

## BOOK REVIEWS/RECENSIONS

### Revisiting Marx's Critique of Liberalism: Rethinking Justice, Legality and Rights

Igor Shoikhedbrod, London: Palgrave Macmillan, 2019, pp. 256

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In this work of interpretive political theory, Shoikhedbrod contends that Marx's critique of liberalism has been misunderstood by supporters and detractors alike. In what Shoikhedbrod calls the "orthodox" interpretation, Marx dismisses rights and legality as such. Challenging this orthodoxy, Shoikhedbrod argues that Marx's critique of liberalism is supported by a theory of communist right and law. Furthermore, Marx's critique remains relevant in contemporary capitalism with its deepening inequalities.

First, Shoikhedbrod offers a "reconstruction" of Marx's critique of liberal rights and law. This terminology suggests that the materials are there, but they are fragments scattered across Marx's various works, including newspaper articles and trial defence speeches. For Marx, liberal rights are formal, atomized, and depoliticized, because of the class domination and exploitation inherent to private ownership of the means of production. Nevertheless, Marx acknowledges the historical significance of these rights and believes that their progress beyond unequal feudal privileges will continue through the eventual transcendence of capitalism. Rights and legality will not wither away in communism. Using Hegel's concept of *aufhebung*, or "sublation," Shoikhedbrod argues that, for Marx, the freedom and equality achieved by liberal rights can be preserved while the private property that limits them can be negated. This raises freedom and equality to a higher form in which these rights are more consistently applied. This is why Marx asserts that, in communism, "the freedom of each is the condition of the freedom of all."

Second, Shoikhedbrod brings this reconstructed Marx to bear on contemporary theory and practice. Global financial capitalism has provoked renewed attention to inequality, precariousness and global justice. Shoikhedbrod engages with four thinkers who, amid these developments, have foregrounded egalitarian concerns: John Rawls, Jürgen Habermas, Axel Honneth and Nancy Fraser. All four thinkers are concerned with the ways in which the formal equalities found in right and law can be undermined by substantive social inequalities. Furthermore, all four have revisited Marx's critique as part of their own engagement with liberalism. Shoikhedbrod contends that the reconstructed Marx can correct or supplement the shortcomings in each of their theories of liberalism. For example, Rawls's theory of property-owning democracy could not ensure as full an expression of freedom and equality as the economic democracy of Marx's associated production.

Third, Shoikhedbrod reconsiders the relation between Marxism and the rule of law by interpreting a number of Marx's scattered assertions about legality and constitutionalism. Shoikhedbrod argues that there are good textual grounds for rebutting the theory, exemplified by the Soviet legal scholar Evgeny Pashukanis, that class domination and state coercion are inherent to all forms of law. Shoikhedbrod contends that since communism would end class conflict but not conflict as such, the rights of individuals must still be guaranteed. Therefore, contrary to Pashukanis' theory, the rule of law cannot be replaced by mere

administration. Shoikhedbrod also affirms some remarks by the English Marxist historian E. P. Thompson, who argues for the historical significance of struggles for rights and laws. Shoikhedbrod, using his interpretation of Marx's critique of liberalism, provides a more systematic account of the importance of constitutionalism and the rule of law in constraining arbitrary power, providing essential space for contestation in egalitarian struggles, and forming crucial preconditions for the communism that will achieve right and legality in a higher form.

The clear strength of Shoikhedbrod's work is his engagement with the legal and juridical aspects of these debates. He offers an important corrective to the dismissive attitude found in some schools of Marxism. Shoikhedbrod also provides persuasive arguments for the enduring importance of rights, whatever the form of the society. If there is a limitation to the book, it is that Shoikhedbrod describes as "orthodox" the interpretation that Marx ultimately dismisses right and legality. This discounts the variety of disagreements between commentators and the different schools of thought in the long-running debates about Marx and justice. For example, Marx asserts, "As far as right is concerned, we with many others have stressed the opposition of communism to right, both political and private, as also in its most general form as the rights of man." Shoikhedbrod contends that this assertion, like other similar assertions by Marx, has often been "taken out of context." But Shoikhedbrod does not provide enough contextual evidence to refute common-sense interpretations of this passage as Marx's plain disavowal of rights as such. (Admittedly, there are other passages where Marx does seem to affirm some notion of rights.) This book is unlikely to persuade many of the commentators who think that Marx regards his critique of capitalism, as well as his theory of communism, as beyond appeals to justice, though Shoikhedbrod might convince some of them that Marxism needs a robust theory of rights and, indeed, that Marx provides some resources for such a theory.

Shoikhedbrod offers a spirited critique of liberalism and a good case for why no theory or practice, whether communist or otherwise, can dispense with rights and legality. Although Habermas once called himself "the last Marxist," Shoikhedbrod's book shows that, in our age of rising global inequality, this is not the last we have heard from Marx.

## Response to Paul Gray's review of *Revisiting Marx's Critique of Liberalism*

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It is always a pleasure to read a review that precisely captures a book's central claims and offers thoughtful criticisms. Paul Gray's (2023) review is especially welcome given that it was written by someone who has rigorously examined the place of justice in Marx's thought and reached the opposite conclusions of those stated in *Revisiting Marx's Critique of Liberalism*.

There is a great deal of agreement between us, particularly over the "enduring importance of rights," though the devil lurks in the details. Gray takes me to task for mischaracterizing as "orthodox" the dominant view that Marx ultimately rejects rights and legality. In Gray's words, "this [description] discounts the variety of disagreements between commentators and the different schools of thought in the long-running debates about Marx and justice." It was not my intention to disregard the diverse range of interpretations that have informed debates about Marx and justice. While the best-known representatives of these debates in the Anglophone world (for example, Evgeny Pashukanis, Robert Tucker, Allen Wood, Allen Buchanan, Steven Lukes, G. A. Cohen, Derek Allen, Norman Geras, Rodney Peffer, Leszek Kolakowski and Jürgen Habermas) are acknowledged, the book is more concerned with bringing to light a peculiar convergence among interpretations concerning Marx's supposed