

PART III — MARXISM

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3.1 Marxist theory

- Analyses various societies in terms of the distribution of labour and resources: Romans, Egyptians, Feudalism, and Capitalism
 - instead of an analytic, scientific approach, Marx uses a historical approach
 - both agricultural and industrial economies depend on the relations of production (be it between aristocracy and serfs or factory owners and workers)
 - industrialisation emphasised the bourgeoisie/proletariat dichotomy
- Draws a distinction between various societal units (hunters, workers, bourgeoisie)
- Identifies a dichotomy between proletariat and bourgeoisie

Socialism

The proletariat controls the means of production, distribution, and exchange. A “community collective” replaces the state apparatus.

Communism

The transitional socialist stage leads to a (more extreme) form of wealth distribution: communism. The communist model is the ultimate mode of production, and there are no classes and, in theory, equality. Productive property is common to everyone in equal units.

Economy

Marxism analyses the real effects and driving motivations of capitalism. The proletariat is the oppressed class; the bourgeoisie owns the means of production.

- Stark contrast between the ruling class and the oppressed (cf Nietzsche?)
- Proletariat produces goods
- The struggle between the classes in capitalism will produce revolution
- Some examples of communist states: Vietnam, Cuba
 - in England, socialism never took hold; to quell civil unrest in the lower classes, individuals were given the right to vote

Marx also examines the relationship between social structures. He describes a social pyramid consisting of several tiers/classes:

1. Aesthetics
2. Politics
3. Laws
4. Workers

From the Marxist perspective, the lowest rung on the social hierarchy has the real power (workers/farmers).

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Law

There is very little mention of law by Marx. During the transition period, existing laws will continue to exist, but they will have diminishing influence. Laws are needed to keep order and quell dissidents.

“Man is going to be returned to his primitive position once classes are abolished”, meaning that law will no longer be needed to enforce formal equality or reinforce existing power structures.

Modern technology is owned by the people, so no laws are needed to regulate production and satisfy everyone; people will enjoy their work and have productive assets under their immediate control.

Class materialism

Laws exist to benefit the bourgeoisie.

Criticism: the ruling class isn't in a position to operate with sufficient unity so as to maintain a rule system to benefit them collectively

Nevertheless, Marx claims that the hegemony (dominance, power) of the ruling class is instituted by the legal system. Law is used to establish hegemonic ideologies and preserves it by having an outward appearance of objectivity and equality.

Law favours the ruling class, and gives the image of freedom and justice to the proletariat in order to perpetuate their oppression.

For example, law protects private property; but property is owned by the ruling class. The effect is thus to monopolise property ownership. Property law facilitates the use of property by property *owners* for capital gain.

In the same way, contract law maintains the dominance of the upper class, because it excludes (or is wilfully blind to) the social character of law:

- A lower classed (poorer educated) party is at a disadvantage when it comes to enter a contract
 - they don't necessarily get sufficient input to set the terms of the contract; or
 - they don't necessarily understand the content of the law
- Marriage contract reduces relationships to financial loss/gain
 - disadvantages females

Critique of the legal system

- Minorities are oppressed by *law* (instead of directly by the bourgeoisie) because legal regimes embody the interests of the ruling bourgeoisie whilst masquerading under a façade of “community interest”.
- Notes that the democratic state separates law making and law applying processes
- The state maintains class domination in law by appearing to ‘separate’ law and politics
- The doctrine of precedent (*stare decisis*) perpetuates existing class structures
 - existing cases are abstracted and new principles are based on the technical rules which have been decided previously
 - this gives the impression of a formal (technical) analysis
 - rules are supposedly independent of politics
- Ultimately, law-making is subject to legislative approval (eg, *Mabo*, euthanasia in Australia)
 - precedent may be overruled by statute
- The application of legal rules deemphasises the social component of law and enforces the hegemony of the upper class over the lower class

- Capitalism was maintained in England because the ruling class has always been influential upon law-making and law-application

Law is a form of ideological domination.

The discrepancies between the classes are caused by:

1. Education differentials
2. Institutionalised power structures

Law confers certain rights and protections on all classes, but inequality remains when people try to assert their rights:

- Not every class has equal access to or understanding of the law or their rights
- Laws that benefit the lower classes are often designed to quell dissent and present the illusion of equality
- Bottomley at 323: 'The democratic process masks the presence of class'

Summary: Marxism is a social critique of the class hierarchy inherent in the western liberal tradition.