1. Introduction to the *Research Handbook on Law and Marxism*

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Not long ago the world was divided, however tenuously and fractiously, between states that claimed to uphold Marx's ideas and states that opposed them openly and vehemently. With the demolition of the Berlin Wall, the dissolution of the Soviet Union, and the proliferation of grandiose declarations about the supposedly self-evident 'failure of the Marxist project',¹ Marx and Marxism were thought to have been interred once and for all. Yet as triumphalism about 'globalisation'—and the various 'counter-globalisation' movements it generated, in 'global North' and 'global South' alike—gave way to a period of recurring and pronounced capitalist crises, beginning with the 2007–9 'Great Recession', Marx's work gained greater currency, with increasing numbers of people studying the original texts, often for the first time. Far from being dead and buried, the demise of 'actually existing socialism' in eastern Europe—coupled with rising socio-economic inequality, planetary ecological degradation, new wars of imperialist aggression, and an international financial architecture that engenders sovereign defaults and currency crises by the minute—actually provided much of the spark needed to liberate Marxist thought and practice from many an inherited and ossified form. Just as 'a thousand Marxisms' emerged through the concrete struggles of workers, peasants, and activists, from Bolivia to Nepal,² work that engages directly with Marxist modes of critical analysis was produced across an extraordinarily wide range of scholarly disciplines.

This large-scale resurgence of interest in Marx and Marxism—a development paralleled by a similar resurgence of interest in other forms of radical politics, most notably anarchism—should come as no surprise. Inasmuch as social relations continue to be structured around the drive to produce and accumulate surplus value (and its appropriation by some at the expense of the many who labour to produce it), systematic critique of the capitalist mode of production remains unavoidable. After all, if Marxism is, as Terry Eagleton has put it, 'the most searching, rigorous, comprehensive' critique of capitalism yet undertaken, then 'as long as capitalism is still in business, Marxism must be as well'³—a view echoed by Daniel Bensaïd when he notes that so 'long as capital continues to dominate social relations, Marx's theory will retain its currency'.⁴ In some quarters, it remains fashionable—and often politically or professionally rewarding—to claim that Marx and Marxism are mechanical and teleological, that Marxist analytical tools (e.g., surplus value, the value form, the capital relation, class struggle, ideology, materialist analysis of history, modes and relations of production) are irre-

¹ Francis Fukuyama, *The End of History and the Last Man* (Free Press 1992) 293.

² André Tosel, 'The Development of Marxism: From the End of Marxism-Leninism to a Thousand Marxisms—France–Italy, 1975–2005' in Jacques Bidet and Stathis Kouvelakis (eds), *Critical Companion to Contemporary Marxism* (Brill 2008) 39, 42.

³ Terry Eagleton, *Why Marx Was Right* (Yale University Press 2011) 2.

⁴ Daniel Bensaïd, *Marx For Our Times: Adventures and Misadventures of a Critique* (first published 1995, Gregory Elliot tr, Verso 2002) 1.

deemably Eurocentric, or even that a direct line can and should be drawn from *The Communist Manifesto* to Stalin's forced labour camps or Brezhnev's hyper-bureaucratic 'real socialism'. To the extent that relevant Marxist sources are marshalled in defence of such claims, they nearly always reflect exaggerated or plainly erroneous readings of the texts in question. The ongoing revival of interest in Marx and Marxism has already done much to undermine these caricatures, redirecting attention to the writings of Marx and those who have sought to build upon them.

It is often said that Marx never developed an integrated theory of the state, and that his observations about law and rights are fragmentary and scattered across a large number of writings. Such assessments are not unjustified; Marx's work, published and unpublished, offers no general theory of these topics on par with his critique of classical political economy. Yet Marx engaged closely with questions of law, rights, and the state, and he did so frequently, intensively, and with remarkable acuity. From a range of texts, many of which are discussed in this handbook, one need only consider Marx's early critique of Hegel's philosophy of law;⁵ his argument about the fundamental insufficiency of civil and political rights in 'On the Jewish Question';⁶ his spirited interventions in German debates about the customary rights of peasants to forage for wood;⁷ his incisive class analysis of capitalist states and constitutional orders in 'The Eighteenth Brumaire of Louis Bonaparte' and 'The Civil War in France';⁸ his lengthy and nuanced discussion of the Factory Acts in mid-nineteenth century Britain in chapters ten and fifteen of the first volume of *Capital*;⁹ the central role of law in the account of 'primitive accumulation' and colonial capitalism he provides in this same book's eighth and final part;¹⁰ and his trenchant critique of 'fair distribution' and social-democratic electoral strategy in 'The Critique of the Gotha Programme'.¹¹ Countless attempts have been made to develop specifically Marxist accounts of law on the basis of these and other textual sources, from Evgeny Pashukanis' 'commodity-form theory'¹² to debates about the 'relative autonomy' of law¹³ to

⁵ See e.g., Karl Marx, 'Contribution to the Critique of Hegel's Philosophy of Law' [1843] in Karl Marx and Frederick Engels, *Collected Works*, vol 3 (Lawrence & Wishart 1975) 3.

⁶ Karl Marx, 'On the Jewish Question' [1844] in Karl Marx and Frederick Engels, *Collected Works*, vol 3 (Lawrence & Wishart 1975) 146.

⁷ Karl Marx, 'Proceedings of the Sixth Rhine Province Assembly. Third Article—Debates on the Law on Thefts of Wood' [1842] in Karl Marx and Frederick Engels, *Collected Works*, vol 1 (Lawrence & Wishart 1975) 224.

⁸ Karl Marx, 'The Eighteenth Brumaire of Louis Bonaparte' [1852] in Karl Marx and Frederick Engels, *Collected Works*, vol 11 (Lawrence & Wishart 1979) 99; Karl Marx, 'The Civil War in France: Address of the General Council of the International Working Men's Association' [1871] in Karl Marx and Frederick Engels, *Collected Works*, vol 22 (Lawrence & Wishart 1986) 307.

⁹ Karl Marx, *Capital: A Critique of Political Economy*, vol 1 (first published 1867, Ben Fowkes tr, Penguin 1990) chs 10, 15.

¹⁰ Marx, *Capital*, vol 1, chs 26–33.

¹¹ Karl Marx, 'Critique of the Gotha Programme' [1875] in Karl Marx and Frederick Engels, *Collected Works*, vol 24 (Lawrence & Wishart 1989) 75.

¹² Evgeny Pashukanis, 'The General Theory of Law and Marxism' [1924] in Evgeny Pashukanis, *Pashukanis: Selected Writings on Marxism and Law* (Piers Beirne and Robert Sharlet eds, Peter B Maggs tr, Academic Press 1980), 37.

¹³ Louis Althusser et al, *Reading Capital: The Complete Edition* (first published 1965, Ben Brewster and David Fernbach trs, Verso 2016); Nicos Poulantzas, *State, Power, Socialism* (Patrick Camiller tr, New Left Books 1978).

qualified defence of certain aspects of the liberal legal tradition.¹⁴ Such approaches continue to influence a large number of contemporary debates on Marxist approaches to law, rights, and the state.

This handbook showcases and contributes to the development of these approaches. It is divided into three parts. Part I, consisting of ten chapters, offers new and critical interpretations of Marx and several key thinkers in the Marxist tradition. Clyde W Barrow opens this part of the handbook by exploring the role of legal and illegal tactics in Marx's work, and Marxist theory more generally. Daniel McLouglin and Talina Hürzeler follow with a discussion of Marx's analysis of class struggles around the Factory Acts in *Capital*. August H Nimtz reflects upon Marx's understanding of the relationship between capitalism and liberal democracy, while Cosmin Sebastian Cercel tackles Marx's important and often misunderstood statements on dictatorship. The handbook then turns to later figures in the Marxist tradition. Michael Head examines Lenin's views on law, before and after the October Revolution, as well as early Soviet debates about legality and legal change. Bill Bowring, for his part, discusses the thread of thinking on collective self-determination in Marx, Engels, and Lenin. Matthew Dimick explains and critically analyses Pashukanis' 'commodity-form theory' of law; Pablo Ciocchini and Stéfanie Khoury do the same for Antonio Gramsci's insights on the hegemonic role of law. Bob Jessop and Rafael Khachaturian conclude the handbook's first part with a pair of chapters on Nicos Poulantzas' theory of the capitalist state.

Part II also comprises ten chapters, each discussing a specific form of contemporary Marxist analysis of law. Rob Hunter and Nimer Sultany demonstrate the significance of Marxist analysis for questions of constitutional theory; Hunter theorises the constitutionalism of the capitalist state while Sultany examines Marx's engagement with constitutional issues. Nate Holdren's chapter concerns the continued importance of EP Thompson's views on law and moral economies. Chris O'Kane's chapter introduces a variety of different Frankfurt School critiques of the state. Miriam Bak McKenna provides an overview of social reproduction theory and other forms of Marxist feminism, drawing upon the work of Tithi Bhattacharya, Silvia Federici, Lise Vogel, and many others. Ahmed White undertakes a Marxist critique of labour law, and BS Chimni examines debates about law and development. Radha D'Souza and Rémi Bachand both focus on international law; D'Souza considers neocolonialism and international law, grappling with questions of competing disciplinary frameworks, while Bachand outlines the core elements of a Marxist account of the political economy of international law, partly via 'Social Structure of Accumulation Theory' and the 'École de la régulation'. Eva Nanopoulos concludes the handbook's middle section with an analysis of the class politics enshrined in the legal architecture of the European Union.

Finally, Part III, consisting of nine chapters, offers a series of studies in emergent fields of inquiry informed by Marxist critical tools and theories. Rebecca Schein leads things off with a discussion of changing modes of temporality under capitalism, particularly in light of increased reliance upon precarious 'gig-work'. Max Ajl cuts through current debates about 'green new deal' proposals, analysing the role of anti-imperialist and Indigenous peoples' struggles during the climate crisis. Enzo Bello, Gustavo Capela, and Rene José Keller rely on Louis Althusser and narrative analysis in their detailed case study of 'Operation Car Wash', a complex criminal investigation in Brazil that yields broader insights into bribery and corrup-

¹⁴ EP Thompson, *Whigs and Hunters: The Origin of the Black Act* (Pantheon Books 1975).

tion in contemporary capitalist states. Paul O'Connell then turns the discussion to the question of the relation between law and social change, arguing for a Marxist approach to law, rights, and the state that combines both critical and constructive elements to bolster movements for social change. Honor Brabazon broaches the same constellation of questions, contending that social change under neoliberal conditions requires social practices and forms of thought that go beyond traditional distinctions between 'reform' and 'revolution'. Igor Shoikhetbrod also writes about neoliberal social relations, but does so with a view to articulating a Marxist theory of law and the state that overcomes conventional formalist and instrumentalist approaches. Christine Sypnowich draws from the work of GA Cohen and revisits Cold War-era debates about socialism and the 'rule of law'. Natalia Delgado and Dimitrios Kivotidis bring the handbook to a close with a pair of chapters that explore some of the specifically methodological complexities of Marxist theories of law and the state.

In sum, this handbook demonstrates the subtlety and complexity of André Tösel's 'thousand Marxisms', and the richness of the Marxist tradition for informing critical engagement with law, rights, and state. Beyond the four corners of this handbook are a host of important debates about 'what may appropriately be called a legitimate Marxist interpretation' of the world today.¹⁵ Those are worthwhile debates, and they are taken up by some of our contributors. But the chapters assembled here testify first and foremost to the diversity, multi-facetedness, and astonishing analytical power of Marxist critical tools. These tools are as indispensable as they have always been to understanding the role of law, rights, and the state in capitalist societies.

¹⁵ Tösel, 'Development of Marxism', 44.