proletariat” in section I of the *Manifesto*.

The “abstract” aspect of the public sphere offered the “universal” for the concrete, and it is here that Habermas finds “space” for the development of his discourse perspective. Those benefiting from a *de facto* exclusive “public” sphere and an oppressive status quo sought justification (or offered rhetorical defense) by suggesting the utopian aspects of the political procedure involved, “in public opinion itself, in which the interest of a class, via critical public debate, could assume the appearance of the general interest, that is, in the identification of domination with its dissolution in pure reason” (88). But the utopian features of critique and public debate (which have to be broadly perceived in order to function as a political ideology) also refer to political and social possibilities beyond the status quo conditions. The “subjects” who were still appealed to (noting the economic “appeal” was to the fairness, rightness, or adequacy of the “free-market” relations between the “owners” of capital and “owners” of labor) sought the “objective” conditions which were needed to acknowledge their subjectivity. What we find with the latter (utopian) possibility is Habermas’s notion of *fully inclusive* public discourse, the ideal of “political autonomy,” a freedom promised for all citizens in liberal republics. To have a voice in the issues of public concern, with one’s outlook and the reasons supporting it heard, considered, and factored into public debate and decision, was appreciated as a distinctive power or activity for political relevance or social dignity.⁹⁹

99 The status of public discourse ideology is contradictory, then. While being offered as an ideology in the negative sense, it likewise provides the grounds of critique of the conditions that would make the expression of the ideal ideological. When looking to Cornel West’s construal of ideology generally we can see the unique complication the public discourse ideal raises. “These particular roles and functions are *ideological* ones, that is, the primary role and function of the dominant ideas, values, beliefs, or sensibilities presented in the form of universality, necessity, or eternity is primarily to preserve and perpetuate, justify and legitimate the existing system of

Thus Habermas's normative ideal of public discourse recommends and emphasizes the role and place for this social, collective activity. Habermas legitimates or provides the normative ground of this "public" or "political" activity.¹⁰⁰ By separating technical, aesthetic, and normative debates (or, in later works, pragmatic, ethical, and normative), and by demonstrating what he takes to be the unique and fitted methods of justification for each, the "rights" of participation and self-determination in the political life of liberal democracies receive an articulation and defense. The production of reasonable and "right" views (those concerned with normative values or ends) is seen as inseparable from free and equal agreement, and thus the existence of just this sort of deliberation, debate, and decision can be identified as a form of first or higher order right – for it is that process or procedure which is identified as grounding the development of a normative consciousness. The "solution" to normative debates is seen as essentially tied to the full consideration and participation in decision of those affected by the debate; this democratic procedure presupposes a lack of coercion, gives dignity, and shows respect. As mentioned in my chapter on Rawls (3.4), I believe this element of political liberty was missed by Rawls (though it is at times suggested, alongside other conceptions of liberty, when considering the place for the "liberty of the ancients" or majority rule and, in later works,

production, social and political arrangements, and cultural ways of life. This ideological function of such ideas, beliefs, values, or sensibilities cloaks particular interest behind the claim for universal interest, hides the contingency of conditions behind the claim for necessary conditions, conceals changeable circumstances behind the claim for unavoidable circumstances" (West 89). Insofar as ideologies are communicated and to be accepted by us (to interpret, justify, and explain the social reality) one can see the difficulty and critical (utopian) potential of the public discourse ideal. Not simply communicated to subjects, not merely a supposed convincing reason or rationalization, it is a communication which raises the right and need for the addressee to be an active disputant.

100 The innovation here can be seen as incorporating Rousseau's conception of the "rightness" of the "general will" in *On The Social Contract*, and Kant's development of the place for "publicity" in his *Perpetual Peace*, while also giving a political reading and significance to the (truth discovering) value of individual (civil) liberty of expression defended in John Stuart Mill's *On Liberty*. The import of this construction will be developed in this chapter and the next.

when reading and responding to Habermas, public reason). Public discourse as developed by Habermas can be seen to be a right-producing practice, and is thus itself a “higher order right,” and an essential addition to the emphasis on liberty in Rawls’s first principle. However, to grasp the social possibility of the value of public discourse, and thus its meaning or import in reality, the conditions or “objective” circumstances of a society’s population must be accounted for.

4.2: The Material Preconditions of Public Discourse

Women and dependents were factually and legally excluded from the political public sphere, whereas female readers as well as apprentices and servants often took a more active part in the literary public sphere than the owner of private property and family heads themselves... *The fully developed bourgeois public sphere was based on the fictitious identity of the two roles assumed by the privatized individuals who came together to form a public: the role of property owners and the role of human beings pure and simple...* The identification of the public of “property owners” with that of “common human beings” could be accomplished all the more easily, as the social status of the bourgeois private persons in any event usually combined the characteristic attributes of ownership and education. The acceptance of the fiction of the *one* public, however, was facilitated above all by the fact that it actually had positive functions in the context of the political emancipations of civil society from mercantilist rule and from absolutistic regimentation in general. (*The Structural Transformation of the Public Sphere* 56)

Habermas (along with Marx) grants that the revolutionary transition from feudalism to republicanism, from absolutism to a bourgeois public, i.e. civil society, was progress. But the “universal ideal” of a critical public debate which was championed and won by a very particular group (white, male, educated, property owners) in practice effaced its own universality. That this universal could be expressed by a highly particular public betrayed or left open the discovery

of its ideological (apologetic) potential, and also left the “human rights” announced by this particular “public” open to critique, especially the right to private property.¹⁰¹

“Locke’s basic formula of the “preservation of property” quite naturally and in the same breath subsumed life, liberty, and estate under the title of “possessions”; so easy was it at that time to identify political emancipation with “human” emancipation – to use a distinction drawn by the young Marx” (56). As I developed in 1.1 and 1.2, for “early” Marx political emancipation was seen as achieved with the realization of the bourgeois republic, and human emancipation entailed bringing democratic “political” relations to the relations of civil society (and thereby transcending the “political state”, connect political power to “the real human beings” of society). The bourgeois who identified himself as the rightful member of civil society (and of public debate) also articulated notions of human rights in his interests, to be defended by the political (republican) state. Marx, in *On the Jewish Question* identifies the “egoistic” nature of these rights, insofar as they were concerned with preserving the bourgeois individual (the competitive private owner). But Habermas, by noting the early bourgeois exclusion of others from the public sphere, *alongside their appreciation of the ideal of a critical public*, gives a motivation for bourgeois rights that can be seen to transcend their narrow, self-interested egoism; the bourgeois wanted to preserve the conditions that they believed were necessary to “qualify” one as a free and equal member of political debate, i.e., they equated the preservation of private property with the preservation of their own political dignity.¹⁰² And, this equation led to the reactionary

101 Holding that rights can be subjected to critique (and not taken as “inalienable” and “self-evident”) is not the same thing as asserting that any particular right cannot or will not prove to be justified, or open to emendation or re-articulation.

102 In *Theory and Practice* Habermas distinguishes between the “natural” rights of man articulated by the American Constitution and the “political” rights of the constitutions following the French Revolution (and accuses Marx in *On the Jewish Question* and Hannah Arendt in *On Revolution* of conflating the two). It is his contention that the American conception of rights was

defense against the “intrusion” of the propertyless, the (formally) uneducated, female, non-white, etc. into “their” public debate: a reaction in fact against the true universalization of the public ideal. But are the legal inclusion of all citizens in public debate and universal voting rights (civil victories we are now familiar with), the realization of political autonomy?

There was a truth to the lie that only those who possess sufficient property can be considered true members of the public; power is related to political dignity. Habermas (110) offers us a revealing quote from Kant’s *Common Saying: This May Be True In Theory, But It Does Not Apply in Practice*,

The only qualification required by a citizen (apart, of course, from being an adult male) is that he must be his *own master (sui iuris)*, and must have some *property* (which can include any skill, trade, fine art, or science) to support himself. In cases where he must earn his living from others, he earns it only by *selling* that which is his, and not by allowing others to make use of him; for he must in the true sense of the word *serve* no one but the commonwealth. In this respect, artisans (*Kunstverwandte*) and large or small landowners are all equal.

Kant’s liberalism included an acceptance of the bourgeois pre-conditions for inclusion in the public sphere, but he noted the “objective” rationale that was provided for this exclusion. Other than the sexist exclusion (see 1.4, note 36, for Hegel’s naturalizing, “objective” rationale), the

believed to express insight into a natural/civil order that should not be interfered with (even to the extent of Jefferson wishing, or not minding, a “withering away” of the state, in preference to a debating, newspaper reading and writing, populace); whereas the French saw their “man” as a political construction, requiring the intervention and creative potential of the state. In philosophy this divide is identified as that between Locke’s and Rousseau’s construction of a social contract. It can be seen that such a distinction does not obviate the point that in both the American and French cases it was believed that there were “objective” preconditions (not just political, constitutional institutions) for political participation – but in the former case (with a revolutionary break from colonial control) “civil society” (“free trade,” etc.) was trusted to provide those conditions, whereas in the latter (break from Feudalism) it was thought state action (and coercion) was needed to create the relevant conditions. But, though not noted by Habermas, perhaps an overlap between the two traditions first becomes evident after the American Civil War (and before the reactionary Jim Crow days) with the utilization of northern troops to support the efforts of African Americans to participate in the political public (vote, run for office, etc.); later it is manifest in the New Deal and civil rights.

fact of servitude, the limitations on the individual found in a condition of dependence (which Habermas notes would include wage-laborers by Kant's criteria), was legally codified. Thus, Kant, and other liberals at the time, to avoid the accusation of defending a way of life that appeared on its face exclusive (due to a conception of a fully inclusive public) had to have a social justification for the conditions of subservience. Habermas (110) returns to the *Common Saying* to note Kant's justification of the "considerable inequalities of wealth" that arises from commodity exchange,

He [any man] can be considered happy in any condition so long as he is aware that, if he does not reach the same level as others, the fault lies either with himself (i.e., lack of ability or serious endeavor) or with the circumstances for which he cannot blame others, and not with the irresistible will of any outside party. For as far as right is concerned, his fellow-subjects have no advantage over him.

With voting rights tied to property (and sex), and the "objective" argument that a servant or dependent would prove incapable of participating in the public sphere anyway (a Kantian assumption picked up by Constant), one had, through individual "serious endeavor," to break out of servitude to achieve public political status. But, even with voting rights tied to property, the whole question is begged whether some could not be held responsible ("blamed") for the difficult "circumstances" (i.e. ever-increasing inequality) or whether oppression can be seen as occurring through the "irresistible will" of an "outside party." Marx's demonstration of capitalist exploitation of surplus value in *Capital Vol. I*, and of the bourgeois class', "party" political protection of private property (demonstrated early on in the *Economic and Philosophic Manuscripts* as the key presupposition of alienation and exploitation, see my 1.4) calls into question Kant's whole assertion of the innocence of (and corresponding individual responsibility for) the social and political circumstances.

Additionally, as was noted in 3.1, Rawls's veil of ignorance expresses the general fact that economic and political relations are part of the "basic structure" to be subject to just criticism. For Rawls, no one in fact has a simple right to their "natural," *de facto* circumstances and abilities; his principles are intended to create social conditions (or to rationally, "self-consciously," test those that are existing) such that individual efforts in pursuit of their good (or "happiness") can be seen as justified.

The liberal hopes attached to the free market, as we see expressed in Kant, actually provide the empirical element for his transcendental values; for Kant the market is an "outside" guarantee for the noumenal dignity he believes is distinctive to "humanity." "The fiction of a justice immanent in free commerce was what rendered plausible the conflation of *bourgeois* and *homme*, of self-interested, property-owning private people and autonomous individuals per se" (*The Structural Transformation of the Public Sphere* 111). In Rawls, we see the positing of an *essential connection* of the noumenal to the empirical (which I construed in 3.3 as his modified Kantianism), *requiring* changes in the world (always keeping a "world-regarding" orientation), rather than merely predicting, hoping, or divining them. What Rawls is seeking is a "self-conscious" (open, critical, public) management of social relations, and, as will be focused on below, the space for the individual is not thereby lost, but found and justified with this approach. Habermas's public discourse perspective further develops the demands involved with the (at first bourgeois) emphasis on the public management of society. It is my belief that a critical appreciation of these developments helps elaborate on and develop Marx's concern with transcending the exploitative and oppressive conditions found in the (class divided) "pre-history" of mankind, and setting loose our "species-being" potential.

4.3: The Struggle to Concretize Public Discourse

Though Habermas notes in *The Structural Transformation of the Public Sphere* (140) that Marx offers an alternate “socialist” model to liberalism for the relation of the public to the private, he focuses on a different path of development, the social-welfare state. Habermas tracks and conceptually develops this “third model” for society (in other works, such as *Legitimation Crisis*, the social-welfare state is construed as “state-capitalism”), which replaced liberalism, and bypassed socialism. Due to Habermas’s later reconsideration of state-capitalist societies (evaluated at the end of this chapter) it is important to observe the critical perspective he develops at this point due to his normative commitment to public discourse. The development of the social-welfare state is identified as spurred by social relations that were found in the liberal era, which led to social conflicts, and then developed to have a “political” (public) import, leading to a transformed role and place of the state and law.

The attempt to relieve the public sphere of the intrusion of private interests failed as soon as the conditions under which the privatization of interests was accomplished were themselves drawn into the conflict of organized interests. The labor unions constituted an organized counter weight not only in the labor market; by means of socialist policy they strove to influence legislation itself. The entrepreneurs and generally all the forces “friendly to the state” (*staatserhaltend*, as they have been called ever since) responded by immediately exchanging their private societal power for political power... Through the law and regulation the state intervened deeply in the sphere of commodity exchange and social labor because the competing interests of the societal forces translated themselves into a political dynamism and, mediated by state interventionism, reacted back on their own sphere. (*The Structural Transformation of the Public Sphere* 145-146)

The state-capitalist or welfare-state is a sort of compromise reached between the bourgeois political ideals of liberalism and the concerns of the working class. The structurally divergent interests of wage-labor and of capital organized and competed for influence over the political state and its laws. The “formal” political state did after all have to seek its content from society (see my 1.1, 1.2). Insofar as there were successes by both sides in gaining influence over

the state, the societal forces became “politically dynamic.” However, even though this competition for political influence is acknowledged to include both sides (labor and capital), it appears the “entrepreneur” (bourgeoisie) is identified as “friendly to the state”, insofar as the liberal state was itself first created in the interest and under the sway of united bourgeois power, and thus the pressure of organized workers on the state is seen as a later, “outside,” and oppositional state influence. The transition from “liberal capitalism,” i.e., where the state “merely secures the general conditions of production (in the sense of the prerequisites for the continued existence of the reproduction process” (*Legitimation Crisis* 36), to state-capitalist “social legislation,” had as its impetus the industrialization, colonization, crises, class struggles, and wars of the 19th and early 20th century. The contradictions of liberalism, rather than being settled or solved, were given play within an expanded state and extended public and private legal system.

In an industrial society constituted as a social-welfare state, relationships and conditions multiplied which could not be adequately ordered through institutions of either purely private or purely public law. Instead they required the introduction of norms of so-called social legislation... The social-welfare state was compelled to shape social conditions to continue the legal tradition of the liberal state, because the latter too wanted to ensure an overall legal order comprising both state and society. As soon as the state itself came to the fore as the bearer of the societal order, it had to go beyond the negative determinations of liberal basic rights and draw upon a positive directive notion as to how “justice” was to be realized through the interventions that characterize the social-welfare state. Substantive guarantees subjecting compromises between interests to the programmatic rules of *ius iustitiae distributive* had to replace formal ones. (*The Structural Transformation of the Public Sphere* 148, 224-225)

According to Habermas, the industrial society, already “constituted as a social-welfare state,” forced the liberal state into (normative) “social legislation,” that is, it was forced to use part of the state budget, its resources, and police/military, for matters of justice. Seeking an overall legal order, the state found itself unable to merely apply and defend status quo rights, as

found in private and public law and other formal rules. However, these welfare demands are more minimal and limited concerns when considering the earlier suggested idea of political dignity (or social power); welfare is tied to survival, or even to “socially necessary goods” (needed to remain competitively employable), or is not sufficiently connected to concerns about the preconditions for political autonomy. The welfare state ultimately falls far short of ending the conditions of exploitation analyzed by Marx; nor does it fulfill the demands of Rawls’s Difference Principle (if radically interpreted).¹⁰³ And, the liberal-socialist compromise (or, rather, deadlock) that is the social-welfare state is guided, steered, or “pressured” by “compromises between interests,” which are manifest in the articulation and application of rules of distributive justice. And, the operation of social legislation presupposes not just the

103 There are contradictions and a dialectic to welfare-state policy, offering both means to critique and challenge the status quo power, but also furthering the means of oppression.

This is because welfare programs as instruments of manipulation ultimately serve the end of conquest. They act as an anesthetic, distracting the oppressed from the true causes of their problems and from the concrete solution of these problems. They splinter the oppressed into groups of individuals hoping to get a few more benefits for themselves. This situation contains, however, a positive element: the individuals who receive some aid always want more; those who do not receive aid, seeing the example of those who do, grow envious and also want assistance. Since the dominant elites cannot “aid” everyone, they end by increasing the restiveness of the oppressed. (Freire 133)

In this context, “rights” implicitly concede to power because power has conferred benefits. The machinery of concession is not only coercion but the subject’s internalization of the state as a natural institution. In the era of welfare capitalism (1935-1980), the “legitimate” state, which provides services and especially education and income security, was internalized by individuals as a social fact. Even as the welfare state began to recede, people still looked to the state for security; welfare capitalism was so deeply embedded in the social unconscious that it had become part of everyday life’s habitus long after the state ceased to provide services... Contrary to some recent arguments, the national state has not disappeared; instead, its core functions have shifted from the legitimating institutions such as those of social welfare to, on the one hand, providing the monetary and fiscal conditions for the internal but spurious expansion of (fictitious) capital, among whose elements is a reverse redistribution program and, on the other, supplying a vastly expanded regime of coercion – that is, the growth of the police powers of government at home and abroad directed against the insurgencies that object to the growing phenomena of an authoritarian form of democracy. (*Left Turn* 148, 42-43)

“compromise” between interests, but also the political organization and pressure applied by those interests (the power outside of and brought to the bargaining table – note the unions, “socialist policy,” entrepreneurs, and forces “friendly to the state” mentioned in the quote above), and the successful articulation and maintenance (in public political consciousness, and in state-legal enforcement) of “programmatically” distributive justice, noting the additional iteration of compromise and pressure that applies here.

In the social welfare state, rather than a just society which also gives place to reaching fair compromises, we find justice itself as the subject of compromises, which are themselves the products or the results of struggle. In state-capitalist society such struggles take both social or civil forms (for instance, “classic” union-capitalist struggles) and political forms (concerned with state power and legislation). So the social-welfare response to Marx’s accusation (leveled against the liberal-capitalist state), that “freedom” and “justice” are merely the ideological expression of the exploitation of one part of society by another (*Manifesto*, Section II), is nothing more than that state-capitalism also allows the political conceptions of freedom and equality to be the product or contested result of organized class and group antagonisms.

Habermas adds,

Even Marx could only ground his claim to have grasped the crisis-ridden path of development of the social system as a whole (including political disputes and the functions of the state apparatus) by means of an economic analysis of the laws of motion of capital formation, by pointing out that the exercise of class domination has assumed the unpolitical form of the exchange of wage labor for capital. However, this improbable constellation has changed, and socially integrative functions of maintaining legitimacy can no longer be fulfilled through system-integrative functions of the market and the decrepit remains of pre-capitalist traditions. They must again pass over into the political system. (*Legitimation Crisis* 52)

The new complexity and nuance of social forces becoming “politically dynamic,” thereby leading to the development and intervention of the “political system” in the economic relations

that used to be relied upon to “integrate” society, is mapped out in Habermas’s *Legitimation Crisis*. There it is argued that the classic Marxist analysis of the inevitability of economic crisis and the connected prediction of socialist revolution (*or* social collapse) in fact was argued in relation to a liberal state which protected and gave space to a “free market,” and whose legitimacy relied upon the legitimacy perceived in those economic relations. The liberal state’s supportive, rather than interventionist, stance in regard to capital relations is seen to tie its own political legitimacy to the legitimacy of the economic relations. “The institution of the market can be founded on the justice inherent in the exchange of equivalents; and, for this reason, the bourgeois constitutional state finds its justification in the legitimate relations of production. This is the message of the rational natural law since Locke. The relations of production can do without the traditional authority legitimated from above” (22). Thus, with the liberal state, Marx demonstrated how the hot potato was being passed to the economic relations, and the working class was the one getting burned. Now, according to Habermas, the responsibility of legitimating society passed back to the state (so “political legitimacy,” from “above,” again becomes relevant).

Habermas develops his idea of the “social-welfare” state (in *Legitimation Crisis* labeled “advanced”, “organized”, or “state” capitalist) as providing instruments of “rationality” to help “steer” clear of crises. However, the “rational steering” of the ship of state is greatly affected by the turbulent waters of capital contradictions that are not resolved (or steered clear of), but integrated.

The theory of state-monopolistic capitalism fails to appreciate (as do Western technocratic theories) the limits of administrative planning in advanced capitalism. The form of motion of planning bureaucracies is reactive avoidance of crisis. The various bureaucracies are, moreover, incompletely coordinated and, because of their deficient capacity for perceiving and planning, dependent on the influence of their clients. (*Legitimation Crisis* 60)

The state-capitalist state is viewed as responding to and intervening in, not “planning,” the economy. But this means that state interventions remain dependent on its “clients” (here, “organized special interests”), and the “contradictions among the interests” of these clients are “displaced into the state apparatus” (60). In some ways recalling Marx’s arguments against Hegel’s “universal” state (1.1), the “rationality” of the state then appears to be itself dependent on the conflicts of organized social interests; the legislative, executive and bureaucratic “reason” does not have a standpoint privileged or above the very conflicts it is brought to resolve.¹⁰⁴

Because the economic crisis has been intercepted and transformed into a systematic overloading of the public budget, it has put off the mantle of a natural fate of society. If governmental crisis management fails, it lags behind programmatic demands *it has placed on itself*. The penalty for this failure is withdrawal of legitimation... This explains the functional necessity of making the administrative system, as far as possible, independent of the legitimating system. This end is served by the separation of instrumental functions of the administration from expressive symbols that release an unspecific readiness to follow. (*Legitimation Crisis* 69-70)

The incorporated contradictions lead to burdens on the state which are dealt with not only through attempts at “perfecting” the state (expansion of bureaucratic agencies, technocratic planning, etc.), but also through “political” stratagems that try to protect the state from critique

104 We also see (60) Habermas arguing that the view that the (state-capitalist) state acts merely as an “agent of united monopolists cannot be supported empirically.” He sees an “overestimation” of the role of “personal contacts and direct regulation of transactions,” and dismisses the explanatory power of investigations into the connections between “power elites” (i.e., dismisses C. Wright Mills’s *The Power Elite*, which argued the essential connection between the dominant political parties, the (monopolist) corporate bourgeois, and the military hierarchy). But he approves and offers instead the hardly conciliatory “system-theoretic model” of Claus Offe, who, “conceives “structure” as a set of sedimented selection rules that prejudice what is recognized as a matter requiring regulation, what is thematized, what – with what priority and by what means – is actually publicly regulated, etc. The relatively stable administrative patterns of helping and hindering are objectively functional for capital realization, that is, they are independent of the professed intentions of the administration” (60). So we find the state “administration” is “prejudiced” to “capital realization,” the profit motive is a sort of transcendental framework (structuring but below the level of self-consciousness or “professed intention”) for state-capitalist planning and intervention, and public “thematized” debate will be skewed in this direction.

and prevent the withdrawal of support. In this context, we might note that the American Right's current "small government" line in the midst of an economic crisis has a dual purpose: to relieve the state of blame for what it did (free-rein and support given to finance speculation, bail-out of the banks, etc.) and couldn't do (limit investing to "productive investments" alone, avoid increases in public debt, etc.) *and* protect the state from critique of what it will still do: "secure" with tax money and debt further finance speculation, support "war efforts" and, generally, the military-industrial-prison complex, etc.¹⁰⁵ Ideology and norms, not just structural or technical analysis, enter where the state attempts to avoid critique and retain its legitimacy.

Particularly glaring (and significant) in the quote above is the reemergence in the welfare-state of an ideology of command-obedience ("expressive symbols that release an unspecific readiness to follow") utilized by the state to shield its policies and decisions from critique. Recourse cannot be made to the "need for hierarchy," or "efficiency's sake," to carry out tasks that are publicly accepted (a classic appeal is the military command structure for "self-

105 This "small government" line of the right has its (also hardly "small") international policy compliment in neo-liberalism, which again is "politically dynamic," not merely "economic." "Economic globalization is not a mechanical effect of the laws of technology or the economy but the product of a policy implemented by a set of agents and institutions, and the result of the application of rules deliberately created for specific ends, namely, trade liberalization (that is, the elimination of all national regulations restricting companies and their investments). In other words, the "global market" is a *political creation*, just as the national market had been, the product of a more or less consciously concerted policy. And, as was the case with the policy that led to the emergence of the national markets, this policy has as an effect (and perhaps also as an end, at least among the most lucid and the most cynical of the advocates of neoliberalism) the creation of the conditions for domination by brutally confronting agents and firms hitherto confined within national boundaries with competition from more efficient and more powerful forces and modes of production... The word "globalization" is, as we can see, a *pseudoconcept*, at once descriptive and prescriptive, that has supplanted the term "modernization" (Bourdieu 236).

defense”) for, in this case, the “readiness to follow” is a standpoint that is attempted to be established by the state in relation to its citizens as members of the public.¹⁰⁶

In the measure that it is shaped by public relations, the public sphere of civil society again takes on feudal features. The “suppliers” display a showy pomp before customers ready to follow. Publicity imitates the kind of aura proper to the personal prestige and supernatural authority once bestowed by the kind of publicity involved in (feudal) representation... Because private enterprises evoke in their customers the idea that in their consumption decisions they act in their capacity as citizens, the state has to “address” its citizens like consumers. As a result, public authority too competes for publicity. (*The Structural Transformation of the Public Sphere* 195)

This is a state-capitalist development which is antithetical and regressive in relation to liberal, republican ideals. This development of a “supernatural aura” and “personal prestige” sought by capitalist “suppliers” and politicians in relation to citizens is not a productive or “positive” contradiction, it is another and essential indicator of the inadequacy of state-capitalism as a “solution” to the contradictions of the liberal state.¹⁰⁷

If we are tempted to make too much of the apparent empowerment for the citizen by noting the other side of the dialectical relation here, i.e. that the state and “suppliers” must after

106 Kant’s *Answer to the Question: What is Enlightenment?* is relevant here for it attempts to justify both non-critical obedience when “role-playing” (serving your function in a role you have accepted), but also acknowledges that each “citizen” should have the right to be a critical member of the public. He grants, for instance, both the soldier’s duty to not question orders when deployed, and the right to publicly critique the war effort when not deployed. Whether this dual standpoint of each individual is psychologically tenable (to what degree coordinated social roles that rely on obedience inevitably effect your critical capacities, and willingness to speak out), and what the conditions are that allow for “free” choosing of social roles (or the freedom to leave an undesirable role) is not considered in this essay.

107 Walter Benjamin gives us Adolf Behne’s point that, “The gentlemen who could afford a villa wanted to mark their higher standing. What easier way than by borrowing feudal forms, knightly forms?” and Benjamin adds, “More universal is Lukacs’s remark that, from the perspective of the philosophy of history, it is characteristic of the middle classes that their new opponent, the proletariat, should have entered the arena at a moment when the old adversary, feudalism, was not yet vanquished. And they will never quite have done with feudalism” (*The Arcades Project* [I2,3]).

all “address” us and satisfy or “appeal to” our (consumer) needs, it is useful to turn to C. Wright Mills who was tracking these same developments in the U.S.:¹⁰⁸

Manipulation becomes a problem wherever men have power that is concentrated and willful but do not have authority, or when, for any reason, they do not wish to use their power openly. Then the powerful seek to rule without showing their powerfulness. They want to rule, as it were, secretly, without publicized legitimation... Authority *formally* resides ‘in the people’ but the power of initiation is in fact held by small circles of men. That is why the standard strategy of manipulation is to make it appear that the people, or at least a large group of them, ‘really made the decision’. (317)

Habermas provides a similar standpoint from his research:

‘Engineering of consent’ is the central task, for only in the climate of such a consensus does “promotion to the ‘public’, suggesting or urging acceptance or rejection of a person, product, organization, or idea” succeed. The awakened readiness of the consumers involves the false consciousness that as critically reflecting private people they contribute responsibly to public opinion. (*The Structural Transformation of the Public Sphere* 194)

We are even more familiar with a later iteration of this perspective in Noam Chomsky’s notion of “manufactured consent.” Election of politicians (already selected within the “party”) who use every available technique to engineer acclaim and support, and “choice” amongst the goods supplied and advertised by capitalist owners is the “free space” provided. The “choice” between limited and advertised options actually is key to providing the ideological moment in the manifestation of power (power thereby appears “endorsed,” rather than forced upon you). In 1.1 and 2.2, I noted Marx establishing the continuity between the monarchic and republican “political state” (and the tragic return to its origins, and unsurpassed possibility, that Bonapartism revealed for the republic). Similarly I believe there is no reason to see in the state-capitalist formation, along with its political-civil developments, a sufficient break from the

108 As well as considering Engels’s “early” (1844) point in *Outline to a Critique of Political Economy*, that demand means “dollar demand,” paying demand (i.e., profitable), thus starvation in the midst of plenty.

fascist formations to which the state-capitalist republic is often viewed as an alternative. The tragic developments of the 20th century show far more of a continuum between these political-social formations (a continuum that manifests the characteristics of a Hegelian quantity-quality change).

Moreover, through the universalistic value-systems of bourgeois ideology, civil rights – including the right to participate in political elections – have become established; and legitimation can be dissociated from the mechanism of elections only temporarily and under extraordinary conditions. The problem is resolved through formal democracy. Genuine participation of citizens in the processes of political will-formation, that is, substantive democracy, would bring to consciousness the contradiction between administratively socialized production and the continued private appropriation and use of surplus value. In order to keep this contradiction from being thematized, then the administrative system must be sufficiently independent of legitimating will-formation. (*Legitimation Crisis* 36)

A notion of substantive democracy is mentioned as essentially connected to citizens being aware of and critiquing (transcending) the “contradiction” between the continuation of private appropriation of surplus value and the re-politicization (“socialization”) of economic relations. But this “substantive” democratic idea, connected to the yet to be developed second, socialist alternative “model” to the liberal state, is inconsistent with state-capitalism. The bourgeois “universalistic value-system” when retained along with capitalist relations requires a formal democratic interpretation. The “progress” of the public sphere taken by this third model cannot be tracked simply by the inclusion of adult individuals who would have been excluded by criteria that have now been rejected (as a civil rights emphasis would have it). Alongside the struggle for inclusion of individuals, organized private and social forces have achieved political significance, and thereby changed the character of politics.¹⁰⁹ But these politicized social forces

109 C. Wright Mills’s 1956 work *The Power Elite* (whose primary thesis was above mentioned as dismissed by Habermas) also usefully tracks the changing structure of the “public” (political) sphere in (U.S.) state-capitalist society. “In terms of *scale*, the transformation of public into mass has been underpinned by the shift from a political public decisively restricted in size (by

have a direct and inevitable impact upon the quality and kind of political participation that is available; the politically contained and channeled class struggle effects not only the public expression and realization of certain interests and ideals, but is also connected to the nature (or existence) of public discourse. Insofar as capitalist relations, “private appropriation and the use of surplus value,” has not ended with the civil-political connection found in the welfare-state-capitalism, but has only in part (or at times) been contested, a new “means” of security for capital was pursued, “formalization” of democracy.

For the “culture” propagated by the mass media is a culture of integration. It only integrates information with critical debate and the journalistic format with the literary forms of the psychological novel into a combination of entertainment and “advice” governed by the principle of “human interest”; at the same time it is flexible enough to assimilate elements of advertising, indeed, to serve itself as a kind of super slogan that, if it did not already exist, could have been invented for the purpose of public relations serving the cause of the status quo. The public

property and education, as well as by sex and age) to a greatly enlarged mass having only the qualification of citizenship and age. In terms of *organization*, the transformation has been underpinned by the shift from the individual and primary community to the voluntary association and the mass party as the major units of organized power...and as the power of the individual becomes more dependent upon such mass associations, they are less accessible to the individual’s influence....Mass democracy means the struggle of powerful and large-scale interest groups and associations, which stand between the big decisions that are made by state, corporation, army, and the will of the individual citizen as a member of the public” (306-307).

Habermas’s tracking of the political role of “interest groups” can hardly be viewed as deviating from this analysis. “However, as soon as private interests, collectively organized, were compelled to assume political form, the public sphere necessarily became an arena in which conflicts also had to be settled that transformed the structure of political compromise from the ground up...Compromise literally had to be haggled out, produced temporarily through pressure and counterpressure and supported directly only through the unstable equilibrium of a power constellation between state apparatus and interest groups” (*The Structural Transformation of the Public Sphere* 198). Both develop the thesis that a public of critical, debating, and deciding individuals (the liberal ideal) is far from the state-capitalist manifestations of political participation available to citizens.

We can also look at a quick aside by another, earlier, member of the Frankfurt School, Herbert Marcuse, writing in 1969: “However, this democracy does not exist, and the government is factually exercised by a network of pressure groups and “machines”, vested interests represented by and working on and through the democratic institutions. These are not derived from a sovereign people. The representation is representative of the will shaped by the ruling minorities” (*An Essay on Liberation* 70).

sphere assumes advertising functions. The more it can be deployed as a vehicle for political and economic propaganda, the more it becomes unpolitical as a whole and pseudo-privatized. (*The Structural Transformation of the Public Sphere* 175)

The state-capitalist (“social-welfare”) society was developed through the political integration of economic forces (the “political dynamism” of economic relations), a formal inclusion provided by extending civil rights (after continual struggle by the excluded), *and* the development of an advertising and public relations approach to “inform” choice about commodities, politicians, and policies. Through mass media (t.v., radio, movies, and now websites) the political and economic “status quo” (bourgeois political parties, and capitalist/corporate interests) don’t merely participate in a public debate, but use their vast influence to shape it. Where mass media does include and make a corporate business of or takes a political, propagandistic interest in literature, film, “art,” etc., previously excluded cultures lose the structural dimension that reinforced their critical potential (see 4.1). And, as was seen above, the greatly expanded political public has now also taken the economic form of choosing between advertised persons and policies (when a choice is even given), not of critical debate and decision. The “critical” consciousness, the “choosing” consumer, the “free” voter is born to a managed framework; mass media provides the means to construct and manage the point of departure for the public (only certain concerns, debates, facts, interests, etc., are presented).¹¹⁰

Habermas shows pop culture or mass-cultural tools and mechanisms as controlling or “dumbing down” the general population, and thus presents a social critique that Rawls never undertook (though, again, Rawls at times suggested it by mentioning the need for public

110 “Counter cultures” are now summoned by those fighting cultural control by political-social-economic power; rather than an “art” (culture) world against public political culture, struggle is now identified as taking place through cultural oppositions (thus the “culture wars” have commenced).

financing of elections, of having an informed and politically active populace, etc.). Habermas's targets of critique are the development of public relations and human resource institutions, party dominated representative government, newspapers as the primary or only information source,¹¹¹ the development of a corporate economy (as opposed to predominantly individual wealth management), an emphasis on consumption in the production of literature, and t.v. passivity – a “varied” list to say the least. Here are found power relations manifest in and through institutional and cultural mechanisms, with calculable (or conceptually representable) social consequences, which were the focus and “objects” of critique due to a concern for a critical and empowered public.¹¹² But the critical, debating, and voting political public as we have seen was at first only a bourgeois reality, with the excluded participating in the distinct, “underside” culture of art and literature. Historically, this was followed by the excluded becoming politically included (“formally”) and the object of mass media manipulation. The problem for utilizing Habermas to defend a Marxist standpoint, even when noting his reference to a “substantive democracy,” is what then is the “full” content of the ideal discourse and decision-making public,

111 The amount of content, degree of analysis/debate, the relevance and import of the “news” presented, as well as the modes of participation in the flow of information and dissent, are the real targets here – so the arrival of the tech and internet age does not necessarily alter the significance of this sort of critique.

112 C Wright Mills, who is presented as a very useful parallel to Habermas, also is inspired (not surprisingly) by a very similar ideal (with Rousseau language, though rejecting Ancient Roman attitudes). “The idea of a mass society suggests the idea of an elite in power. The idea of a public, in contrast, suggests the liberal tradition of a society without any power elite, or at any rate with shifting elites of no sovereign consequence. For if a genuine public is sovereign, it needs no master; but the masses, in their full development, are sovereign only in some plebiscitarian moment of adulation to an elite as authoritative celebrity. The political structure of a democratic state requires the public; and, the democratic man, in his rhetoric, must assert that this public is the very seat of sovereignty” (323). The challenge of building a more concrete conception from this assertive “democratic man” in a non-democratic society will be developed below, and Marx's wish to transcend the “democratic state” (republic) must be returned to.

are there near approximations or exemplar case/s?¹¹³ Are we given sufficient indications of what would be involved in the second, socialist model of society?

4.4: The Full Value of Public Discourse

Our analysis has so far focused on what *prevents* the realization of public discourse and results in a collectively manipulable population, i.e., one composed of individuals lacking political autonomy.¹¹⁴ Clearly, the negative role of the institutions listed above points to a concern about the development of a mass society. This “mass” can be conceived according to certain key characteristics: 1) uninformed citizens, due to kinds and the degree of their work (Marxian alienation), and generally through a lack of participation in the determination of issues of “public” concern; 2) but also carefully measured, managed, and selectively informed (via PR, human resources, and entertainment); 3) uncritical or lacking “self-consciousness” (not “self-critical,” lacking a “situated” consciousness), reinforced through the lack of real debate with others; 4) individually and politically disempowered (because of 1-3).¹¹⁵

113 For instance, I argued that in Marx’s writings the Paris Commune is the primary example (see 2.2) when considering his “late” thoughts on the public, political relations involved in liberating the working class.

114 “In this historical phase, manipulation becomes a fundamental instrument for the preservation of domination. Prior to the emergence of the people there is no manipulation (precisely speaking), but rather total suppression...Through manipulation, the dominant elites can lead the people into an unauthentic type of “organization”, and can thus avoid the threatening alternative: the true organization of the emerged and emerging people...In the “organization” which results from acts of manipulation, the people – mere guided objects – are adapted to the objectives of the manipulators. In true organization, the individuals are active in the organizing process, and the objectives of the organization are not imposed by others. In the first case, the organization is a means of “massification”, in the second, a means of liberation” (Freire 129 and note 24).

115 Again C. Wright Mills is useful for a construal of mass culture and its political ramifications, “it is not surprising that there should arise a conception of public opinion as a mere reaction – we cannot say ‘response’ – to the content of the mass media...The fact of manipulation from centralized points of control constitutes, as it were, an expropriation of the old multitude of little

All of this results in a collectively manipulable population, i.e., one composed of individuals lacking in the kind of political autonomy suggested by Habermas's public discourse ideal. This public discourse emphasis on political autonomy is a concept developed by Habermas that can be distinguished from a mere (Kantian) moral autonomy. By noting his critique of society, we can see political autonomy identified as "concrete" or context dependent, and concerned with citizens making decisions that pertain to their social "environment" (their lived relations). A realistic concern for this autonomy requires an analysis of the material possibilities offered to citizens of participating in the structuring and guidance of their society. As we saw above (4.3), Habermas suggests a notion of "substantive democracy" as an alternative

opinion producers and consumers operating in a free and balanced market... In official circles, the very term itself, "the public" – as Walter Lippman noted thirty years ago – has come to have a phantom meaning, which dramatically reveals its eclipse" (305). Mills follows this by noting that the "elite" do have to take note of "labor," "business," and the "farmer" (these are expressions of politically dynamic social forces contending over state influence he notes at the time), while "The Public", "is composed of the unidentified and the non-partisan in a world of defined and partisan interests" (305).

Habermas, following this development, gives us, "In the decades since World War II the most advanced capitalist countries succeeded (the May 1968 events in Paris notwithstanding) in keeping class conflict latent in its decisive areas; in extending the business cycle and transforming periodic phases of capital devaluation into a permanent inflationary crisis with milder business fluctuations; and in broadly filtering dysfunctional secondary effects of the averted economic crisis and scattering them over quasi-groups (such as consumers, schoolchildren and their parents, transportation users, the sick, the elderly, etc.) or over natural groups with little organization. In this way the social identity of classes breaks down and class consciousness is fragmented. The class compromise that has become part of the structure of advanced capitalism makes (almost) everyone at the same time both a participant and a victim. Of course, with the clearly (and increasingly) unequal distribution of wealth and power, it is important to distinguish between those belonging more to one than the other category" (*Legitimation Crisis* 38-39). We can see here with the loss of a "social identity of classes," the loss of Mills' self-conscious groups which pressured the "elites," that the "dysfunctional secondary effects" of capital contradiction and crises are (politically) scattered on "quasi-groups" (distinguishing those predominantly "victims," lacking power and wealth, from the "participants", the powerful and wealthy). With the loss of a class consciousness greater segments of society can be counted as an amorphous "public"; meanwhile this public became more of a manipulable mass on which the consequences of continued capital contradictions could be dumped.

to formal democracy (state-capitalist “inclusive” civil rights, mass media, party representation), but state-capitalism is viewed as immune to fundamental crises and (revolutionary) criticism insofar as “the political anonymity of class domination is superseded by social anonymity” (*Legitimation Crisis* 37).

I argued (1.1) that Marx’s early democratic idea, of the members of society deliberately guiding their social relations, of political power (formerly monopolized by the state) integrated within the relations of civil society (1.2), and the self-conscious dedication of mankind to human flourishing (our “species-being” potential, 1.4), led to Marx’s critique of the political state (monarchical or “democratic” republican) and capital, financial power, and a commitment to the end of private property through worker struggle, ultimately to be accomplished through the political empowerment of the working class. It is useful at this point to point out certain parallels in the development of Habermas’s standpoint, through a commitment to the “universal” promise of public discourse (the ideal of the discursive direction of society). Noting the historical (post-liberal) development of a state (“administrative”) intervention in economic relations (an already accomplished integration of the political and the civil), a notion of “substantive democracy” is suggested, and connects to a demand for the members of society to deliberately guide the relations of production.

In light of Habermas’s analysis of the deforming influence of mass media and political manipulation, Mills is again useful in providing a sort of transitional notion, a political capacity, which could critically connect Habermas’s social ideal to the far from ideal social reality of state-capitalism.

The knowledgeable man in the genuine public is able to turn his personal problems into social issues, to see their relevance for his community and his community’s relevance for him. He understands that what he thinks and feels as personal troubles are very often not only that but problems shared by others and

indeed not subject to solution by any one individual but only by modifications of the structure of the groups in which he lives and sometimes the structure of an entire society...In every major area of life, the loss of a sense of structure and the submergence into powerless milieu is the cardinal fact...The loss of any structural view or position is the decisive meaning of the lament over the loss of community. (318, 322)

Mills offers a “structural” understanding of empowerment compared to a consciousness that cannot rise above being embedded in a personal, “powerless milieu” (see note 13 as well). The Lukacs critique of the powerlessness of the Kantian good-will standpoint (see 3.3) is here expanded upon by Mills, noting that our social positions (as a grunt in the army, a pigeon-holed worker in the division of labor, and a citizen of a “fragmented” civil society (321-322)) contribute to our inability to discover our common interests. We are offered, as a positive alternative, a modifying force connected to group self-consciousness of the structures of the group itself, and even of the entire society. Developing this standpoint I believe can be useful when seeking a normative development to connect to socialism and Marxist praxis, though Mills’s formulation certainly can be noted for avoiding romantic and revolutionary language. Stanley Aronowitz’s more recent theory (2003) of class, “class occurs when insurgent social formation(s) make demands that cleave society and engender new social and cultural relations” (11) also has a close affinity with Mills’s construal, which places emphasis on social groups who use knowledge (self-consciousness) of the structure of their social position to transform the relations of society.¹¹⁶

But what is interesting about Habermas’s notion of substantive democracy (and, I believe, his prescriptive notion of the “post-modern”, which follows) is that it relies on an ideal

116 C Wright Mills also would appear to explain or “diagnose” communitarianism as the expression of the lack of an understanding of the structural position of your interests, rather than as a viable political alternative. Immediately perceived interests, taken along with the anxiety and fear due to a certain lack of knowledge of your lived context (relations, social structures, etc.), are seen to reinforce “a lament over the loss of community.”

notion of the public sphere which is acknowledged as embedded (or concretized) in Marx's standpoint, and suggests the need to structurally incorporate Mills's "structural consciousness." To achieve political and social liberation we should strive (struggle) to institutionalize our capacity for structural consciousness.

The democratically revolutionized public sphere "that wishes to substitute" the real civil society for "the fictitious civil society of the legislature" thus became in principle a sphere of public deliberation and resolution concerning the direction and administration of every process necessary for the reproduction of society. The enigma of a "political society" that Marx posited with his critique of the Hegelian doctrine of the state found its resolution a few years later in the phrase of a socialization of the means of production... With the dissolution of "political" power into "public" power, the liberal idea of a political public sphere found its socialist formulation... According to this new model, autonomy was no longer based on private property, it could in principle no longer be grounded in the private sphere but had to have its foundation in the public sphere itself. Private autonomy was a derivative of the original autonomy which alone constituted the public of a society's citizens in the exercise of the functions of the socialistically expanded public sphere. Private persons came to be the private persons of a public rather than a public of private persons... identity of *bourgeois* and *homme*... was replaced by *citoyen* and *homme*; the freedom of the private person was a function of the role of human beings as citizens of society... the autonomous public, through the planned shaping of a state that became absorbed in society, secured for itself (as composed of private persons) a sphere of personal freedom, leisure, and freedom of movement. (*The Structural Transformation of the Public Sphere* 127-129)

Habermas intuitively in Marx's "socialization of the means of production" a new model (an alternative to the liberal and state-capitalist development) for a public. The socialist model emphasizes the autonomy that is achieved first for each human being as an equal participant in the management of social reproduction (this Marxist "citizenship"). Private property will no longer determine public power. An "original autonomy" and "a sphere of personal freedom, leisure, and freedom of movement" are seen as correlates with or preconditions for an "expanded public sphere." Privacy or individuality, which was thought in liberal discourse to require an emphasis on "negative freedom" (see 3.4), is understood with the socialist perspective to be

connected to ending conditions of exploitation and oppression in order to be “secured” (for all).¹¹⁷ The expansion of socially shared resources and institutions (which in the *Critique of the Gotha Program* Marx sees as a measure of the transition to communism, see 2.4) can then be seen (with this public discourse emphasis) as not only providing for common well-being, but also providing the enabling conditions for political autonomy. Socialism, after all, emphasizes the social nature of (even capitalist) production (see 2.1), and demands a social management of such production. Public debate is thus to guide the (re)production of society and is the “self-consciousness” that is added to social reproduction (and thus can be connected to the “humanistic” fulfillment of our “species-being” potential). The socialist public is that public which is capable of guiding the relations of production freely, that is, free of unending production in the pursuit of profit (i.e. exploitation of labor) and the contradictions of an unplanned economy. It thereby has the “means” to maintain the conditions for personal freedom.¹¹⁸

117 Kenneth Baynes, also evaluating *The Structural Transformation of the Public Sphere*, sums up Habermas’s evaluation of the consequences of the state-capitalist developments in relation to the public discourse ideal. “As an historical phenomena, the bourgeois public sphere suffered an equally unfortunate fate. Rather than providing a basis for the expansion of political and civil liberties to include all members of the demos and the elimination of those social inequalities that restrict the scope of the public sphere, its normative claims retreated further and further from empirical reality” (173). What Baynes misses is that this is true in this work for Habermas’s evaluation of developments occurring “in the latter part of the nineteenth century” *only if* his suggestive evaluation of socialist texts is left out.

118 Herbert Marcuse’s *An Essay on Liberation* provides another illuminating distinction between an “indirect democracy of corporate capitalism” and “direct democracy”. While adding that if the latter emerges from a “modern mass society” it would be inconceivable without a system of representation, this representative direct democracy would still “assure, on all levels, genuinely free selection and election of candidates, revocability at the discretion of the constituencies, and uncensored education and information... (and) presupposes equal and universal education for autonomy” (69). So we find a suggestion that Habermas’s public discourse (along with its functional preconditions) must here be integrated with a representative structure reminiscent of the Paris Commune (see 2.3). The key elements of these alternate socialist constructions will be returned to in my final chapter.

I have recalled Marx's commitment to transcending relations of alienation, economic exploitation, and political oppression, and generally, transcending the "pre-history" of mankind through attaining a socially "self-conscious" reproduction of society, to remind us of the places in Marx's work where normative developments can be found and even further advanced. To further pursue connections with Habermas, we should also look to his own take on the development (and wrong turns) of mankind's "rationality."

With the rise of philosophy, the elements of mythical tradition were for the first time freed for discursive consideration; but classical philosophy conceived and treated practically relevant interpretations as theoretical questions, while it devalued, as inaccessible to theory, technically utilizable knowledge. With the rise of modern science, on the other hand, precisely the sphere of empirical knowledge was drawn into reflexive learning processes. At the same time, in philosophy there prevailed a tendency, leading to positivism, to differentiate theoretical and practical questions according to their logical form; however the aim was to exclude practical questions from discourse. They are no longer thought to be "susceptible of truth". In contrast, the institutionalization of general practical discourse would introduce a new stage of learning for society... The interest behind the examination of crisis tendencies in late and post-capitalist class societies (Soviet Union) is in exploring the possibilities of a "post-modern" society – that is, a historically new principle of organization and not a different name for the surprising vigor of an aged capitalism. (*Legitimation Crisis* 16-17).¹¹⁹

Habermas here charts the uneven progress found in modern science, where a critical and "reflexive" procedure is admitted to empirical concerns, but practical concerns are identified as not empirical, or capable of progressive development. The more recent self-conscious appreciation of the scientific method (through the philosophy of science) has presented the

119 Habermas's notion of the Soviet Union (of the 1970's) as a "post-capitalist class society" tries to capture the problem of still existing relations of power that make for exploitation in the society even where capitalist relations are supposed to be transcended. Contemporary communist groups (based off of Trotsky's writings) have offered the label "deformed workers state" as an alternative conception for this problem. Again, I think for clarity's sake we need to establish how political (state) relations are inseparably tied to socialist economic relations – the wrong kind of political (state) relations have proved "deforming" to the progress gained in economic relations by rational (public) coordination of social production being co-opted by an authoritative state.

accomplishments here as due to: 1) what is held as distinctive to scientific claims or theories, that they are predictive (empirically) falsifiable assertions (Popper); and 2) that scientific theories are developed and accepted (and canonized) through the critical (experimental) testing and continued application by a scientific community (C. S. Peirce, Thomas Kuhn, Deborah Mayo).¹²⁰ Thus, both a self-critical method and a social, cooperative approach of critique and acceptance are found at the heart of the “leap” that is modern science. However, acknowledging the limitation of the theoretical approach applied to practical issues in the ancient world, as well as modern progress in realigning theory (and mathematical innovations) to objects, still leaves practical issues to appear as the “improper” object of a now proven theoretical, technical approach, and thereby as beyond productive discourses (and critique and testing) that could lead to insight.

Yet, a discourse norm (and substantive democracy) cannot be offered merely as a “logical” construction that has in some way been missed or neglected by positivism’s selective appraisal of modern science; rather, in Habermas’s challenge to positivism’s evaluation of

120 Stanley Aronowitz in *The Crisis in Historical Materialism* (in the section “Marxism and Science”) appeals to Paul Feyerabend’s work to deny a too quick contrast between ancient and modern science based on noting modern science’s commitment to observation, (community) testing, and falsifiable theory. Aronowitz holds, “Older scientific paradigms were grounded in rigorous experimental procedures, sought quantifiable and falsifiable measures of their validity, and were as comprehensive as those proposed by Copernicus, Galileo, and Kepler” (86). What is sought then are “extra-scientific” influences for the demarcation of the emergence of modern science, with the social (bourgeois, capitalist) orientation towards domination and control (“instrumentalization” and “manipulation”) being identified. Marxism is also held by Aronowitz as “captured” or working within the same problematic, “dominative” scientific framework (“progress” for instance being equated with the growing of mankind’s ability to “dominate nature”). Thus he calls for a new science, which can acknowledge nature as not simply our object (to be utilized), but subsisting “externally” from us as well (for itself); a human science that does not seek a “mastery” over nature. In this section I am trying to demonstrate how or in what way Marxism has space for a socially self-conscious and normatively orientated (non-exploitative and non-dominative) science and technology.

“truth” (and its complementary norm of “hard” sciences) is found a challenge of practical and political import.

Positivism stands and falls with the principle of scientism, that is that the meaning of knowledge is defined by what the sciences do and can thus be adequately explicated through the methodological analysis of scientific procedures... But the philosophy of science renounces inquiry into the knowledge of the subject... For an epistemology restricted to methodology, the subjects who proceed according to these rules lose their significance... The positivistic attitude conceals the problems of world constitution... Guided by the objectivistic attitude of theory as the image of facts, the nomological and hermeneutical sciences reinforce each other with regard to their practical consequences. The latter displace our connection with tradition into the realm of the arbitrary, while the former, on the leveled-off basis of the repression of history, squeeze the conduct of life into the behavior system of instrumental action. The dimension in which acting could arrive rationally at agreement about goals and purposes is surrendered to the obscure area of mere decision among reified value systems and irrational beliefs. (*Knowledge and Human Interests* 67, 68, 316)

Habermas’s criticism of positivism found in *Knowledge and Human Interests* is not without precursors. Marx’s *Theses on Feuerbach* offers a criticism of “contemplative materialism” which has the characteristic failing that it does not acknowledge (in its theoretic appreciation and construal of “objects”) that the empirical world observed and theorized about is one that is also created by practical activity. Such an ahistorical materialist standpoint would reify social relations (and the “natural” consequences that follow from them), and is the standpoint of an individual who needs to understand the given social relations so as to better adapt to them (or is left only with the criticism that such relations are “inhumane”, see 3.3); the real historical facts of and continued potential for “revolutionary practice” (“practical-critical activity” – a situating which provides a means to transform social relations) is entirely missed. Nietzsche’s *Genealogy of Morals* (Essay 3) construed the belief in science as revealing “the truth” as not acknowledging that the construal of “objects” for technical, instrumental utilization is produced through the commitment of human beings to certain constrained forms of human

activity. A modern faith and call to asceticism is seen in this belief of “the truth” being revealed through science (for different approaches, different interests, towards those same objects would reveal different characteristics, different “truths” about them). The human subject is given over to a scientific method which cannot be said to reveal the only truth.

Habermas construes scientific positivism as expressing not just an appreciation of the theoretic achievements of modern science, but also an attitude or standpoint in relation to human “objects,” who are not viewed as autonomous subjects (which positivism views as the empirically “unfounded” *metaphysical* perspective of transcendental freedom, equality, etc.) or as historical agents (who seek enlightenment and partnership in their social/political endeavors), but are viewed as repositories of beliefs, behavioral instincts (or psychological “drives”) and habits. Instead of 1) seeing a responsibility or duty due to human dignity (or autonomy), or 2) a conflict in society due to a divide in class interests, or 3) the need for a political program to resolve inherent contradictions of our social relations, a positivistic science supposedly offers value-neutral knowledge that can be put to use for any particular interest. However, positivism actually offers the neutralization of certain values rather than value-neutrality; positivism’s standpoint altogether loses a knowledge that retains (moral) responsibility to (free) subjects or that appeals to historical agency (praxis).¹²¹

Human knowledge can (and does), after all, incorporate moral and political standpoints (seen in descriptions and judgments of an event, “he was wronged,” “that was a blow to socialism,” etc.), and inquiry and progress is pursued in morals and politics. As noted early in this chapter, Habermas is perhaps best known for demonstrating the alternative “logics” involved in differing forms of interests (aesthetic, moral, pragmatic, etc.), whereas positivism holds that

121 Of course *The Dialectic of the Enlightenment* is the classic work on the development of a “reason” which liquidates norms.

there is no “logic” outside science (because there is no “truth” outside scientific methodology).¹²²

Habermas’s response to positivism could simply be summed up then, “if you wish to label science’s concern to be about “truth,” then we should also acknowledge concerns about “rightness” (norms), “beauty” (aesthetics), “authenticity” (ethics and hermeneutics), etc.”

Ultimately this is a response with a Hegelian influence, acknowledging differing spheres or distinguishable “elements” involved in our self-conscious development. With this variety of valuations and interests it cannot be presupposed (or taken as *a priori*) that the scientific standpoint should be placed on “top” (in a sort of Platonic knowledge hierarchy), and it certainly cannot be said that positivism’s “science” holds the key to knowledge as such.¹²³

Habermas’s post-modern principle of organization would have social reproduction be guided (in the determination of social norms, goals, and aims) through practical (public) discourse. The right goals and proper purposes that are pursued through the social forces are to be determined by social (public) debate and decision. The “tools” offered by science are apparently to be put to public use. But we must return to the limitations of our point of departure, state-capitalism. Corporate and state manipulation are greatly aided by the advances of a behavioral science, and made immune to critique by reinforcing the (positivistic) belief that interests are either natural, “non-rational,” or simply a (statistical) given. Politically, the

122 In articulating the differing “logics” available Habermas sees himself as developing the grounds for standpoints that are characteristic to modern societies. “Cultural modernity’s specific dignity is constituted by what Max Weber called the differentiation of value spheres in accord with their own logics” (*The Philosophical Discourse of Modernity* 112).

123 However, depending on one’s take on Habermas’s point about separate modes of inquiry and interest, one could see a defense of all forms or kinds of reason (a defense of a “pluralistic” approach to knowledge), *or* the unfortunate compartmentalization (overspecialization) of knowledge (“knowers” of different kinds, but not responsible human agents with knowledge). Aronowitz (noted above), I believe, is quite right to push for a “social” understanding or situating of science. I think Habermas most closely approximates this when we consider the political context in which science is to be supported and pursued (see below).

arbitrariness of interest is ideologically defended under the notion of our “freedom of choice” or “freedom of the person,” this opens the way to present a standpoint which offers a class or group interest which is based on one’s structural position (or social relations) as an “unfree” perspective (or F.A. Hayek’s “road to serfdom”).¹²⁴ However, I believe such an outlook would be viewed as manifestation of false consciousness, based on the liberating critical standpoint introduced by Mills, Habermas, and Aronowitz, and does not consider the still existing need and possibility of creating conditions (for all) to secure personal freedom (see above, and the next chapter).

It should be considered as well that the status quo (state-capitalist power) is well positioned to enroll the scientific practitioners who also are subject to the vicissitudes of the “free” market. The principle of organization for a post-modern society is thus not only not reached, but prevented:

The advanced-capitalist limitation on rationality consists in the structural inadmissibility of that type of planning which, following R. Funke, could be designated as democratic incrementalism... Even if the state-apparatus were to succeed in raising the productivity of labor and in distributing gains in productivity in such a way that an economic growth free of crises (if not disturbances) were guaranteed, growth would still be achieved in accord with priorities that take shape as a function, not of generalizable interests of the population, but of private goals of profit maximization... (Galbraith’s) “private wealth versus public poverty” result from a class structure that is, as usual, kept latent. In the final analysis, *this class structure* is the source of legitimation deficit. (*Legitimation Crisis* 66, 73)

State-capitalism is still bound to interests in “profit maximization,” which are capitalist interests, i.e. interests in the exploitation of labor, and even if the wholly hypothetical (and unfounded)

124 Recently the Tucson Unified School District has banned a host of books, such as *Pedagogy of the Oppressed*, *The People’s History of the United States*, *Critical Race Reader*, Junot Diaz’s *Drown*, and Shakespeare’s *Tempest*, to, as is claimed, counter advocates of the overthrow of the American government or those who teach “ethnic solidarity instead of the treatment of pupils as individuals.”

assertion of state-capitalist production being “free of crises” is granted, we find that the “generalizable” interests of the population, or the “democratic-incrementalist” planning, is (structurally) avoided. And, it is granted that there will be private wealth while “the public” will be poor, i.e., state debts will increase while state funding does not go to public services (leaving only private, “capitalist services” – assisting in profit maximization, “bailouts”, neo-colonial-imperial power, etc.). This is no doubt connected to why Habermas does not say “disturbances” will be prevented, the meaning of which for the worker could only be outrage and protest because of unemployment, lack of sufficient nutrition and hunger, inadequate social resources (health-care access, schools), and deployment of public resources for non-public ends (again, for capital, private interests).

Further, Habermas’s claim that state-capitalism has created a “latent” class structure borrows terminology from psychology which is not as accurate or clear when applied to social relations. If the features of class are somehow repressed, he is proposing there is an “unconscious” for social formations as well. If this is so, are there no manifest classes in that case (no class-significant features in society), thus state-capitalist policy has somehow got rid of “class” features, while still having capitalist exploitation? But exploitation of wage-labor is definitive of capitalism for Marx (this is a manifest, not latent, expression of its class relations). A “class latency” thesis can actually have another target: what is latent is the independent political struggle of the working class (against bourgeois capitalism), so state-capitalism, through a “quasi-political wage, which depends on negotiations between companies and unions” targeting “the point of the structurally most probable conflict” (*Legitimation Crisis* 38) is the bargaining down of working class revolutionary consciousness. The Marxist tradition, through Lukacs, makes a conceptual distinction between a class “in-itself” (“objective” relations of

exploitation) compared to a class “for-itself” (“conscious” organization under a political program), which does provide a conceptual space for Habermas’s notion of “latent class structure.” But the idea or sense of “structure” seems more accurately to refer to the “objective” relations (relations of production, for instance) found in society, not to the political consciousness of a class. Thus, state-capitalism cannot be said to have made capital exploitation “latent,” but what has been made latent is the criticism and political consciousness that could be effectively organized against it.¹²⁵

It is because class exploitation is not latent that legitimation deficits result. Habermas even grants, “in the final analysis this class structure is the source of a legitimation deficit.” This raises the question, how far has Habermas’s conception of state-capitalism moved away from (or taken the edge off of) the claim that economic factors are “determinate in the last instance”? After all, Marxists see that the class structure of capitalism will always make the state illegitimate (or provides a constant threat to its legitimacy), revolutionary socialists (Marx and Engels certainly) always saw the republican state as tied to capital exploitation and hoped to bring this consciousness to the working class. I believe Habermas is right to point out that this revolutionary class activity can be “managed” by state-capitalism, it is not “necessary” or simply

125 Trotsky’s theory of “permanent revolution,” giving space for the international working class revolution to begin, but not end (except disastrously) in colonial or semi-colonial nations instead of the historically most developed industrial nations of the imperial center, was also concerned with the “buying off” of workers’ consciousness. Here it is not denied that exploitation still occurs in the “imperial center” (and thus there is still a working class there as well), but there are seen to be greater resources (greater reserves of surplus value) to deal with the most organized (or unionized) sections of the working class. Of course, economic crises coupled with state debts (fueled by organized capital fighting taxation) and prolonged, challenged imperial occupations could destroy the elasticity of the center.

structurally inevitable, and thus remains to be realized as a result of struggle and successful propagation of class consciousness.¹²⁶

Emancipation from the compulsion of internal nature succeeds to the degree that institutions based on force are replaced by an organization of social relations that is bound only to communication free of domination. This does not occur directly through productive activity, but rather through revolutionary activity of struggling classes (including the critical activity of reflective sciences). (*Knowledge and Human Interests* 53)

State-capitalism, where the economic relations become politically dynamic, offers opportunities for the working class to vent and has offered limited private and state resources for appeasement. The move from the relations of production (the exploitative structure) to a revolutionary class consciousness (which challenges the internalized legitimacy of property relations) has now been mediated by a variety of bargaining positions, political processes, and laws. But, this is no defense of state (“advanced”) capitalism.

Habermas in fact finds a moral judgment of capitalist exploitation by returning to Hegel’s early construal of the “fated” judgment of the criminal in (dialectic) relation to a moral totality (where there would be an “unconstrained communication and reciprocal gratification of needs”). “Marx could have employed this model and constructed the disproportional appropriation of the surplus product, which has class antagonism as its consequence, as a “crime.” The punitive causality of fate is executed upon the rulers as class struggle coming to a head in revolutions” (*Knowledge and Human Interests* 56-57). With the productivity of social production set loose by

126 A great deal of *Legitimation Crisis* focuses on cultural and social aspects of state-capitalism that show why working-class consciousness will be difficult to communicate and maintain. He mentions the preponderance of “civic privatism,” the focus on “career, leisure, consumption” (37) along with a limited (socially and consciously) “familial culture” (75), a standpoint of “possessive individualism” (83), etc. But, Habermas also evaluates the challenges these limits to class consciousness face (for instance, possessive individualism is threatened in urban centers where many “goods” come from shared infrastructure), and his points do not provide a (normative) defense of state-capitalism, only reasons why it is not so easily challenged (thus “strategic” limitations).

capitalism's division of labor (which also spurred the development of machinery) the potential to live beyond scarcity has been attained. But capitalist relations maintain a "masochistic gratification of a form of domination that impedes taming the struggle for existence, which is objectively possible, and puts off uncoercive interaction on the basis of communication free from domination" (58). And if society's (the workers') acceptance of bourgeois property relations can be viewed as a form of masochism, would not the capitalists' defense of their property be a form of sadism?¹²⁷

127 The grounds for construing the capitalist defense of ownership of the means of production as sadistic was developed independently of Habermas's work, though still grounded in the perspective developed by the Frankfurt School.

And the more the oppressors control the oppressed, the more they change them into apparently inanimate "things". This tendency of the oppressors' consciousness to "in-animate" everything and everyone it encounters, in its eagerness to possess, unquestionably corresponds with a tendency to sadism.

The pleasure in complete domination over another person (or other animate creature) is the very essence of the sadistic drive. Another way of formulating the same thought is to say that the aim of sadism is to transform a man into a thing, something animate into something inanimate, since by complete and absolute control the living loses one essential quality of life – freedom (Erich Fromm, *The Heart of Man*, New York 1966, pg. 32).

Sadistic love is a perverted love – a love of death, not of life. One of the characteristics of the oppressor consciousness and its necrophilic view of the world is thus sadism. As the oppressor consciousness, in order to dominate, tries to deter the drive to search, the restlessness, and the creative power which characterizes life, it kills life" (Freire 41-42).

However, the masochist/sadist relation found in the relation of wage labor to capital, mentioned above, is a form of psychological coping and pleasure which reinforces coercive conditions; alienation and exploitation are thus reinforced. What one finds then is not so much an ideology enabling oppression, but psychological standpoints that get in the way of felt needs and suffering serving as adequate for a critique and struggle against capitalist conditions. Thus, the appreciation of the injustice of the relations underlying the sadist/masochist relation, and a critique of the lack of dignity and the loss of human possibilities, is also a key to class mobilization.

Viewing the unnecessary (avoidable) struggle with scarcity that is the current fate of the working majority, Habermas has recourse to a psychoanalytic diagnosis to explain the acceptance of capitalist property relations. Though the capitalist can be understood to be pursuing a “will-to-power” at the expense of the working class, the only reason the working class can be understood to perpetuate this relation (through acceptance of property relations) is a certain joy in self-laceration. The property and power relations manifest in capitalist societies cannot receive a normative defense by an understanding which values a lack of coercion and reciprocity. These values are Habermas’s “transcendental touchstone,” for they are seen as those which any “other” can agree to, since concern for a lack of coercion and reciprocity provides the conditions where one can approach the other with respect (as a genuine “peer” in discourse) in the first place. But, in relation to the sadism of the capitalists (or the masochism of accepting capital property relations), not discourse with the capitalist exploiter, but revolutionary struggle (aided by the workers’ critical activity), is offered as the recourse for the working class (and the “moral fate” of the capitalists) to overcome scarcity and achieve unconstrained communication and reciprocal gratification.¹²⁸

128 Or, if the contradictions of capital are not addressed, we continue to live out a politics with (class) relations of sadism and masochism.

OP-ED COLUMNIST

Wisconsin Power Play

By PAUL KRUGMAN

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So it’s not about the budget; it’s about the power.

In principle, every American citizen has an equal say in our political process. In practice, of course, some of us are more equal than others. Billionaires can field armies of lobbyists; they can finance think tanks that put the desired spin on policy issues; they can funnel cash to politicians with sympathetic views (as the Koch brothers did in the case of Mr. Walker). On paper, we’re a

However, Habermas offers another emphasis, which reconnects with another basic Marxist standpoint: the insufficient rationality of liberal-capitalist (and even state-capitalist) society. What is unique about Habermas is that the Marxist notion of “rational (self-conscious) social reproduction” is developed in such a way that it is seen as essentially connected to public debate and decision. In Section 2 of the *Manifesto of the Communist Party* it is claimed that capital is “a social power,” a “collective product” requiring “the united action of all members of society to set it in motion”; “in-itself” capitalist production is already social. But, I argued (2.4) that the call for the personal and social status of the capitalist (as owner of the means of production) to be replaced by common property (to transcend its class character), still requires insight into the political relations that are required for (or manifest in) communist ownership. How social production can become society producing “for-itself” is the question here. I believe Habermas’s emphasis on public discourse, the “rational” character of debate and decision is an essential piece to the puzzle that is communist ownership and production (and adds a needed normative dimension to Marx’s praise of the Paris Commune). But, is Habermas sufficiently clear about the relations (or social structures) needed to realize public discourse, and how close is the discourse ideal connected to socialism?

one-person-one-vote nation; in reality, we’re more than a bit of an oligarchy, in which a handful of wealthy people dominate.

OP-ED COLUMNIST

Make Everybody Hurt

By DAVID BROOKS

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The foundation of this unwritten constitution has to be this principle: make everybody hurt. The cuts have to be spread more or less equitably among as many groups as possible. There will never be public acceptance if large sectors of society are excluded. Governor Walker’s program fails that test. It spares traditional Republican groups (even cops and firefighters). It is thus as unsustainable as the current tide of red ink.

4.5: The Facts About Democracy

In Habermas's later work, *Between Facts and Norms*, a conceptual development of "democratic" institutions and relations of the kind found in the U.S. and Germany (early 1990's) is offered as a political standpoint that can be "realistic," situated, and still potentially critical of state-capitalism. Habermas's procedure amounts to rejecting what he sees here as the overly pessimistic (and thus unrealistic) Marxist rejection of constitutions and state institutions as merely or only ideological, thereby masking and aiding the economic exploitation taking place. At this point Habermas believes that the underlying promises of "democratic societies" are already being lived out by their citizens, though the question can still be asked *to what degree* or how adequately or completely realized these promises are. "A reconstructive sociology of democracy must therefore choose its basic concepts in such a way that it can identify particles and fragments of an "existing reason" already incorporated in political practices, however distorted these may be" (*Between Facts and Norms* 287). Here, I believe, Habermas has an intuition of the double-edged character of democratic political ideologies; I identified Marx's similar recognition of the critical potential offered by bourgeois "democratic" ideology in my evaluation of the *Critique of Hegel's Doctrine of the State* (see 1.1), through his construal of the republican constitution, the "democratic state," as an "undisguised contradiction". The ideals inherent in social structures and institutions, which perhaps have only been suggested, are identified as a realistic ground for critique. By articulating the presuppositions of the structures of political life which all citizens share or are promised, Habermas sees a communicative possibility (or an outlook for potential consensus) which rests on ideals or norms that can be

commonly acknowledged, because they are derived from shared political life, and thus can motivate a critique which makes possible social change.¹²⁹

What we see in *Between Facts and Norms* is that the socialist model which was offered as an alternative to state-capitalism (though I believe only in an oblique or undeveloped fashion) in Habermas's earlier works, is rejected,

After the collapse of state socialism and the end of the “global civil war”, the theoretical error of the defeated party is there for all to see: it mistook the socialist project for the design – and the violent implementation – of a concrete form of life. If, however, one conceives “socialism” as the set of necessary conditions for emancipated forms of life about which the participants *themselves* must first reach an understanding, then one will recognize that the democratic self-organization of a legal community constitutes the normative core of this project as well. (*Between Facts and Norms* xli)

Through a critique of the fallen U.S.S.R., socialists are portrayed as taking a wrong road in pursuit of a “concrete form of life,” presumably, socialism is insufficient, incomplete (and possibly incoherent) when taken to suggest a model for society (and, apparently, socialism also suggests the need for “violent implementation” of its plan).¹³⁰ And, though Habermas grants the

129 This strategy of constructing a critical normative standpoint from given relations and cultural understanding can be compared to Rawls later situating his principles of justice as a construction which could be seen to win an “overlapping” consensus in society (see 3.2, 3.3). Habermas clearly expresses his insight into the “double-edged” character of bourgeois ideology and institutions when evaluating Marx's influence on Horkheimer and Adorno in some of their work: “Thus, Horkheimer and Adorno recall the figure from Marx's ideology critique which sets out from the fact that the potentiality for reason expressed in “bourgeois ideals” and sedimented in the “objective meaning of institutions” manifests a double face: On the one side, it bestows on the ideologies of the dominant class the deceptive appearance of being convincing theories; on the other, it offers the starting point for an immanent critique of structures that elevate to the status of the general interest what actually only serves the dominant parts of society. [Classical] ideology critique deciphered in such misused ideas a piece of reason hidden from itself; it read these ideas as a directive that could be cashed in by social movements to the extent that surplus forces of production were developed” (*The Philosophical Discourse of Modernity* 117-118).

130 Habermas also, prior to the fall of the Soviet Union, was developing a criticism of communist inspired critique and mobilization. In a work that was completed in 1985 we find Habermas evaluating the limitation in the Marxist standpoint he believed Adorno and

theory of socialism insight into the “the necessary conditions for emancipated forms of life,” he adds “about which the participants themselves must reach an understanding.” The content (or specific insights) that is involved in construing these necessary conditions for emancipation then seems to be put off, or deferred to the expression and self-understanding of actual social groups. It appears then that socialism is denied the right to make objective, theoretical claims about emancipation and to present a social project to pursue (thus challenging what was asserted in 1.4 and 2.0), or minimally, such claims are viewed as mere practical proposals, not clearly grounded in or necessitated by developing social contradictions.

Between Facts and Norms (296-302) is instead dedicated to presenting a new “legal” alternative. The competition between social models (or different “readings of democracy”) is here construed as between: 1) *liberal*, with the “state as guardian of an economic society...where the democratic process is effected exclusively in the form of compromises among interests...and sovereignty...is exercised only by means of elections and voting and by specific legislative, executive, and judicial organs”; 2) *republican*, where “democratic will-formation takes the form of ethicopolitical self-understanding...the citizens’ opinion-and will-formation forms the medium through which society constitutes itself as a political whole...the people, who are at least potentially present, are the bearers of a sovereignty that in principle cannot be

Horkheimer also appreciated by the 1940’s: “To be sure, the theory upon which they had earlier based themselves and their procedure of ideology critique was no longer viable - because the forces of production no longer developed any explosive force; because crises and class conflicts promoted not a revolutionary, or even a unified consciousness, but a fragmentary one instead; finally, because bourgeois ideals began to retire, or at least to assume forms that eluded the cutting edge of immanent critique” (*The Philosophical Discourse of Modernity* 129). In my last chapter I will return to evaluating the still existent critical and unifying possibility of a critique of capitalist exploitation and crises, and an appreciation of the potential of productive forces, as well as construct a normative inspired project that critically (and hopefully cuttngly) constructs from bourgeois ideals that are still summoned by state-capitalist societies in their defense, and are in fact marshaled by Habermas in *Between Facts and Norms*.

delegated...the people cannot have others represent them”; and 3) *discourse theory*, which “takes elements from both (liberal and republican) sides...reasonable and fair results are obtained insofar as the flow of relevant information and its proper handling have not been obstructed...proceduralized popular sovereignty and a political system tied into the peripheral networks of the political public sphere go together with the image of a decentered society”.

Habermas defends a preference for the discourse (legal) model (option #3 above), and develops his defense through an evaluation of present social realities. He presents certain structures as given in the “democracies” of our day, which he believes he must first conceptualize or represent if he is then going to reveal their ideal underpinnings and interrelations.¹³¹ These structures also carry with them their own form of “special codes”: communicative orientations, hedged in by the values or ends of the institutions participated in. A “lingo” is thus utilized and developed which reflects and narrows the focus of those involved in certain sorts of activities.¹³² Habermas identifies the economy with its special code of “money,” the legal system with “law,” and the state administration with “power.” Habermas also utilizes the concept of “civil society,” but now as separate from “the economic” (or “the economy as constituted by private law and steered through markets in labor, capital, and commodities”) to explicitly distinguish his focus from the “usage of the Marxist tradition” (366). Civil society is not identified as “functioning” through a specialized or shared code, though it is acknowledged to be generally connected through “ordinary language” (more on this below). Instead,

131 A Kantian methodology can be seen as adopted here. From the reality of “democratic” societies one asks “how is it possible?”, i.e., one wishes to bring to consciousness the normative conceptual structure underlying the social reality. I see here a similar “hope” or approach of Kant shared by Habermas (as well as by Hegel and Rawls), that by revealing conceptual presuppositions of organization one can guide and correct society.

132 This “lingo” can be highly and systematically developed. Such development may even be a key component in the efficiency of an institution’s functioning – legal jurisprudence and accounting systems as two examples here.

Civil society is composed of those more or less spontaneously emergent associations, organizations, and movements that, attuned to how societal problems resonate in the private life spheres, distill and transmit such reactions in amplified form to the public sphere. The core of civil society comprises a network of associations that institutionalizes problem-solving discourses on questions of general interest inside the framework of organized public spheres. (367)

Contrary to the understandable anticipation, perhaps best developed by Joshua Cohen (“Deliberation and Democratic Legitimacy”) and criticized by Habermas here (305) that his early focus on the public sphere and his conceptual development of discourse ethics would lead to the demand that these “spontaneous” associations and discourses be generally socially guiding (i.e., central to the “rationalization of society”), Habermas’s purpose in pointing out the varying structures and codes (“complexity”) found in contemporary (U.S., German) societies is in fact to emphasize what he sees as the essential limitations (or limited role) of such informal organizations and discourse.¹³³

133 Cohen’s work does a good job of indicating the (critical) tensions involved in holding a discourse ideal in a state-capitalist society. He thus can demand for “ideal deliberation” that, “participants are substantially equal in that the existing distribution of power and resources does not shape their chances to contribute to deliberation, nor does that distribution play an authoritative role in their deliberation” (93). However, while acknowledging the deforming influence of class power on his ideal (resulting in political exclusion and oppression), he goes no further than proposing checks on this power (or supplemental institutions for the disempowered – even citing Rawls’s proposal for public finance, etc., see 3.4), as if realized democratic discourse can exist alongside or parallel with capitalist exploitation and social power. His political perspective thus does not essentially question such exploitation (does not recognize the unjust and alienated relations found here), nor does it see the undemocratic relations essential to such exploitation (capitalist management and ownership and their political influence on and in the state), but only tries to limit its implications for “democratic discourses.” “(T)he ideal of democratic order has egalitarian implications that must be satisfied in ways that are manifest to citizens. The reason is that in a just society political opportunities and powers must be *independent of* economic or social position – the political liberties must have a fair value – and the fact that they are independent must be more or less evident to citizens. . . Thus the importance of democratic order is not confined to its role in *obstructing* the class legislation that can be expected from systems in which groups are effectively excluded from the channels of political representation and bargaining. In addition, democratic politics should also shape the ways in which members of the society understand themselves and their own legitimate interests” (88-89, italics mine).

Admittedly, this formulation could mislead one into thinking the “ideal communication community” had the status of an *ideal* rooted in the universal presuppositions of argumentation and able to be approximately realized...it is legitimate to use such a projection for a thought experiment...the essentialist misunderstanding is replaced by a methodological fiction in order to obtain a foil against which the substratum of *unavoidable* societal complexity becomes visible. (332-323)

Though Habermas does not deny the role of the discourse/s of civil society (which, as will be developed below, becomes a complicated case in its own right), this work identifies civil society as on “the periphery” (357) of the network of social organizations, “the communication structures of the public sphere *relieve* the public of *the burden of decision making*, the postponed decisions are reserved for the institutionalized political process” (362). In what way the “thought experiment” of the ideal communication community provides a useful (or practical) critical perspective for society, while at the same time highlighting what is “unavoidable,” is no small matter here. We must consider to what degree Habermas is capitulating to, rather than critiquing, social relations by looking at the degree to which he adapts his (reconstructive) normative approach (and even his own original theoretic contribution, his public discourse theory!) to “given” institutions (capitalism, private and public law and legal procedures, and the republican state).

The focus in this late work is placed on the institutions of the legal system, the legislature and judiciary, since the law is identified as the primary, and perhaps the only *public code* that carries the notion of legitimacy, and thus contains “normativity.”

For law is a medium through which the structures of mutual recognition already familiar from simple interactions and quasi-natural solidarities can be transmitted, in an abstract but binding form, to the complex and increasingly anonymous spheres of a functionally differentiated society...The language of law brings ordinary communication from the public and private spheres and puts it into a form in which these messages can also be received by the special codes of autopoietic systems – and vice versa...law has a more complex structure than morality because it (1) simultaneously unleashes and normatively limits

individual freedom of action (with its orientation toward each individual's own values and interests) and (2) incorporates collective goal setting, so that its regulations are too concrete to be justifiable by moral considerations alone. (318, 354, 452)

The legal system has a material or empirical reality that *is* specifically developed in each society, while the law is also recognized as the language through which the normative concerns of citizens can become socially effective and realized through enforcement. At the same time, Habermas notes publicly acknowledged goals and desires, along with different institutional ("functional") ends, can be pursued through the use of collective resources and ("political") administrative planning and control. Habermas is concerned with developing a standpoint that is informed by Ronald Dworkin's *Law's Empire* which related moral principles or grounds to legal justification, and can be viewed as close to Virginia Held's standpoint in *Rights and Goods*, that the judiciary and constitution should be concerned with securing deontological rights, and the executive with the pursuit of teleological aims or goals (with the legislature sharing in both functions). The economy and the administration or state bureaucracy, though institutionally distinguished from the legal system (and viewed as "autopoietic"), are related to it insofar as they are (or ought to be) bound within or checked by the laws, for in "democratic" societies money is to be pursued and power applied only within legal boundaries. Thus, the legal institutions are not only informing and shaping the normative consciousness of the citizens and guiding or coordinating their choices (here emphasizing the public and coercive aspects of the law), they also provide the possibility and means for the concerns and aspirations of the diverse members of civil society to become actualized across the shared social fabric.

This sociological translation of the discourse theory of democracy implies that binding decisions, to be legitimate, must be steered by communication flows that start at the periphery and pass through the sluices of democratic and constitutional procedures situated at the entrance to the parliamentary complex or the courts (and, if necessary, at the exit of the implementing administration as well). (356)

Yet, we should consider that the promise of “democratic” institutions can in fact serve an ideological function if the ideals (or ideal relations) read into these institutions are used simply to defend any current conditions of liberal democracies. An understanding of the ideals, I believe, can and must be connected to their social presuppositions (the conditions of their “realization”) - otherwise this positive reconstructive approach by Habermas is as uncritical as he holds Marx to be in presupposing that the state is only a false reality created to imprison proletarian minds.¹³⁴ The fact must be acknowledged that it is possible for institutions to “suggest” an ideal which, given the reality of the functioning of those institutions, cannot be realized or adequately realized. Essentially, we can remind the later Habermas that the earlier Habermas knew that a “mass” doesn’t make a democracy composed of politically autonomous individuals (see 4.3, 4.4). But, perhaps, Habermas doesn’t require such a reminder, for, “to be sure, the normal business of politics, as least as it is routinely conducted in Western democracies, cannot satisfy such strong (discourse theory) conditions” (356). But, what then is the significance or status of this democratic legal model? In what way is it an alternative to the unresolved conflicts in state-capitalism? For, Habermas does not want merely to provide the “bright side” of a society still rife with contradictions, for this would amount to an ideological apology that Marxists are quite right to reject.

It is perhaps inaccurate to accuse Habermas of only focusing on the bright side in *Between Facts and Norms*; the sociological perspective he offers of “democratic” society, in its less “reconstructive” and more descriptive moments, provides a different picture. In fact, we are

134 As I pointed out in the Rawls section (3.4) Rawls was quite rightly criticized (and forced to emend) his commitment to the distinction between liberty’s meaning and its “value.” A commitment to human liberty should be understood to include a commitment to the conditions required to realize that liberty, this is what I understand by the connection between an ideal and its “social presuppositions.”

reminded of (hardly democratic) features of state-capitalism that were more central to the critical focus of his earlier works,

The structures of a power-ridden, oppressed public sphere exclude fruitful and clarifying discussions. The “quality” of public opinion, insofar as it is measured by the procedural properties of its process of generation, is an empirical variable...Such (discursive) associations certainly do not represent the most conspicuous element of a public sphere dominated by mass media and large agencies, observed by market and opinion research, and inundated by the public relations work, propaganda, and advertising of political parties and groups...The results of deliberative politics can be understood as communicatively generated power *that competes*, on the one hand, with the social power of actors with *credible threats* and, on the other hand, with the administrative power of office holders...in the fragmented societies of today’s economically interdependent OECD-world, the prosperity and security enjoyed by a majority of the population (?) is increasingly accompanied by the segmentation of a *neglected and powerless underclass* that is disadvantaged in practically every respect. Conflicts arise between the neocorporatistically negotiated policies and the constitutional protection of underorganized parts of the population at the periphery of society. These conflicts arise not only as the result of unequal distribution of social rewards but also the loss of collective goods affects different social classes selectively. (362, 367, 341, 350, italics and question mark mine)

When analyzing the critical observations here, we should note Habermas has moved from the concern (in *Knowledge and Human Interests*) that the majority of workers are subject to an unnecessary struggle with scarcity, to the observation (or, rather, stipulation) that “the majority” in OECD (Organization for Economic Cooperation and Development) countries enjoy “prosperity and security.”¹³⁵ But, we find mention of a “periphery” to the periphery that is civil

135 The OECD website claims, “**Our mission:** OECD brings together the governments of countries committed to democracy and the market economy from around the world to:

- Support sustainable economic growth
- Boost employment
- Raise living standards
- Maintain financial stability
- Assist other countries' economic development
- Contribute to growth in world trade

Some early OECD (1960’s) members include Spain (currently 20% unemployment), Turkey (8:1 income disparity between top 20% and bottom 20%), U.S. (1/7 in poverty), UK (22% in “lowest

society, a powerless underclass who are not part of the “public” proper – not simply “distributively” poor, but denied collective goods, state and social or institutional and infrastructural goods. Marx saw the progress of socialism to communism (found in the *Critique of the Gotha Program*) as measurable by the growing dedication of social production to “the common satisfaction of needs,” social infrastructure and institutions (“schools, health services, etc”). By contrast, “democratic” state-capitalism is observed by Habermas to be developing instead a growing population (an “underclass”) who suffers the most from the loss of collective goods due to “neocorporatistically negotiated policies”.¹³⁶

income threshold”). As for the “security” found here, the U.S. is an extraordinary OECD case, with the highest incarceration rate in the world (2.3 million persons total), 1/28 children have one parent in jail, and African American males have a 1/3 chance of going to prison in their life-time (a disgraceful indicator of institutional or structural racism and oppression).

136 Stanley Aronowitz’s *The Crisis In Historical Materialism* provides a needed elaboration on (and conceptual development of) this concept of “underclass.” “Labor market segmentation theory explains how the distinctions within the working classes become wider owing to the formation of sectors in the American economy that have a differential relation to the international social and technical division of labor. Implicit in the theory is the beginning of a conceptual basis for the formation of *new underclasses*, or a sub-proletariat, within the American social structure whose relations to the traditional working class are becoming increasingly antagonistic...Black, Hispanic, and Asian fractions, together with the white aged, the unemployed and underemployed, large sections of women, and the handicapped, constitute the underclass of American society. The historical development of this underclass is linked to the fate of the relatively technologically-backward competitive sectors, the rapid rise of labor productivity due to the systematic applications of science and technology to the labor process, and the requirement of capital to form a vast industrial army of labor that could be pressed into production in times of rapid expansion...The most important feature of this segregation among different aspects of society has been the concomitant pattern of housing and social segregation. It is not that whites, blacks and Hispanics are segregated merely because of racial hatred; rather, racial hatred is an effect of the unevenness and segmentation of American capitalist development...The conditions for the reproduction of social relations depend upon the capacity of capital to divide labor among race, sex, and ethnic lines, as well as to impose a series of ideological relations in which alternatives to capitalism become inconceivable. These include the displacement of the struggle against exploitation within the labor process to what Lefebvre calls the “bureaucratic society of controlled consumption,” which in turn depends upon the transformation of everyday life from collective forms to those marked by isolation and clashes among subaltern groups” (92, 93, 94, 97).

We also see Habermas noting that “democratic” state-capitalism has “actors” with such significant “social power” that they have “credible threats” at their disposal. Are we to interpret this as being open to (the Marxist) point that capitalists have a great deal of influence over the workforce (firing, hiring, setting the wage, disciplining at work and against worker organization, etc.), while of course also allowing for other (unchecked) means of social, civil repression?¹³⁷ “Deliberative politics” is also distinguished here from the “administrative power of office holders”, and we are told (again) that “political parties and groups” utilize PR and propaganda for mass manipulation. Thus, communicatively generated power (what is properly “democratic” in Habermas’s focus) is left to “compete” with social and political forces. While, again, we can note there are members of the population so dispossessed, so disempowered, that they do not typically have an influence or play a role in the public sphere (their “voice” is not even a factor). What is the status then of the (reconstructive) standpoint that in “democracies,” politics and “the economy” are checked by law which is itself connected to public discourse?

Even on its own self-understanding, deliberative politics remains part of a complex society, which, as a whole, resists the normative approach practiced in legal theory. In this regard, the discourse-theoretic reading of democracy has a

137 Of course there are different “social powers” and “threats” than just those traceable to capital. For instance, Mill’s *On Liberty* focused on the potential oppressive threat of public opinion, often his examples focus on the intolerant attitudes (and assumed “infallibility”) of religious people and questioned the “absoluteness” of puritanical mores (in Habermas’s language, this would be focusing on the power of informal civil organizations). We can connect Mill’s concrete concerns about puritanical norms to Weber’s famous analysis of the protestant work ethic and its connection to capital accumulation, and note puritanical asceticism publicly generalized (discursively held as an ideal) provides an ideological apology for scarcity, and the lack of fulfillment of desire, “you should work hard and make do with less.” More recently, Iris Marion Young (“Justice and the Politics of Difference”) analyzed “cultural imperialism” on the level of our unconscious habits or “practical consciousness” (a bourgeois, business “professionalism” is still seen as essential to “respectability”, but the behavioral attributes required here are identified as distinctive to “white anglo heterosexual middle-class men”). Noting these other possible forms of social power and potential threat by no means serves as a justification for the social power and threat that is distinctive to capitalists (and can even deepen the analysis of capitalist power and oppression).

point of contact with detached social-scientific approach that considers the political system neither the apex nor center nor even the structural core of society, but just *one* action system among others. On the other hand, because it provides a safety mechanism for solving problems that threaten social integration, politics must be able to communicate through the medium of law with all the other legitimately ordered spheres of action, however these happen to be structured and steered...the constitutional state does not represent a finished structure but a delicate and sensitive – above all fallible and revisable – enterprise, whose purpose is to realize the system of rights *anew* in changing circumstances, that is, to interpret the system or rights better, to institutionalize it more appropriately, and to draw out its contents more radically. This is the perspective of citizens who are actively engaged in realizing the system of rights...Although legal theory cannot adopt this participant perspective as its own, it can reconstruct the paradigmatic *understanding* of law and democracy that guides citizens whenever they form an idea of the structural constraints on the self-organization of the legal community in their society. (302, 384)

We are told that the social and political complexity of society resists the deliberative legal or normative perspective, though it is granted the political system will have to rely on law to assert its “integrative” influence, and thus utilize normative discourse to connect to the other “legitimately ordered spheres of action” (which, to be accurate, and not “idealizing”, should be called spheres of action which must be critiqued and made legitimate *however these happen to be (presently) structured or steered*). While it is claimed that the legal (normative) perspective itself cannot adopt the actively engaged, participant view of citizenship (a structured engagement I indicated in 4.4), it can inform citizens of the “structural constraints” on their self-organization. Is it even accurate then to see social (capital) and political (administrative) systems as resisting the deliberative legal perspective? Doesn’t Habermas instead grant these “resistances” as inherent to the “paradigmatic understanding” of law and democracy?

I think it is important to see that certain more radical interpretations of Habermas’s discourse theoretic perspective are avoided in order to accommodate (and ultimately reify) the “complexity” of state-capitalist society. The discourse standpoint is not necessarily apologetic to this reality, but *Between Facts and Norms* develops or elaborates it in this direction. After all, a

more “radical” interpretation is possible by asking whether certain complexities should not be adapted to, or be taken as a fact (or even be discursively bracketed as “debatable”).¹³⁸ Habermas claims, “The intention is to tame the capitalist economic system, that is, to “restructure” it socially and ecologically in such a way that the deployment of administrative power can be simultaneously under control” (410). But, if one holds to Marx’s view that exploitation is inherent to capital (a point I argued in relation to Rawls in 3.3), one finds a basic illegitimacy in capitalist relations, and if one sees the contradictions, crises, and oppression inherent to capital as not solved or solvable by state-capitalist intervention (which I argued in my analysis of *Legitimation Crisis* would be true of a merely “reactive” state policy tied to capitalist relations – see 4.3), one also finds complexities that are not to be seen as mere threats to social integration which must be managed by political state action (with an administration “out of control”), but debilitating and unnecessary conflicts which are to be eradicated. The Marxist standpoint calls for resolving, not managing social contradictions (class exploitation and conflict), and this more “radical” project can be construed as opening the way to “democratic,” “participatory” relations that did not seem possible before (given reified state-capitalist complexities).¹³⁹

138 Again a parallel can be established between Rawls’s and Habermas’s later theoretic developments. In 3.3 I pointed out that Rawls in *Political Liberalism* was willing to view a core normative development of his theory of justice, his difference principle, as “debatable,” or not as a “constitutional essential,” in order to secure an “overlapping consensus.” Habermas can be viewed, I argue in this section and the next, in *Between Facts and Norms* to be fitting (and restricting) his discourse ideal to current political and economic relations, rather than committing to a more radical (and consistent) interpretation of its political import.

139 The problem of the state that only “reacts” to capital contradictions is brought up as well in *Between Facts and Norms*. “The administrative system apparently can operate self-consciously only within extremely narrow limits; its operations seem to follow a more reactive style of politics dictated less by planning than by avoiding crisis. On the output side, the “active state” quickly reaches the limits of its steering (or regulatory) capacity, because social systems and large organizations stubbornly resist direct interventions. On the input side, the room for initiative on the part of Government leaders and parties is also restricted by the unpredictability of independent voters – whether enlightened or mobilized by populist movements – whose party

4.6: A Discourse Legal Radical Alternative?

To appreciate the need to develop this more radical interpretation we should again look at the role of the public in this “middle-ground” legal (discourse) theory reconstruction of “democracy,” and evaluate the sharpness of the critical edge that Habermas still sees as inherent to this normative perspective. For, after all,

The growth of complexity does not automatically imply a shift from the normative to the cognitive (functional, technical standpoint)...If one counters such reformist perspectives with the usual arguments referring to complexity, then one conflates legitimacy and efficiency...Semantically closed systems cannot be induced to invent on their own the common language necessary for the perception and articulation of the relevant issues and standards of evaluation that apply to society as a whole. In the peripheral networks of the political public sphere and in the parliamentary complex, this ordinary language is, in any case, already in demand for dealing with macrosocial problems...The political public sphere can fulfill its function of perceiving and thematizing encompassing social problems only insofar as it develops out of the communication taking place among *those who are potentially affected*...Systematic deficiencies are experienced in the context of individual life histories...of the “clients” of functional systems that might be failing in their delivery of services...It is only for those who are immediately affected that such services are paid in the currency of “use values.” (*Between Facts and Norms* 435, 444, 352, 365)

We are cautioned not to lose sight of the specific demands of the normative standpoint; system complexity is here announced as no excuse for hedging norms (and is in fact argued to introduce an incommensurable criteria of evaluation). In fact, the network or totality of systems is seen as

ties are becoming increasingly loose...established parties have to fear the withdraw of legitimation through protest votes and nonvoting” (333). Here we find not planning, but crisis avoidance, social power (“systems” and “large organizations”) out and out resisting (and, presumably, having the power or influence to resist) government intervention, and (more positively) voters’ influence on government policy. But, we should note the latter check on government intervention is judged as “positive” or not depending on whether the public is “enlightened” or merely “mobilized by populist movements.” But, it would seem to be more consistent with Habermas’s perspective to not see populist movements as the antithesis to enlightenment, but, rather, mobilization of civil society by social or political powers through mass manipulation (a manifestation of the “colonization of the life-world”).

requiring a connection to (the public) “ordinary language” in order for system functioning to be seen as responsive (or responsible) to issues and standards of evaluation of “society as whole.” The systems of the economy, whose code is money (exchange value), and the state administration, whose code is power, have their use value determined by the “clients” of these systems.¹⁴⁰ And, though Habermas places the “parliamentary complex” on the same level (of ordinary language) as individual life histories, I see no reason why the use of legislation (and the legislators), of the law, of the judiciary, etc., are not evaluated like the systems named.¹⁴¹ It would appear that the public’s debate (in ordinary language) is essential then for the (rational or responsible) steering and management of society (and its “systems”).

We are told,

In spite of asymmetrical access to expertise and limited problem-solving capacities, civil society also has the opportunity of mobilizing counter-knowledge and drawing on the pertinent forms of expertise to make *its own* translations. Even though the public consists of laypersons and communicates with ordinary language, this does not necessarily imply an inability to differentiate the essential questions and reasons for decisions...As soon as specialized knowledge is brought to politically relevant problems, its unavoidably normative character becomes apparent, setting off controversies that polarize the experts themselves...it is advisable that the enlarged knowledge base of a planning and

140 The construal of the members of a society as “clients” is by no means a neutral choice. Our conception of ourselves in social relations plays a role in our conception of our rights and responsibilities, and our powers and opportunities. As an example of such a dispute with language, ““Radical” means that the (proposed new left) party refuses to accept the clientization of workers and the poor, in unions as well as in the delivery of social services. And train and bus riders are not “customers” of public transportation, as Amtrak and municipal transportation authorities call them. They are the owners of these services, and the bureaucracy and managers who operate them are public servants and should be accountable not just as participants in ritual public hearings but as members of elected citizen boards” (*Left Turn* 190). And, we can note Habermas (*Legitimation Crisis* 14, above) first used the notion of “clients” for “organized special interests” (i.e., social groups with sufficient organization and power to influence state policy), whereas here the “clients” are *individuals* subject to the “services” of “functional systems” (with whatever influence/power over them).

141 Certainly legislation can be evaluated as to whether it captures what you (or the debating public) see as relevant, a priority, consistent with standards of evaluation, or addressing “marcosocial problems,” etc.

supervising administration be shaped by deliberative politics, that is, shaped by the publicly organized contest of opinions between experts and counterexperts and monitored by public opinion. (372-373, 351)

The experts of political and economic systems do not have a monopoly on the meaning, significance, or wisdom of what they do. In fact, any expert knowledge that is to become “politically relevant” (technically applied in society through political power, rather than discourse) is seen then to introduce a normative dimension (i.e., *should* some plan x be done or not, is its outcome desirable relative to other possible actions or non-action, etc.). This is not to deny that certain facts or theories can only be grasped by certain experts, but the consequences of putting technical knowledge into practice can be commonly understood.¹⁴² Also, minimally, as we saw above, the impact (the “use value”) of the “output” of the economic and political (and legal) systems is experienced in the life histories of individuals (the “clients” of these systems). “It is against the life-historical background of violated interests and threatened identities that the effects of deficient system integration are first experienced as pressing problems” (351). Those who suffer and live out the consequences of political and economic decisions are inseparable from the appreciation of the significance or meaning of those decisions. No statistic factored in by a system manager can substitute for the direct experiences of “violation” or “threat” that result from “deficient system integration.”¹⁴³

142 Few know how to create a nuclear weapon, but the debate over whether such weapons ever should be used (or held in reserve) is clearly within the grasp of the general public.

143 The normative demand to empower the voice of members of society was also touched upon in my Rawls chapter (3.3) when interpreting the difference principle. I indicated that the “worst off” would have to be political empowered, such that *they* determine which inequalities are deemed necessary or acceptable *for their interests*. I will return to this point, Habermas’s point in the above, and to the consideration that the difference principle also has a “objectivistic” moment - that undesirable and unintended consequences of social action or non-action, should be steered clear of or “system” administered - in my final chapter to demonstrate the connection between concerns about justice and “rationality” found in Marxism.

And, we are also told that systems should be viewed as instruments, not as “ends-in-themselves.” Citizens shouldn’t have to compete with systems for legal protection, and government officials should hold out against corporate bargaining partners due to their “obligation to represent the whole of an *absent* citizenry” (350, italics mine). The instrumental view of systems I believe is quite correct (see 2.3 for some discussion on this point), but since these are systems of human cooperation and coordination (economic, political, legal, etc.) that we are discussing, the relations within the systems’ functioning, as well as the consequences (or “output”) of the systems can be critiqued. Again, I hold that Marx’s point when critiquing capitalist relations is both that the exploitation inherent to the wage-contract is unjust (exploitative), and the contradictions inherent to capitalism (and still unresolved by the “reactive” state) are irrational (undesirable and avoidable). Meanwhile, the protection given to corporations (as legal “persons”) by the U.S. Supreme Court in the 1886 Santa Clara County v. Southern Pacific Railroad decision (through the manipulation of the anti-slavery 14 amendment) has pretty much set a precedent for the competition between individual citizens and the economic system of capital. The limited hope we should have of politicians holding out against corporations is understandable given the legal status granted corporations (which validates the “contest” between citizen and corporate interests) and the funding/support politicians gain from corporate donors (defended by U.S. Supreme Court decision as freedom of speech in 2010, in the Citizens United v. Federal Election Commission decision); while the “obligation” of politicians to represent an “absent citizenry” (and not just Super PAC funders) appears to face certain limitations given that the desires and concerns of those “absent” are not (from the discourse perspective) simply divivable by even well meaning politicians.¹⁴⁴

144 Habermas presents other reasons for optimism in politics, “Public opinions that can acquire

Yet, Habermas offers further consolation,

To the degree that practical reason is implanted in the very forms of communication and institutionalized procedures, it need not be embodied exclusively or even predominately in the heads of collective or individual actors...For example not all interests can be publicly advocated. Hence the publicity of political communications (emphasized by Kant), in connection with the expectation that proponents are consistent in their utterances and explain their proposals coherently, already exerts a salutary procedural force. Under these conditions, concealing publicly indefensible interests behind pretended moral or ethical reasons necessitates self-bindings that either on the next occasion expose a proponent as inconsistent or, in the interest of maintaining credibility, lead to the inclusion of others' interests. (340-341)

Not only can the roles of individual and collective actors of civil society be given a peripheral place, insofar as institutions and “political communications” (*from* politicians) function publicly, practical reason can even be seen as predominately not present in civil society. The capacity of the “clients” in civil society to evaluate the “use” of their social systems is greatly de-

visibility only because of an undeclared infusion of money or organizational power lose their credibility as soon as these sources of social power are made public. Public opinion can be manipulated but neither publicly bought nor publicly blackmailed. This is due to the fact that a public sphere cannot be “manufactured” as one pleases. Before it can be captured by actors with strategic intent, the public sphere together with its public must have developed as a structure that stands on its own and reproduces itself *out of itself*” (364). Certain public opinions are seen to lose their credibility if the only reason why they were given voice in the first place is revealed to be through the influence of money or organizational power; the check here assumes that the “sources of social power” are made public (or widely known/advertised), and doesn't consider the difficult/confusing context of the present (“legal”) protection and conflation of money with speech. And, the manipulation of the public (taken so seriously by Habermas in earlier works) here is seen to be limited by the conditions of its “manufacture”; manipulation of the public sphere first presupposes a public sphere (“itself”) to manipulate, thus the autonomy (and insulation or protection, “on its own”) of the public is assured by a quick, formal argument. In a similar vein we are given, “propositions concerning the *effects of the media* remain controversial...research on effect and reception has at least done away with the image of passive consumers as “cultural dopes” . . . it directs our attention to the *strategies of interpretation* employed by viewers” (377). The trouble is even these receptions, interpretations, and reactions of the public are made the object of research of the manipulators, that there are resistances and reactions (and even rejection) of the “message” does not prove there is anything like an autonomous (secure) public sphere. I believe the language here is slipping into idealizations, as is also evident by the assurance that public opinion can be “neither publicly bought nor publicly blackmailed.” The status of the checks sent out to all citizens at the beginning of George W. Bush's (disputed) first term is one case which makes this latter claim highly questionable.

emphasized *to the degree* that practical reason is seen as implanted in political institutions and communications. But, the proposal of a political practical reason embedded in institutions and communications cut off from, or viewing as insignificant the debate of civil society is a difficult or even a paradoxical perspective for the discourse political model presented. The appeal to Kant's notion of "publicness" to defend an emphasis on the "discourse" of political institutions (or politicians) is interesting, for it reveals certain difficulties as well.

In *Perpetual Peace* (Appendix 2) publicness is seen negatively as a test of 1) the permissibility of political/administrative acts. Those acts which it is imagined would not be permitted by the citizenry if made public are wrong. While, positively, 2) those acts which not only are imagined acceptable to public knowledge, but would in fact require public knowledge and support to fulfill, are seen as not only consistent with "right," but with the pursuit of the citizenry's happiness.¹⁴⁵ However, Habermas's discourse perspective would seem to have to be concerned with both the development of the public (its normative sense and practical reason deepening with ongoing debate – this is the process of "enlightenment" of the public) which is, after all, to serve as the testing ground, *and* with putting the publicness test *to actual tests* (thus "publicness" is not to be conceived, from the discourse perspective, as a standpoint to be imagined by politicians). And, the revealing of bad politicians (aiding narrow interests, counter the public good) based on the hope that the moral dress they give to their maneuvers will lead to obvious (and "costly", for re-election) inconsistencies, or drive them (for consistency's sake) to include "the others'" interests (to what extent?) seems a cold consolation indeed (especially for the "powerless underclass").

145 Also, Kant does not consider the possibility of the oppression of a minority by the majority in these reflections.

Perhaps this is why Habermas must also suggest a “radical” alternative, a potential or possibility which he credits as within the discourse legal perspective.

In cases of conflict, that is, processing matters according to the usual conventions is eclipsed by *another* mode of operation. This latter mode of operation is characterized by a consciousness of crisis, a heightened public attention, an intensified search for solutions, in short, by *problematization* ... In periods of mobilization, the structures that actually support the authority of a critically engaged public begin to vibrate. The balance of power between civil society and the political system then shifts...For our purposes, it suffices to make it plausible that in a perceived crisis situation, the *actors in civil society* thus far neglected in our scenario *can* assume a surprisingly active and momentous role. In spite of a lesser organizational complexity and a weaker capacity for action, and despite the structural disadvantages mentioned earlier, at the critical moments of an accelerated history, these actors get the chance to *reverse* the normal circuits of communication in the political system and the public sphere...the endogenous mobilization of the public sphere activates an otherwise latent dependency built into the internal structure of every public sphere, a dependency also present in the normative self-understanding of the mass media: the players in the arena owe their influence to the approval of those in the gallery...Once again, in the final analysis, the only thing that serves as a “palladium of liberty” against the growth of independent, illegitimate power is a suspicious, mobile, alert, and informed public sphere that affects the parliamentary complex and secures the *sources from which legitimate law can arise*. (357, 379-381, 441-442)

Conflict and crisis (“critical moments of an accelerated history”) can bring about a new “mode of operation,” a new “balance of power,” where the neglected actors of civil society take precedence over the political system; the people in the “gallery” (the “clients” previously) assert their will over the political “players” in the “arena.” The publicness of the public sphere (and the mass media) is here described as an activated or awakened latency (again); publicness, which is argued as the source of legal (discourse) legitimacy, is here found as an actualized potential only during exceptional cases of emergency. And, it is during this heightened state of awareness, consciousness, attention, “problematization,” “suspicion,” and “alertness” - achieved against all odds, despite “structural” and “organizational” deficits and linked deficits in political capacities and opportunities, i.e., the critique of “mass society” previously taken seriously - that the

public's liberty can be defended and asserted (through its own "mobilization" and "critical engagement") against the "conventional", status quo, "independent, illegitimate power" (social powers?) and the unresponsive and inadequately functioning "parliamentary complex."

If one looks at the "crises" and "conflicts" that Habermas notes were not "problematized" (forget about "solved") through the initiative of the "state apparatus, large organizations, or functional systems" and mass media (state-capitalist republican) arrangements, one finds that the status quo proved unconcerned with or initially was "immune" to all the major questions of the day. We are offered a substantial list (381) of what is left to "intellectuals, concerned citizens, radical professionals, and advocates" to problematize: the spiraling nuclear arms race, the risks of using nuclear energy, large-scale technology and scientific experimentation, varied ecological threats (acid rain, water pollution, species extinction, global climate change, etc.), the dramatic impoverishment of the Third World, problems of the world economic order, and issues relevant to feminism, immigration, and multiculturalism. Basically, the "rational" economic and political systems don't address any of the leading crises and problems of human life (experienced by the systems' "clients" in their life-histories) unless "unofficial" grass roots organizational movements find a way for these concerns to "force their way into newspapers and interested associations" (381) and ultimately, through further efforts, make their way to the exalted sphere of the "political agenda."

But how is this "radical" alternative part of the defense of the discourse legal theory and the democratic state-capitalist societies that were to be defended via the normative legal reconstruction? The defense, shifting now from the normative reconstruction of the political institutions and systems to the activity of civil society (in large part as a reaction to both the

action and non-action of the institutions and systems) is a shift to different forms of “operating” or organization. One is reminded of an ambiguity in meaning that Hannah Arendt points out,

The word ‘constitution’ obviously is equivocal in that it means the act of constituting as well as the law or rules of government that are ‘constituted’, be these embedded in written documents or, as in the case of the British constitution, implied in institutions, customs, and precedents. It is clearly impossible to call by the same name and to expect the same results from those ‘constitutions’ which a non-revolutionary government adopts because the people and their revolution had been unable to constitute their own government, and those other ‘constitutions’ which either, in Gladstone’s phrase, ‘had preceded from progressive history’ of a nation or were the result of a deliberate attempt by a whole people at the founding of a new body politic. (*On Revolution* 136)

We have gone from praising the “constituted” institutions and systems (the economy, the political administration, the judiciary and legislature) and construing (discourse) “practical reason” as embedded in their “forms of communication and procedures,” to noting the outstanding crises and conflicts that are unaddressed by, and result from, these systems and which summon the people to re-constitute their society.

To gesture to the “wisdom” of the constituted system by noting the capacity of the subjects of that system to defend themselves from its worst abuses and neglect, and their ability at times to make certain gains in their standard of living and life prospects, appears to be the same form of argument adopted by Machiavelli, when he points out the “excellence” of the Roman constitution by noting how there the tumult of the plebs was good for “retaining their freedom”: “Look how people used to assemble and clamour against the Senate, and how the senate decried the people, how men ran helter-skelter about the streets, how the shops were closed and how the plebs *en masse* would troop out of Rome – events which terrify, to say the least, anyone who read about them” (*Discourses* Book 1, Chapter 4). In the ancient Roman Republic we find actions on the street and mass walkouts (not a fearful sight from some political perspectives), and in the case of the Decemviri take over, unwillingness to obey military

command; these acts are not distinctive to modern “democracies,” and can only be argued as part of the “constitution” of such societies in a very loose (non-legal) way. Of course Machiavelli (unlike Habermas) also plainly adds, “in every republic there are two different dispositions, that of the populace and that of the upper class and that all legislation favourable to liberty is brought about by the clash between them.”¹⁴⁶ The fate of the Roman republic, ending with Caesar and the emperors, is a “classic” cautionary tale about the extent of the security of “liberty” through reliance on informal (unstructured), and merely potential social movements as a “guarantee”; certainly Marx’s point about Bonapartism’s connection to Republicanism (see 2.2) also finds traction here.¹⁴⁷

With Habermas we are left praising a general liberal ethos to defend yourself and your own notions of rights.

It is precisely the deliberately filtered political communications that depend on lifeworld resources – on a liberal political culture and an enlightened political socialization, above all on the initiatives of opinion-building associations... At the very least, one can say that insofar as a rationalized lifeworld supports the development of a liberal public sphere by furnishing it with a solid foundation in

146 It is also of interest to note that Habermas, like Rawls, ends his thoughts about “radical action” at considering the appropriateness and place for civil disobedience. “Independently of the current object of controversy, civil disobedience is also always an implicit appeal to connect organized political will-formation with the communicative processes of the public sphere... in crisis situations (civil disobedience) actualizes the normative contents of constitutional democracy in the medium of public opinion and summons it against the systematic inertia of institutional politics” (*Between Facts and Norms* 383). But here, it is granted that “institutional politics” has its own inertia (a systematic neglect leading to crises), and the latent (democratic) normative content is “actualized” through the organization and action of civil society itself; civil disobedience is justified then by pointing out the fundamental limitations of the state-capitalist political system. The norms involved in the Marxist alternative, and its praxis, can also then be considered.

147 Marx and Engels (*The German Ideology*, I, 1) also add to the analysis of the case of Rome the existence of slavery (an invisible class in Machiavelli’s analysis). This is a key point for it is argued that the social existence of a class exploited and oppressed by patrician, plebian, and burgeoning proletariat prevented the radicalization of the poor citizen’s consciousness (the “common project” of oppression of a slave class tied the worker-plebian and patrician to a common ideology of “Rome”).

civil society, the authority of a position-taking public is strengthened in the course of escalating public controversies. (302, 382)

The sum of the more “radical” points appears to credit “democratic” state-capitalism with the political initiatives of civil society (which is referred to *but latent in* the public show of politics, and the mass media appeal). This is a weak defense, and one in fact constructed in relation to the most radical facts (facts which could very well be construed to challenge the legal framework they are presented as justifying), but such a defense gains strength through a now familiar tactic, judging the value of democratic state-capitalism while also summoning the specter of totalitarianism (see the discussion of Constant and Berlin in 3.4 as well).

The tight connection between an autonomous civil society and an integral private sphere stands out even more clearly contrasted with totalitarian societies of bureaucratic socialism. Here a panoptic state not only directly controls the bureaucratically desiccated public sphere, it also undermines the private basis of this public sphere. Administrative intrusions and constant supervision corrode the communicative structure of everyday contacts in families and schools, neighborhoods and local municipalities. The destruction of solidarity living conditions and paralysis of initiative and independent engagement in overregulated yet legally uncertain sectors go hand in hand with the crushing of social groups, associations, and networks; with indoctrination and the dissolution of cultural identities; with the suffocation of spontaneous public communication. Communicative rationality is thus destroyed *simultaneously* in both public and private contexts of communications. The more the bonding force of communicative action wanes in private life spheres and the embers of communicative freedom die out, the easier it is for someone who monopolizes the public sphere to align the mutually estranged and isolated actors into a mass that can be directed and mobilized in a plebiscitarian matter. (368-369)

The “democratic” state-capitalist crises of system inertia, the tendency of the economy (money, social power) and politics (political power) to detach from the use-value consciousness (the needs and desires) of the “clients” of civil society while de-emphasizing de facto public discourse, is seen to justify the mobilization of civil society to protect its own interests (the unaddressed sufferings, deficiencies, and threats experienced in individual “life-histories”). But, this “systematic,” crisis prone condition is praised in relation to the worse alternative of a

politically managed public discourse that is reinforced through surveilled and insecure private spheres. State-capitalism, for all its admitted neglect, is thus given its halo before the terror of “panoptic” administrative control. But, this undesirable “bureaucratic socialism” is not offered simply as a bad form of socialism, but presented as socialism’s inherently bad form.

(D)emocratic movements emerging from civil society must give up holistic aspirations to a self-governing society, aspirations that also undergird Marxist ideas of social revolution. Civil society can directly transform only itself, and it can have at most an indirect effect on the self-transformation of the political system; generally, it has an influence only on the personnel and programming of this system. But in no way does it occupy *the position* of a macrosubject supposed to bring society as a whole under control and simultaneously act for it... administrative power deployed for purposes of social planning and supervision is not a suitable medium for fostering emancipated forms of life. These can *develop* in the wake of democratization processes but they cannot be *brought about* through intervention. (372)

Civil society, which in each case of crisis finds itself forced to self-organize and act despite (and on) the political and economic systems is told that this reactive, dependent relation is its proper place and limitation. Civil society is only to influence (“emancipate”) *itself* directly, and influence the “self-transforming” political system indirectly, through changing personnel and different “programming.” Marxism is construed as going too far when it marshals the “democratic movements” from civil society to establish themselves as the governing agencies of society.¹⁴⁸ The effort to make civil society “self-governing” is seen to strive for a “macro-

148 Socialism is even presented (along with fascism) in *Between Facts and Norms* as populist mobilizations that are anti-democratic which “blindly defend the frozen traditions of a lifeworld endangered by capitalist modernization” (371). In the note (62) for this point socialism is construed as “Janus-faced,” looking to the future (“new industrial forms of trade”) and the past (“solidarity communities of a vanishing pre-industrial world”). It is perhaps revealing that this analysis of the reactionary, rather than revolutionary, character of socialism was shared by Nietzsche. “Who can say whether modern democracy, even more modern anarchism and especially the inclination for “commune,” for the most primitive form of society, which is now shared by all the socialists of Europe, does not signify in the main a tremendous *counterattack*” (*Genealogy of Morals*, Essay 1, section 5). Here Habermas, like Nietzsche, shows a certain lack of sympathy for the socialist view that unionization and collective struggle in the present is the

subject” which will seek emancipation through administrative power (i.e., bureaucratic socialism), rather than through democratization processes (which presumably arise from a civil society separated from social and political power). However, what kind of “macro-subject” is this which comes about through, and, presumably, will be composed by the democratic organization of civil society? It should be kept in mind that while Habermas, I believe, usefully develops the normative demands of public discourse, Marx’s notion of “civil society” (and Rawls’s as well) also included the economic relations. The majority of the state-capitalist “public” is after all wage workers and subject to the vicissitudes of the (labor and commodity) market. To democratically organize this expanded notion of “civil society” perhaps does not fall into the same presumptions that Habermas accuses Marxism of, and perhaps, realistically, seeks its own political relations and “administrative power.” The question for Marxism, I believe, should be how a (bureaucratic) administrative power is held to be the active, organizing force instead of “democratization processes” (i.e., democratic processes)?

This question is not mere idle speculation (divorced from “facts,” or “really existing socialism”), but points to a distinction within the notion of socialism (or a clarification required in the Marxist project) that Habermas in earlier works suggested or indicated, but here neglects and even conflates. In the *Structural Transformation of the Public Sphere* a socialist alternative was expressed where, “private persons came to be the private persons of a public rather than a public of private persons.” This conception did not seem to suggest the need to bureaucratically manage the public sphere, nor corral, harass, and intimidate private or civil relations, but did

basis of the solidarity that is being dissolved against the workers’ interests in the competitive capitalist market place, and that socialists can also base a realistic hope in socialist relations on the highly connected, social means of production and exchange that are developed through capitalism. These points are not easily missed, for they all can be found in the most famous socialist document, *The Manifesto of the Communist Party*.

offer a criticism of the liberal private-public relation (based on the bourgeois rather than citizen), and pointed the way to the possibility of reconstituting and supporting private relations in the effort to create an empowered and informed public. In *Between Facts and Norms*, by contrast, we are told (with the fall of socialism in the 1990's) that socialism confused its project for a "concrete form of life," though it suggests "necessary conditions for emancipation" that the members of civil society must themselves come to understand (and struggle for?). I have already indicated (4.5) that this appears to deny the critical and normative status of socialist claims (capital accumulation via wage-labor is exploitative, etc.). And, thus, the suppressed socialist alternative still finds expression even here,

Democratically constituted opinion-and will-formation depends on the supply of informal public opinions that, ideally, develop in structures of an unsubverted political public sphere. The informal public sphere must, for its part, enjoy the support of a societal basis in which equal rights of citizenship have become socially effective. Only in an egalitarian public of citizens that has emerged from the confines of class and thrown off the millennia-old shackles of social stratification and exploitation can the potential of an unleashed cultural pluralism fully develop – a potential that no doubt abounds just as much in conflicts as in meaning-generating forms of life. (308)

The "ideal" of unsubverted public and equal citizenship rights seems here very much tied to transcending the "confines of class" and the "shackles of social stratification," and this seems to require the "support of a social basis." Thus definite limitations, definite relations which are the means of exploitation and oppression are required to be transcended (and thus intervened on) in order to liberate the political public sphere and citizens' democratic practices. The conditions involved in socialism wait less upon the understanding of the populace, than the people's understanding (and decision) waits to be set loose through socialist conditions. And it is not uniformity or control that is imagined to be accomplished through this, rather pluralism, and

fruitful (rather than destructive) “conflicts.”¹⁴⁹ But why not develop, and discuss this (democratic) socialist alternative, rather than deny its possibility? The evaluation of “democratic” state-capitalism would not then be bound only to the (weak) justification of being better than totalitarianism. Again, we should not think it necessary that our way of life is to be evaluated (and accepted) only by thinking of what could be worse.

149 Again, John Stuart Mills’s *On Liberty* is an early advocate of the gains that are possible (and generally desirable) through cultural disagreements, rather than coerced, enforced uniformity. Though I hesitate to adopt the term “conflict” for disagreements (of opinion or forms of life) that do not reach a consensus standpoint or resolution, and yet do not involve the exploitation, coercion, or harm of another.

Part III: Communist Freedom and Equality

Chapter 5

Marx, Rawls, and Habermas: A Right to Socialism, and Socialist Right

In a legal community, *no one* is free as long as the freedom of one person must be purchased with another's oppression. The distribution of compensations only follows from an equal distribution of rights, which in turn results from the mutuality of recognizing all as free and equal members. Under this aspect of equal respect, subjects have a claim to equal rights...Rights can be "enjoyed" only insofar as one *exercises* them. Moreover, individual self-determination manifests itself in the exercise of those rights derived from *legitimately produced* norms. For this reason the equal distribution of rights cannot be detached from the public autonomy that enfranchised citizens can exercise only in common, by taking part in the practice of legislation. (*Between Facts and Norms* 418-419)

To begin with, it is helpful to distinguish between two aspects of the public sector; otherwise the difference between a private-property economy and socialism is left unclear. The first aspect has to do with the ownership of the means of production...A second quite different feature of the public sector is the proportion of total social resources devoted to public goods. The distinction between public and private goods raises a number of intricate points, but the main idea is that a public good has two characteristic features indivisibility and publicness...The consequences of indivisibility and publicness in these cases is that the provision of public goods must be arranged for through the political process and not through the market. Both the amount to be produced and its financing need to be worked out by legislation. (*A Theory of Justice* 266-267)

What might the "new perspective" look like? From the socialist tradition it would retain the view that private ownership of the basic means of material production and mass communications are, in these times, incapable of addressing the underlying economic and social needs of the vast majority...Capital has broken the social contract and supported rightist efforts to restrict social and political freedom. (*Left Turn* 168)

I have set out to appropriate critically the work of Rawls and Habermas such that that their normative theories can be expressed in and for a socialist standpoint. I believe this develops or accentuates what I see as the full value or "bite" of their normative developments, rather than providing a hedged or retracted exposition fitted to state-capitalist developments (see

3.3, 4.5). After all, both suggested early in their theoretic work a socialist articulation of their norms, “liberal socialism” in the case of Rawls, and a “socialist public” for Habermas.

I have also argued (2.3, 2.4) that Marx’s two works, *The Civil War in France* and *The Critique of the Gotha Program*, demonstrate quite well the two sides of a focus which he never came to clearly relate theoretically: concerns about the public management of social relations (deliberative liberty), and an emphasis on ending relations of alienation and exploitation (just structural relations). I believe Marx’s overly broad suspicion that norms are nothing more than ideology (narrow, particular interests expressed as if universal interests) in part limited him here. I construe Rawls and Habermas as advancing normative thinking on each side of the Marxist project; however I do not see either as sufficiently achieving an adequate relation between concerns about ending coercion, exploitation, and oppression on the one hand, and achieving dignity and autonomy for each member of society on the other. I think a socialist understanding or “embedding” of their norms, however, provides the framework to make clearer the relations sought.

From the abstract notion of “social contract,” Rawls stressed the idea that the consent of each person in their social relations is not to be simply presupposed or seen as legitimately established. This emphasis on social legitimacy (the justification of social relations) I believe can be compared to Marx’s early democratic idea, which raised the commitment and difficulty of relating the political powers and ideals introduced by the republican tradition to the relations of society generally. I argued (3.3, 3.4) that: 1) Rawls' commitment to a just “basic structure” should lead us to interpret the difference principle as first requiring non-coercive and non-exploitative relations, and only then introducing the guiding demand that remaining inequalities are justified only insofar as they are needed to improve the conditions of the “worst off”; 2) that

concerns about the acceptability or justice of unequal distributive patterns of social goods and conditions should not be seen as distinguishable from the voices and decisions of those who are thought to be “in need” of them; 3) that there is then a “positive liberty” moment to even Rawls's second principle of justice (equality is “administered” through public political procedures); and 4) that Rawls' explanation of his first principle should not be too tightly bound or give priority to a “negative liberty” focus. Concerns about the freedom of the person must also be concerns about such person’s “political” (positive) liberty; real opportunities must exist for each to not only seek redress when harmed, but to participate in defining and defending the space/s for individual expression.

The connection between liberty and equality that is sought here can also be expressed in the opposite direction. One might start with a critical survey of the notion of liberty and demonstrate how one cannot defend liberty without having a commitment to transcend the (unequal) conditions of coercion and exploitation that exist. For instance, Philip Pettit’s “The Instability of Freedom as Noninterference: The Case of Isaiah Berlin” compares Hobbes’s narrow conception of liberty as “non-frustration” (what you prefer is accessible) to Berlin’s broader “non-interference” model (that options you could prefer be accessible) and argues that a consistent development of Berlin’s “republican” commitment to “freedom of the person” would entail a view of liberty as “non-domination.”

We should embrace the idea that a choice is free to the extent that it is not made under conditions of dependency on the goodwill of others and so not in the presence of a power of interference on the part of others. The un-freedom of choice suffered as a result of domination may be made worse if there is interference or frustration as well. But if it is replaced by freedom, then it is essential that there be no domination; the absence of frustration or interference is not enough on its own to guarantee the result. (Pettit 709)

This concern for redressing un-freedom and establishing relations of non-domination can be useful for the Marxist paradigm; for instance, Cohen's concern with overcoming the conditions of proletarian "unfreedom" is relevant (see 0.3). Also we can note Habermas' notion (see the quote heading this section) of freedom which cannot be conceived amidst relations of oppression, an insight I think we must connect to his suggestion (4.4) that a socialist public is one which secures the conditions needed for a free or non-coercive private sphere (this point is further developed below).

However, Pettit deemphasizes the role of positive freedom in his conception of freedom. Instead he notes Constant's conception of positive freedom, which identifies it with (Ancient Greek and Roman) "premodern alternatives," and although he grants (counter Constant) that Rousseau has a novel republican variant which equates freedom with collective self-government, Pettit prefers a negative view of liberty which includes an absence of all evils that entail "subjection to the will of another." But, as I argued in 3.4, Berlin's freedom of the person (which Pettit sees as his "republican" commitment) was developed not just as an alternative to Rousseau and ancient constitutions, but as a check or bulwark against communism. Berlin and now also Pettit retain the view of an either/or dichotomy (or break) between two ways of life, insofar as they believe that positive and negative freedom are at odds or contradictory when both are valued. I argued that Berlin either completely "demonized" positive liberty (positive liberty = totalitarianism), or would only grant at certain points that positive liberty was its own "end-in-itself" and distinguishable from negative liberty. However, emphasis on "liberty" in Rawls' first principle can't have it both ways, more work or decisions seem to be called for here in regard to whether and how to include positive liberty.

Marx's commitment to stressing the social character of modern production and the modern division of labor, as well as his concern for critiquing "relations" (negatively demonstrated in his critique of alienation, coercion, and exploitation in the capitalist-wage laborer relation) is analogous to Rawls' concern for the justice of the basic structure of society. The communist call for the common ownership of the means of production asserts the need to establish relations that transcend the coercive conditions of exploitative wage-contracts, and seeks to establish worker control, decision, and direction (deliberative consent) over their productive relations.¹⁵⁰ A basic matter of justice, of transcending domination and exploitation, can be seen in surpassing capitalist, private ownership of the means of production, and this "transcendence" of coercive and exploitative relations is envisioned as achievable *through* free relations of collective decision and direction of productive forces.

Both the *Manifesto's* 10 point program (see 2.1) and *The Critique of the Gotha Program* (see 2.4) express the need to intervene in the relations of society to end the conditions of exploitation and establish common ownership of the means of production, but it is essential to the latter work that an ever expanding public sector (Rawls's emphasis in the quote heading this section on "public goods") is a key indicator of progress and development toward communist relations. Consciousness of our social ties (for Rawls, "social union") and responsibility to each other is stressed and reinforced through expanding public services and institutions.¹⁵¹ Also,

150 "Workers no longer confine their demands to a decent wage, job security, and "pleasant working conditions". The moral development of which Habermas speaks has historically extended to the quality of working life. Workers are beginning, by fits and starts, to *need* a working life which is marked by reflexivity and communicative action" (*The Crisis in Historical Materialism* 41).

151 "Socialists have long argued that the Lockean model essentially abstracts from the 'interactive' or 'social' nature of the labor process; all labor, even that performed in isolation, presupposes a prior cultural formation – an exchange of language, abilities and patterns of

Marx's emphasis on communities deciding on and delegating particular tasks to representatives (as in the Paris Commune (see 2.3)), while critically monitoring, appointing, and removing these public sector representatives, must also emphasize the provision of time, resources (information and communication), and social spaces needed for the members of society to cooperatively and critically participate in the coordination and direction of their productive relations and the administration and organization of the provision of common/public goods.¹⁵²

Public goods, such as institutions of education and health services, insofar as they are developed for and held accountable to the variety of human needs and desires (and address past exploitation and oppression), also serve to restrict the size of the domain and simplify the problem of establishing a legitimate distribution of individual goods. The Marxist emphasis on the relations of production taking priority over distributive justice concerns (because distribution is seen to follow from productive relations (see 2.4)) are through an emphasis on public institutions given a middle term. Rawls noted that the socialist focus on the expansion of the institutions whose labor is to provide public goods also de-emphasizes concerns about the fairness of distribution of divisible (individual/particular) goods. What can be developed with this emphasis on public goods through public institutions then is a conception of equality that allows for or retains the intelligibility of demands for equal, individual respect, while still

interaction – as backdrop against which the individual develops his aims and realizes his intentions in the first place” (Schwarzenbach 152).

152 “Can we envision a central funding source but decentralized self-managed services? This recalls the critique of the welfare system made by community organizers and activists in movements of the poor and New Left intellectuals during the 1960's. None rejected the notion that funds for schools, welfare, and health care facilities should be funded collectively through central administration. But they challenged the ability and the wisdom of designating city, state, or federal governments to set policies, let alone to operate these domains” (*Left Turn* 170).

“Thus, for instance, the control of large-scale public investment (effectively the only guarantee of a society's future) could be made available to general public deliberation, and decisions made either by a body subject to control by a legislative body, or themselves subject to direct democratic accountability” (Schwarzenbach 167, note. 26).

granting and being suited to the variety of human needs and desires (thus one possible counter to Marx's challenge about inequality resulting from equal standards, see 2.4). In addition to the right of non-coercive and deliberatively free work relations, one finds in public services the right of each individual to have full access to the public institutions that provide the public goods.¹⁵³

I don't think we should underestimate the importance of this socialist emphasis on public goods. Not only does it make clearer the connection between the common ownership of the means of production and fulfillment of common interests, but it further articulates the notion of individual rights within a socialist paradigm. What is added by this socialist emphasis can perhaps be highlighted by considering Ian Carter's recent defense of an "opacity respect" for personhood.

These two ideas – first, that political institutions should guarantee basic entitlements to citizens considered simply as agents and, second, that those institutions should hold back from evaluating citizens' agential capacities – are endorsed in conjunction by political liberals and this conjunction can be seen as grounding the equality of persons considered as bearers of basic political entitlements. Thus, the special relevance of opacity respect to the public sphere helps us to make sense of the Rawlsian notion of "citizens as free and equal". Rawls bases his notion on "a political conception of the person" and simply asserts that there is such a political conception in our public culture. The appropriateness of opacity respect can be seen as supplying a *reason* for affirming the political conception of the person. (557-558)

Carter's primary stipulation in this work is that the basis sought for the "equality of persons" is a scalar property of agential capacity - though empirically, or through a "naturalized" account of Kantian autonomy, one can observe "more or less" capacity - personhood then supervenes (is ascribed to human beings) after a certain threshold or range is reached. In trying to provide what he sees as a realistic ground for the ascription of personhood, Carter believes

153 By reinforcing a "social" responsibility ethos which itself would help stabilize or reinforce social provision, the growth of public goods would also provide institutional grounds to realize the slogan, "from each according to their ability, to each according to their needs".

that opacity respect must be maintained in regard to each person to maintain their dignity “as equals”. The liberal emphasis on negative liberty or the “absence of constraints...outside the agent” is also identified by Carter with this opacity respect commitment, thus Isaiah Berlin’s standpoint is identified as adopting “a conscious theoretical stance” to remain blind to “internal constraints” – “weakness of will,” “illusory value perspectives,” etc. (558-559). Carter sees this view as entailing “constraints” on the “currency of egalitarian justice”; once personhood is granted one cannot then provide services to equalize autonomy, or (morally) relevant internal endowments. At best society has “indirect ways” of pursuing equality in autonomy or endowments, or generally of fostering positive freedom:

Suppose it were to be shown that the universal and unconditional provision of certain external goods, such as basic income or public education or public health insurance, would lessen inequality of overall endowments. Such policies would take inferior agential endowments into account only in an impersonal way and so would not necessarily violate the requirement of opacity respect...It is understandable, on the face of it, for a progressive theorist to wish to focus on existing differences among particular individuals or groups in terms of such agential endowments. And yet, if my arguments so far are correct, such a focus cannot be considered justifiably egalitarian...Rather than taking inferior agential endowments directly into account, such policies distribute external endowments in favor of those who have the least...Given that those with the least external endowments will tend, as an empirical rule, to be those with the lowest earning power, external resources will as a result tend to be distributed to the advantage of those with lesser agential endowments. (564, 566, 569)

While granting Carter’s opaque respect for persons, not only can we observe the (constrained) distributive proposals assuming (not critiquing) social relations that manifest in agents with a variety of “earning power” (a “basic wage” is thus offered as one aid in such a world), but this ability to make/have money (and accumulate “external endowments”) is assumed correlated with “lesser agential endowments.” In the name of opacity respect for persons’ equality, Carter believes he cannot come too close to addressing individual differences (though he can postulate a lower share in agency attributes of those with less). But this paradigm of

respect for equals does not seem to allow for the particularity of service offered by public services (while generally available, they can be individually sensitive), nor does it acknowledge the agency of those who seek out and participate in those services (rather Carter seeks “a respect” as “an attitude on the part of the policy maker” 566, note 60), and so assumes a lack of dignity with a too specific and sensitive provision of support.¹⁵⁴ Thus Carter claims his (liberal) view wishes not to view persons as “objects in need of repair,” or as things to be “managed or handled or cured or trained,” and believes his opaque respect of persons adopts a better “participatory” attitude (559).

Rather than this opacity respect what may be sought instead is “transparency respect” of human beings, such that each human being is to be viewed as a person to which there is a mutual responsibility.¹⁵⁵ The concern then is about establishing relations with the object of addressing demands in regard to equal rights, opportunities, obligations/burdens, and provision of needs. What is sought are the real relations of that ideal which Kant once suggested with his “kingdom of ends” (*Grounding* § 433), where each person and their ends are always also to be treated as “ends-in-themselves.” Each is concerned with having their own standpoint, their needs, desires, expectations and hopes given equal regard in their society. As Rawls points out (*Theory*, § 67) only where social relations are supportive of our plans for life, and give good reason (the needed

154 It is difficult to conceive of a free or equal (or even humane) society today without robust services for those suffering from a disability or impairment. But to think of these services, suited to each’s particular need, as not showing respect for their personhood seems the wrong intuition here, such services can even be viewed as an aid in the full expression of that personhood. Perhaps this point is better made if we think of social services as a rightful *demand* that can be made with the development of state-capitalist production and organization (statistical knowledge and technology). We should keep in mind discrimination (lack of equality of opportunity) is seen in the schools and the workplace if adequate support is not provided or if the disability serves as a disqualification (when services can make capable).

155 This notion of “transparency respect” was suggested by Professor Frank Kirkland to sum up the criticism of opacity respect that I was developing. He was also an essential contributor to this work through his reading of drafts and many other fruitful conversations”

resources) to believe that we can fulfill our intentions, can human “self-respect” be seen as reinforced and maintained (and at this point of *A Theory of Justice* Rawls holds the social bases of self-respect to be the most important of primary goods). And granting respect to the person from the first would then provide no threat or lack of dignity to a person insofar as they also make demands on social institutions or relations (to show equal consideration) to provide means for them to further develop their endowments and capacities (for is not this also a life-long endeavor?). Stressing the point of the development of the individual’s (agential) development through adequate and accessible public institutions is also essential when considering Rawls’ commitment in his second principle to “offices and positions open to all, with a fair equality of opportunity”, and must be particularly stressed when considering the equality and freedom of individuals in communist relations. An emphasis on the deliberative and discursive guiding of productive relations must also be supplemented with an emphasis on each given a fair opportunity to pursue the kinds of work and activities that are available at a given moment in society (with “fair competition” for positions that remain limited).¹⁵⁶

However, not only do I believe that the “subjects” of social services must be viewed in a more active or agential role (rather than mere “objects” of administrators) - and are thus capable of finding self-respect even amidst struggles to create conditions that reinforce and maintain it - but, as Rawls notes (again in the section heading quote), an emphasis should also be retained on

156 The concern here is to give each equal power over their social relations *and* the same opportunities in them. George Bataille notes there is a point which must be recovered from Stalin who expressed it in a deformed and “compulsory” manner due to his control over state machinery, “Indeed, for Stalin this reduction of labor time is “needed in order that members of society might have the necessary free time to receive an all-around education”... Moreover, Stalin specifies the aims of this supplementary instruction: he foresees a “universal compulsory education, which is required *in order that the members of society might be able to choose their occupations and not be tied to some one occupation all their lives*” (*The Accursed Share*, Vol. III 299-300).

the “legislation” or “political process” involved in public services. With this emphasis on the “public sector,” one can reconnect to Marx’s concern with establishing and maintaining civil-political ties (1.2), especially following state-capitalist or “welfare-state” developments and interventions which led to a “political dynamism” of social relations (see 4.3). After all, Marx in *The Civil War in France* (2.3) did not call for the end of state-social services, only for the transformation of the state structure such that its coordinated efforts, across the nation-state (and ultimately beyond), would be useful and efficient by being truly accountable to all members of society. Insofar as worker ownership and management is seen as essential to ending capitalist exploitation, and social services are made accountable to the needs and responsive to the desires of all members of society, a concrete emphasis on just relations is inseparable from a concern about setting loose the deliberative powers of the members of society. Habermas’ public discourse emphasis is thus also an essential component to achieving the end of exploitation, and it also gives us the content needed to more fully articulate what is involved in human dignity and flourishing. However, by taking seriously the problems of exploitation and oppression in the “economy” and the “state,” one does not merely ask for a protected or even enabled “civil society” (as Habermas later construed it).¹⁵⁷

Rather than see Habermas’s quite famous discourse perspective as merely suggesting a “thought experiment” or “methodological fiction” (see 4.5), or only an ideal standpoint (from which any individual can self-critically consider their viewpoints), I believe Habermas also has

157 As well as the problem of Habermas viewing civil society as distinct from economic relations (a view not held by Marx or Rawls, see 4.6), the social media (4.5) of “money” and “power” are not viewed from the socialist standpoint as “functional,” “instrumental,” or neutral in capitalist society. Capitalist social power uses its influence to steer society according to its own profit/exploitation imperatives. Even if the exploited and oppressed can, to whatever degree, express themselves through these media as well (and check or limit private profit motives), insofar as capital social power is predicated on coercion and exploitation, its influence, to whatever degree, is considered illegitimate and should be ended.

given plenty of indications in his works that there are social demands, and a social project connected to his normative insights. I have developed (4.1, 4.2) Habermas's early suggestion that the (exclusive) bourgeois political sphere and the expression of the (universal) ideal of "public discourse" does and did ask excluded and oppressed members of the population to seek discursive (political) power over their social relations. Habermas was also willing to critique welfare-state-capitalist relations (4.3) insofar as the institutions and relations of such societies sought to manipulate and "massify" (4.4) populations. And, as was noted (4.4), Habermas was not only comfortable suggesting at one point a third socialist model of society (which appeared to offer a possibility to provide an inclusive public discursive control over social relations that never existed in liberal societies and were missed and suppressed by welfare-state-capitalism), he also gave hints about his hopes for a socially empowered public discourse through mentioning a conception of "substantive democracy" (4.3), "post-modern organization," "democratic incrementalism," and indicated a desire for what I construed as the structures necessary for reinforcing and empowering (self-conscious/critical) structural consciousness (4.4).

When taking substantive (rather than formal) democracy seriously (4.3), where there would be "administratively socialized production," Habermas pointed out that the primary contradiction that would be untenable would be "the continued private appropriation and use of surplus value" (i.e. capitalist exploitation of wage labor). And even in the work *Between Facts and Norms*, which often seems to out and out reject socialism and argue for a legal discourse which relies on state/political institutions co-existing with capitalism (see 4.5), "democratically constituted opinion and will formation" is seen to depend on "informal public opinions" and an "unsubverted public sphere" which are seen as tied to the "emergence" from the "confines of class" and "social stratification." However, the call to transcend the current "legal" state-

capitalist conditions may have been viewed by Habermas, in the end, to lack its own ground of right (especially if the “law” is viewed as a unique code and medium for communicating, realizing, and enforcing social norms - see 4.5). Perhaps it will be useful at this point, to get out of this conundrum, to recall Cornel West’s treatment of an earlier conundrum that faced the young Marx when considering the “right” of peasants to collect fallen, waste wood from noble lands (to cook and keep warm).

In regard to the specific case of gathering pieces of fallen wood, it is not clear who owns the wood and, therefore, is entitled to it. Hence,

Customary right as a *separate domain* alongside legal right is therefore rational only where it exists *alongside* and *in addition to law*, where custom is the *anticipation* of a legal right.

When the poor exercise their customary rights in this case, they not only satisfied their needs, but do so on moral grounds since their actions promote a legal tendency, an anticipation of a legal right.

It will be found that the customs which are customs of the entire poor class are based with a sure instinct on the *indeterminate* aspect of property; it will be found not only that this class feels an urge to satisfy a natural need, but equally that it feels the need to satisfy a rightful urge.

The actions of the poor in this case anticipate a legal right because they point to a larger problem, namely, the position of the poor themselves, who, like the pieces of fallen wood have no place in nature, have no dignified status in society

In these customs of the poor class, there is an instinctive sense of right; their roots are positive and legitimate, and the form of *customary right* here conforms all the more to nature because up to now the *existence of the poor class itself* has been a *mere custom* of civil society, a custom which has not found an appropriate place in the conscious organization of the state.

Marx then asks, if the state stoops low enough to allow itself to be used as a tool by the private forest owners to persecute the poor for gathering pieces of fallen wood, do not such private interests set the limits wherein the public sphere acts? Doesn’t the state become a fraud, parading around as embodying the interests of all while, in reality, being controlled by private interests? Marx answers these questions affirmatively. (West 29-30)

In the world today more falls by the wayside (yet still within the domain of private property rights) than wood - food, clothing, shelter, and the productive forces of all of these, and likewise there are “illegal” (or extralegal) movements, individual and social, to re-claim foreclosed homes and seize abandoned factories.¹⁵⁸ To see here not only a “right” in claiming particular objects for immediate needs, but also a need to transcend given relations and rules of association and establish relations suited to human potential is offered with the Marxist standpoint.

In the new society the basic means of production—already partially decimated by capital—would become public goods. Shuttered steel mills and auto, electrical, textile, and other production plants might be reopened to produce for the domestic markets and cooperatively work with developing countries to meet their needs. The producers, though now managing their own labor, would recognize that since these industries were built by the collective labor of society they have become labor’s collective responsibility to operate in the public trust. These enterprises would become collective private property, but not state owned. Of course the broad distribution of management functions to the entire workforce would make necessary the significant reduction of working hours and a new division of labor. (*Left Turn* 168-169)

I think the management by producers (and the conditions adequate to this) pictured here, as well the notions of “public trust” and “collective private property,” actually points to an alternate conception of political and economic relations, one which captures Marx’s and Engel’s critique (in light of the Paris Commune, see 2.3) of their early (*Manifesto*) conception of seizing and utilizing the “ready made” bourgeois state to transition to communism. What relations are involved in creating a “public power” which can concentrate production “in the hands of a vast association of the whole nation” (and, ultimately, beyond) is the big question here.

Connected to Habermas’ notion of a socialist “third model” of society, we should also note then his emphasis on a “public of private persons” (3.3). This public does presuppose the

158 George Bataille’s “general economy” also searches for a language beyond (social) law to express the right of human desires and aspirations to question the law. “This amounts to saying that the power of transgression implies in theory *an existence outside the rule connected with right* (*The Accursed Share*, Vol. II, 125).

end of relations of coercion and exploitation, the freeing of time from the unending capital “logic” of the production of surplus value and profit, social provision (through abundant and flexible public institutions) for individual human needs, desires, flourishing, and expression, and a deliberative emphasis on the justice of, use, and efficiency of production, distribution, and social services. What is sought here are the conditions and relations required to empower each to deliberatively participate in the management of their productive (work) relations and society generally, and it is through this that a “rational” and “reasonable” society is thought to be achieved. Just relations are maintained, from which each individual can discursively develop and pursue their notion of the good. The socialist presumption is not in this case a “comprehensive notion of the good” that is asserted for all, but that relations of coercion, exploitation, oppression, and neglect must be transcended to seriously entertain an emphasis on individuality (or its “full value”).

In my Marx chapters (1.2, 2.2) and the Rawls chapter (3.4) complications are brought up when discussing a commitment to individual rights. Marx’s concern about the individualistic (monadic) nature of liberal rights conceptions asks us to consider the social relations that, generally, provide life opportunities for each of us (he and Rawls could agree then that libertarian arguments too quickly look to preserve freedom of action and non-interference, without troubling themselves with questions about the legitimacy or justice of the relations found or given), and pointing out the coercive and oppressive potential of the right to the private property of the means of production is ubiquitous of the Marxist standpoint. Also, even valued, democratic rights (freedom of speech, association etc.) are identified by Marx as by no means “guaranteed” in capitalist, republican societies, instead the expression or use of those rights (when legally granted) is seen as always potentially monitored and suppressed by state power

(and even civil struggle) depending on the interests that are pursued and clashing at the moment. Rawls, through summoning Constant and Berlin, gave us the occasion to consider two reasons why negative liberty concerns are often given precedence insofar as: 1) we find “enjoyment” in our own sphere of activity; 2) we find human dignity in having our own, secure field of activity.

I do not deny that there is a great deal to these commitments to individual rights, and I do not think a Marxist must deny this either, but I would add that the socialist standpoint that I am developing here better secures (or adds key additions to) what was sought by the liberal individualists, while also modifying how we envision each flourishing in their own life and finding the respect they are due. The socialist model suggested above (the socialist public of private persons) suggests it is necessary to fulfill just structural concerns in order to achieve the real conditions (the “full value” and enjoyment) of personal freedom, leisure, freedom of movement, right to association, right to conscience. Again individuality is seen to be set loose by overcoming the conditions of coercion, exploitation, and oppression (and, generally, Marx embraced a social vision where “the free development of each is the condition for the free development of all”). The socialist public also has added opportunities (institutions and procedural space) for guiding the relations of society; freedom of speech and association for instance are in part “realized” (or, rather, further realized) by being embedded in work relations and political relations.

Worker cooperative management at worksites and, generally, one’s discursive management of the “public” administration (in the manner suggested by the Paris Commune) are part and parcel to communist demands, and in this manner one can see the “embedding of practical reason” in institutions (which I argue, see 4.6, cannot be supported in Habermas’s late

apology of the state-capitalist political state).¹⁵⁹ Noting these points we can see the communist project which aims to transcend the “pre-history” of (coercive, exploitative, and oppressive) class divided societies, and which frankly admitted the need of the working class to take over political power to intervene on and transcend capitalist relations, could still be construed as seeking to establish (just, liberatory) political relations, and thus “human history” would have a politics of its own.

I also believe having an eye on both the conditions that must be in place to set loose our deliberative, discursive potential, and the goal of each to participate in not only uncoerced, but socially reinforced and empowered, deliberative relations provides the kind of project that can address fears of totalitarian intervention. With this (Marxist) reading of Rawls's commitment to a just basic structure and Habermas’s public discourse ideal, one sets both a clear, and public goal of the empowerment of the individual who serves as the precondition of the socialist public, while still acknowledging that the growing deliberative power of each over their social relations

159 By bringing together John Rawls and Jürgen Habermas into a Marxist paradigm, “practical reason” can be viewed as structured in social relations and institutions at different moments or in different ways. The difference principle is a reasonable demand that calls for social relations to be arranged in such a way that each person can find the resources available to them as equitable and thus justified (through access to public and individually distributed goods). And insofar as deliberative decision making in guiding social relations is seen as essential for workers to end economic coercion and exploitation, and is viewed as, generally, an expression of liberty (included in a concern about equal extent and “real value” of liberties for all), and is also, in part, as the means to maintain and properly steer the application of difference principles concerns, an amalgam of Rawls and Habermas is needed. Through the unleashed individual space and the socially empowered public discourse of the socialist public of private persons one finds the relations needed to achieve the ideal of rational, self-critical consciousness and access to social means to pursue those goods deliberatively chosen. With these complex (normative) relations we can see how embedded, historic values can be seen as “rationally” and “reasonably” structured and pursued. I think this takes the bite from a certain tension I sense in Jeffrey Reiman’s (Marxist?) point that, “Any basis for morality other than rational necessity must appeal to people’s attitudes or intuitions or psychology, all of which are arguably reflections of the very social system that is to be judged. Any basis for morality other than reason, therefore, seems congenitally defenseless before the charge of ideology” (167)

can be acknowledged as a proper transition to communist relations, alongside (and integrated with) the increasing development of public goods.

I do believe there is also then an unavoidable, and sensible, emphasis in Marxism on the need (and right) to overcome the conditions of scarcity.¹⁶⁰ Currently, the productive potential discovered through machinery and the division of labor is available to the vast majority only through which public services are supplied and accessible, and what their wage/savings (if any) gives access to on the market place. Marxism, I believe, can hold that there is a “justice” to ending exploitative relations, and a “general good” to be found in doing so, and we have the productive potential to do so. However, the “good” to be achieved here is shared only insofar as the relations of society, or, to use Rawls's term, the “basic structure” can be said to actually place each member of society in equal and fair cooperative relations. The potential for disagreements or “conflicts” over how and what “goods” are claimed, produced, and distributed will not I think thereby be avoided.¹⁶¹ And, we can note here another point about the opening up of potential for the expression of individuality insofar as even in *Between Facts and Norms* (4.6) Habermas envisioned an “unleashed cultural pluralism” that “no doubt abounds just as much in conflicts as in meaning-generating forms of life” with an “egalitarian public of citizens” which “emerged

160 Again Bataille is useful in accenting Marx’s early “humanist” concern (see 1.4) that remains connected to this point about overcoming scarcity (and state-capitalism’s connection to imperialism). “Only scarcity or war are capable of shrinking human life, of reducing it to that animal poverty that excludes the desire of a being distinguished from all the others” (*The Accursed Share*, Vol. II, 159).

161 Jeffrey Reiman’s “Moral Philosophy: The critique of capitalism and the problem of ideology” is I believe quite right to assert a place for justice demands in a communist society. “These views [of communism beyond justice] assume the elimination of antagonistic social relations (which the ideal of communism surely represents for Marx) is equivalent to the elimination of the need to distribute things fairly among people once living in nonantagonistic relations” (153). Justice claims will still exist then in Marx’s free association of producers, and I believe it is here that further connections with John Rawls's difference principle and Habermas’s notion of public discourse can be made.

from the confines of class.” In fact the empowerment of voices that have been silenced, ignored, shut out, and disenfranchised will bring a new complexity now, but “scarcity” unto death and exploited labor is certainly to be ended. In this case Marxism doesn’t neglect to criticize certain “circumstances of justice” which create “moderate scarcity.” Rawls (and Baynes) may note that individuals have certain “plans of life,” or “conceptions of the good (that) lead them to have different ends and purposes, and to make conflicting claims on the natural and social resources available” (*Theory, Revised* 110), but it is right and just to view as illegitimate plans or interests that presuppose exploitation and oppression of others.

A fairly constituted and justly “running” society must account for its past and eradicate its present exploitation. Insofar as society constitutes itself around and directs itself towards accumulated labor, it has a responsibility to those who have been exploited; a living responsibility can be found in the “dead labor” of capital.¹⁶² To free capital’s hold on our future we need to address the crushing force of acquisition (of all kinds) in the past and of property relations in the present. This underpins, for instance, why worker strikes and demands are unjustly countered by corporations moving production “overseas” (despite the additional injustice of seeking more exploitable/“profitable” workforces), and this focus also underpins the demands of the (often racially) exploited and oppressed “underclass” (see 4.5).¹⁶³

162 Or quite simply, one can take note of the loss (in human lives, resources, and/or political self-determination) that a current society can be held responsible for.

163 On this point of relating our commitment to justice to past oppression and exploitation we can look to Jürgen Habermas’s summation of Walter Benjamin’s *Theses on the Philosophy of History*: “What Benjamin has in mind is the supremely profane insight that ethical universalism also has to take seriously the injustice that has already happened and that is seemingly irreversible; that there exists a solidarity of those born later with those who have preceded them, with all those whose bodily and personal integrity has been violated at the hands of other human beings; and that this solidarity can only be engendered and made effective by remembering. Here the liberating power of memory is supposed not to foster a dissolution of the power of the past over the present, as it was from Hegel down to Freud, but to contribute to the dissolution of

When incorporating Rawls's thought into this Marxist perspective we can note that the difference principle has an "objective moment" insofar as it demands rectifying the injustices of past oppression and exploitation by altering present relations, administering and directing productive forces and social services to provide for differing "needs," and serves as a normative "steering" mechanism to avoid unintended consequences of social reproduction. The "subjective moment" of the difference principle (and its connection to liberty) is that a society is viewed as legitimate and just to the "worst off" only insofar as their consent is in fact given to unequal distributions – their declared interests must thereby be served, and can only be served through the existence of such an inequality (when the worst off deem it necessary). If less unequal conditions could satisfy the needs and desires expressed, then any greater inequality is illegitimate. The worst off must have power and voice in the administration of difference principle concerns, otherwise they remain the kind of abused "clients" that we observed in Habermas' discussion of social systems (see 4.6, and Aronowitz's critique of "clients" as a designation in note 40), who do not have opportunity to change the "functional systems" according to their evaluation of their "use." Justice is here achieved through political empowerment and access to social provisions for those who were oppressed and unfairly dealt with.

My evaluation of the work of John Rawls and Jürgen Habermas was brought in to make clear the possibility for Marxism to develop in the normative space that Marx at certain points had only indicated and all too often left vacant. I believe the acknowledgment of this possibility often remains unaddressed through the simple equation, norms = ideology (thus "freedom,"

a guilt on the part of the present with respect to the past: "For every image of the past that is not recognized by the present as one of its own concerns threatens to disappear irretrievably" (Thesis V)." (*The Philosophical Discourse of Modernity* 14-15)

“equality,” “justice” = exploitative class interest disguised as “universal,” “social” interests). I hold that though the Marxist call to proletarian revolution is inseparable from the development of capitalist relations and productive forces, it is spurred by a sense of injustice, and also driven forward by a conception of relations free of exploitation and oppression. I have argued that to recognize the “universal call” that is inherent to communism after the development of capitalism is essential to international motivation, coordination, and organization, but this does not exclude the fact that the struggles for communism will take different forms (despite the same, global aim) when pursued in different, contingent situations. Historicity is essential to historical materialism, as noted in 2.2 and 2.4.

I do not see the necessity of binding norms to an “ought” which can only judge the world as unfit to our dignity, without finding and understanding the relations in society involved, and addressing the social actors who can correct the injustices raised. I see the development of Marx’s perspective as offering an opportunity to refine our normative outlook rather than consisting in a rejection of it; it is a development that provides further criteria to differentiate norms as ideological (in the negative sense of the term) *or not*. Thus, the overthrow of capitalist relations is motivated by a sense of injustice derived and grounded in our social relations; a wage-worker is not meant to appreciate impassively or “objectively” Marx’s analysis of capitalist exploitation. The proletarian class interest is also construed as an interest in eradicating class relations as such (see 1.4, 2.1), not merely as an interest of one class over another. It is not a question of the poor over the rich (a zero-sum redistributive game, etc.); what is sought is a transformation of the relations that will be found in society, and, thereby, the kinds of (legitimate) social positions that will be occupied in the first place. What is found in Marx’s conception of a proletarian revolution is an interest in eradicating the conditions for the narrow,

exploitative, and competitive pursuit of interests that have been characteristic of every class-divided society until now. It seems then only by retaining a continuity between interests and rights - and not seeing some rupture or break between them - can one develop a Marxist view of norms.¹⁶⁴

My emphasis on normative content for Marxism, I believe, also indirectly addresses the complex problem of Marx's rejection of utopian thinking. In Section III, 3 of the *Manifesto* we find a brief criticism of "utopian socialism," and Engels's work *Socialism Utopian and Scientific* develops further what he and Marx perceived as problematic here (in both cases Saint-Simon, Fourier, and Owen are taken as key instances). Utopian socialists are thought to be spurred on by an appreciation of the heavy toll continued class antagonisms and economic contradictions have on the poorer members of "developing" societies (the degradation of the conditions of peasants and workers with the rise of capitalism). But, given the level of development of the proletariat at the time—in regard to the level of socialization of production and the productive forces; the size and common experience of factory association, the consciousness and independent organization of the working class—these utopian thinkers did not perceive the working class as an agent to correct the problems of society. For Marx and Engels, the trouble here is that the proletariat is only characterized as the "most suffering class" (an object of philanthropy, lacking its own initiative, and certainly without a revolutionary task). The utopias proposed were thus "rational" projects to be pursued: a) outside a thorough appreciation of the

164 Such a relation of interest and norms can also be considered in light of Sean Sayers defense of Marxism in terms of, "It does involve a kind of naturalism; for it is a form of historicism. It regards morality as a social and historical phenomena, and seeks to base its moral and political outlook on this understanding. It thus questions the idea that the political and moral values of socialism are mere subjective preferences, independent of social and historical theory. It rejects the view that naturalism is a fallacy, and the rigid fact/value dichotomy upon which this view is based" (95)

continuing historical developments of the relations (and contradictions) of society, such that what was missed was a consideration of the social developments or pre-conditions (the resources, potentialities) available to achieve liberation; and b) as if there were not a class divide, which led one class's reason and freedom to appear as a threat to another's interest and their notion of right (or "reason").¹⁶⁵

I believe that a normative emphasis can take seriously the class divide between interests (and thus grasps the dilemma of the differing situations and contexts of "reason"), while holding that persuasion and justification do not neglect to note, discuss, and critically appreciate the legitimacy of an interest. The appropriateness or value of certain interests can be evaluated after all, and presumably the Marxist sees the capitalists' interest in wage-exploitation (and the conditions that "optimize" it, in the midst of continuing crises and imperial competition), as illegitimate. There may be "their morals and ours," as Trotsky argues, but then there are still communist aspirations which can be provided justification.¹⁶⁶

Marx does, after all, indicate the "need" to gear production in the direction of providing for human needs and our developmental potential (see 1.4, 2.4), and he asserts the "practical" point or *political fact* (see 1.3, 2.1, 2.2) that this "ideal" production is not to be viewed as

165 I also noted the difficulties of relating Marx to social norms that are seen as "rational" or "reasonable" when considering John Rawls's standpoint in 3.3.

166 In the last section of Trotsky's *Their Morals and Ours*, "The Dialectic Interdependence of End and Means," we find "A means can be justified only by its end. But the end in its turn needs to be justified. From the Marxist point of view, which expresses the historical interests of the proletariat, the end is justified if it leads to increasing the power of man over nature and to the abolition of the power of man over man." My project has been dedicated to better working out the "end" of communist association, making clear the normative content which motivates, guides, and "imbues" action. In this I agree with the view that "Marxist "practical" (political) activity makes sense only [1] if the replacement of capitalism by socialism depends in some measure on human actions and thus on the choices that move human beings to act and [2] if there are some norms that imply the appropriateness of actions designed to help bring about the demise of capitalism and the institution of communism" (Reiman 149).

possible or realistically attainable without worker struggle to gain control of productive relations, and hence also, ownership of the means of production (communist association). In contrast, capitalist exploitation, which is predicated on alienation (a “freedom” of the laborer having to sell labor-time on the free market – see 1.4 and *Capital* Volume 1, Ch. 6) is, or *should be* viewed as unjustifiable or unjust. In comparison, Marxism is directed at attaining a supportive and a liberating social environment.

Both the subject and the object must be redeemed. Walter Benjamin’s “angel of history” (*Theses on the Philosophy of History*, Section IX) does not have merely the catastrophe of the accumulated wreckage of human history to look upon. Amidst the destruction, even amidst the accumulated power and forces of destruction, are the accumulated efforts and energy of the forlorn and misguided dead (even the “death” of our own past). Human hope looks to human powers, no matter how misguided and misused in the past. That past, which currently weighs on our future, the social productive forces, the accumulated capital, the “nightmare” of outmoded, misguided, mutilated, and contradictory ideas, can be expropriated, realized, and redeemed to become the means to an emancipated future. We should not be merely optimistic, with no account of the loss, and of continued threats of repeated or new wrong turns, but we should hold to a redemptive materialism – turning the loss and tragedy of the dead into a sacrifice, even a contribution. The angel is amidst the wreckage, and is no angel as of yet. We have here not merely a compassionate but passive onlooker, nor merely a tragically aware spectator, for what spectacle, what tragedy which is not our own? We must transform the wreckage and ourselves to get out of this mess.

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