

18. Marxist theories of the state I

The state has been a controversial topic within the history of Marxist political and legal thought. In part, this is due to the fragmentary character of Marx's writing on the subject. In Marx's (1973, 108) notebooks from the late 1850s, posthumously published as the *Grundrisse*, he indicated that "the concentration of bourgeois society in the form of the state" would be part of the broader, systematic critique of political economy he was pursuing at the time. However, only the first volume of *Capital* was published in his lifetime, which left this ambitious project incomplete. Later commentators have thus faced the challenge of recomposing his scattered writings on the subject spanning from the 1840s to the 1880s into a more coherent and systematic theory.

A further problem with the claim that there is a single Marxist theory of the state is that for both Marx and those who came after, this concept was deeply entwined with contemporary political questions. Discussions of the state within the history of Marxism were embedded in specific disputes about the strategies that working class movements and parties should adopt in the face of organized political power. This political dimension complicates the claim that there could be a unitary Marxist theory of the state. It draws attention to both the historical and ideological context within which such theories were forged.

A discussion of the state from a Marxist standpoint thus confronts at least three obstacles: the incomplete character of Marx's theorization of the state; the question of whether the state is adequately represented by the influential metaphor of the productive "base" and the juridical and political "superstructure"; and the questions of *how* and *why* it can be claimed that the state is autonomous from the forces and relations of production. Given these difficulties, any discussion of the "Marxist theory of the state" is necessarily inseparable from the *history of Marxist arguments about the state*, as they were conducted on shifting political, strategic, and theoretical terrains over the course of the tradition's development.

Marx on the state

Marx's early writings on the state were primarily formulated as a critique of Hegel's political and social philosophy. Hegel understood the modern state to be the embodiment of reason and universality as developed over the course of human history. As such, its role was to reconcile the social fragmentation caused by narrow conceptions of individual freedom (property rights, commerce) facilitated by the emergence of bourgeois society in England and the radical political egalitarianism of the French Revolution. By virtue of their membership in the political community, individuals could transcend their personal, familial, corporate, and commercial interests, thereby attaining the self-consciousness of their own freedom in the objective laws of the state. Hegel saw constitutional monarchy as the state form that best combined the universal lawmaking power of the legislature (elected by corporate bodies in civil society) and the particular executive power of the civil service, forming a unity represented in the figure of the individual sovereign. The civil service in particular, composed of qualified professionals and open to entrance from all ranks of society, was tasked with upholding the "universal interest of the state" (Hegel 1991, 329).

Marx's critique rested on the claim that by locating universality and equality in the bourgeois constitutional state (*Rechtsstaat*), Hegel inverted the relationship between the state and civil society. Hegel had correctly recognized that bourgeois claims to the right to private property created social antagonisms that alienated individuals from both their social bonds and the products of their labor. However, overcoming this condition would not take place through the state, which was itself merely the objectified form taken by social alienation. Rather, it would take changes in the structures of the family and civil society – those very spheres that Hegel had subsumed within the state (Marx 1992a; 1992b).

Marx traced the growing separation between civil society and the state as part of the transition from the estate and guild societies of the late feudal era to the consolidation of mercantile capitalist society in northwestern Europe during the eighteenth century. During this time, law took on an increasingly abstract and formal character,

as it replaced estates as the primary way of mediating between individuals in the new “independent” realm of civil society. The claim to equal political rights made during the French Revolution was the apex of the separation that had emerged between the universal political identity of the citizen and the actual social standing of the individual in civil society. The state now came to appear as the realm where individuals’ political equality as citizens could be recognized and expressed.

Marx argued this was an illusory freedom, for the state merely reinforced their political alienation from their material existence as producing and consuming beings. Bourgeois rights were thus a vehicle for *political* emancipation, but so long as civil society remained fractured by property rights, formal equality under the law was not enough to overcome individuals’ estrangement from their social existence (Marx 1992c). True emancipation could not occur through the “merely political state” but by the democratic reappropriation of the power that had been alienated in bourgeois society. Writing that “the state is an abstraction. Only the people is a concrete reality,” Marx (1992, 85) counterposed Hegel’s constitutional monarchy to a radical republican conception of democracy. Democracy was the “essence of all political constitutions,” because it took socialized human beings as its starting point (Marx 1992, 88). Under a democratic constitution, the alienated and mystified universality of the political state would disappear, for the constitution and the law would rest on the unalienated and direct “self-determination of the people” (Marx 1992b, 89).

Although he retained this fundamental idea of the necessary overcoming of the state, beginning in the late 1840s Marx largely shifted from examining the state’s philosophical underpinnings to more concrete historical and political analysis, and the state’s specific role in relation to class struggles. In the *German Ideology*, he and Engels maintained that the modern state had emerged from the social division of labor until it separated itself from civil society to become “the form in which the individuals of a ruling class assert their common interests” (Marx and Engels 2010a, 90). Two years later, writing with the goal of articulating the principles of the communist movement, the *Manifesto* referred to the executive of the “modern representative state” as a “committee for managing the

common affairs of the whole bourgeoisie” (Marx and Engels 2010b, 486.) Although less a definition than a device of political rhetoric, this framing nevertheless suggests a relationship where the economically dominant class directly controls and exploits state institutions for its own benefit.

However, in the *Eighteenth Brumaire of Louis Bonaparte*, Marx sketched a picture of an exceptional form of the state that superimposed itself over society to arrest the sharpening antagonisms between different class fractions. Marx described this state as a “parasitic body” composed of a bureaucratic and military organization that “enmeshes, controls, regulates, supervises and regiments civil society” (Marx 2010b, 139, 185). Although the Bonapartist state was the result of an equilibrium of class forces, it only *appeared* to be autonomous. While it was not directly controlled by the bourgeoisie, nor acted in its immediate interests, the state nevertheless secured the political and social order under which capital accumulation could continue to take place. Marx’s overlooked but poignant description of the state as the “concentrated and organized force of society” (Marx 2010a, 739) in Volume I of *Capital* is consistent with this earlier formulation.

Marx’s analysis of the state thus bridged two related but distinct standpoints: the philosophical perspective of his earlier writing, where the state is a juridical fiction masking the class interests openly expressed in civil society, and a historical-political perspective where it is a social relation that reproduces a specific balance of forces in society. Although this has been explained as the gap between the young and the mature Marx (Althusser 1965), there are also certain continuities. Importantly, the overcoming of political alienation by the eventual reabsorption of the state into society – what Engels (2010d, 321, 713) later called the “withering away” or dying out of the state – reappears in later writings such as *The Civil War in France*.

Nevertheless, following his concerted critique of Hegel’s political philosophy, Marx’s writings on the state remained fragmentary. Later interpreters have had to grapple with this gap and its implications. For example, it has been suggested that Marx’s critique of the bureaucracy in the earlier writings captured the essence of his thoughts on the state, making it less of a priority than the critique of political economy (Avineri 1968,

51–2). However, this interpretation should be questioned given that the mature Marx planned to write about the state as part of the broader critique of political economy. Others have pointed to at least two different understandings of the relationship between the economically dominant class and the state, which left unresolved the question of under what conditions it could be claimed that the state acted in its interests (Miliband 1965; Van den Berg 1988). A second unresolved tension was the relationship between the economic-productive base and the political, legal, and ideological superstructure through which these social relations were mediated and expressed. In both cases, the question concerned the degree of autonomy that the state had from the immediate relations of production and the direct economic interests of the bourgeoisie.

State as superstructure

Following Marx's death in 1883, the systematization of his writings by Engels and Karl Kautsky into a coherent body of thought dovetailed with the rise of the Social Democratic Party in Germany. The predominant approach to the state in the German social democratic movement was the topological metaphor of the productive "base" consisting of the forces and relations of production, and the corresponding "superstructure" of the political and juridical forms through which it would be expressed. Since it prioritized the historical and technological development of the material productive forces of society in giving rise to corresponding relations of production, this perspective, later coming to be known as "orthodox Marxism," was seen as reducing the political and juridical domains to secondary ideological expressions of these primary social forces.

The base-superstructure metaphor has some textual warrant in Marx's writings. Most schematically, it appears in the 1859 Preface to *A Contribution to the Critique of Political Economy*, where Marx wrote that the "legal and political superstructure" arises from the "totality" of the relations of production that "constitutes the economic structure of society" (Marx 2010c, 263) – a framing that he would also later directly repeat in *Capital*. Similarly, in the unpublished *German Ideology*, Marx and Engels noted that "the social organization evolving

directly out of production and commerce" in all ages forms the "basis of the State and of the rest of the idealistic superstructure" (Marx 1978b, 89).

Engels further developed this view in his *Origin of the Family, Private Property, and the State*, suggesting that the state had emerged from the gradual division of labor in settled civilizations to moderate the resulting class antagonisms. As such, it was "the product of society at a particular stage of development," having "arisen out of society but placing itself above it, and alienating itself more and more from it" (Engels 2010c, 269). However, important qualifications can also be found in Engels' letters from that period pointing to the reciprocal effect of the superstructure upon the base. As the bureaucratic and military organization of the capitalist state allowed it to obtain some independent power from the economic movement of society, the two could find themselves at cross-purposes, in a situation where the economic usually predominated but "must also be reacted upon by the political trend which it has itself induced and which has been endowed with relative independence" (Engels 2010a, 60). Furthermore, constitutions and juridical forms frequently determined the form taken by class struggles. In a modern state "law must not only correspond to the general economic condition and be its expression, but must also be an *internally coherent* expression," facilitating the growth of jurisprudence as a new "independent sphere" of social practice and preventing the law from being the "blunt, unmitigated, unadulterated expression of the domination of a class" (Engels 2010a, 60–61).

Despite these nuances, the Marxism of the Second International (1889–1916) largely saw the political and legal domains as determined by a relationship of correspondence between the means and relations of production. Within the capitalist mode of production, the political and juridical superstructure was seen as necessarily mirroring and reproducing the conditions for commodity production and the private appropriation of surplus value – namely, that the means of production were held as private property, and labor power was nominally "free" to be contractually exchanged for a wage. Leading theoreticians like Engels, Kautsky (1971; 2020), Eduard Bernstein (1961), and Rosa Luxemburg (2008) all saw the bourgeois constitutional

republic as the political form that expressed this advanced stage of industrial capitalism – and (with the exception of Bernstein) its inevitable crisis tendency.

Evolutionary and reformist currents in the Second International following Bernstein gradually arrived at the implicit position that the state was a neutral institution that could be progressively taken over through regular electoral participation by working class parties. Against this current, V.I. Lenin advanced a critique of social democracy's reliance on trade union activism at the expense of direct political struggles against state power. Whereas reformists saw the state as a neutral apparatus, for Lenin, since the state emerged as the necessary outcome of the irreconcilable class antagonisms, it remained a "special coercive force" or machine functioning as the "instrument for the oppression of one class by another" (Lenin 1967; 1975). Lenin's view of the state as a repressive instrument of class power undoubtedly remained the definitive and most influential treatment of the state within the Communist movements and parties of the twentieth century.

Through the 1920s and 1930s, the gradual codification of Marxism-Leninism in legal and state theory in the USSR continued to rely on the separation between base and superstructure. The most noteworthy and sophisticated treatment of law and the state in that period was Pashukanis' (1978; 1980) commodity-exchange theory. In distinction from his contemporaries, Pashukanis did not subscribe to an instrumentalist conception of law, focusing on the form of the law rather than its content. Pashukanis theorized law as an expression of the contractual basis of capitalist society, such that the legal form was structurally homologous to and derivative of the commodity form predominant in bourgeois civil society. Consequently, the revolution in the relations of production, and the completed transition to communist society would lead to the withering away of both law and the state, to be replaced by technical administration.

There has been a twofold critique of the base-superstructure metaphor from within the Marxist tradition. First, notwithstanding the aforementioned letters by Engels, its positivistic treatment of the base as the "real" space of the relations of production implies a unidirectional model that cannot account for the conditions under which the superstructure

can have a reciprocal causal effect on the forces and relations of production (Williams 2005). Equally important, the metaphor posits the two levels in a relation of external causality, such that, even if one allows for reciprocal influence, the state and law still exist as reflections of an independently constituted economic and productive sphere. However, if we assume that ownership of the means of production and relations of wage labor are always already politically and juridically mediated social relationships, then this explanatory primacy of the base cannot be maintained (Wood 2016).

The (relative) autonomy of the state?

The development of Marxist thought on the state following the Russian Revolution, especially outside of the Soviet Union, can be understood as a series of attempts to theoretically ground the possible autonomy of the state beyond the "economism" or "scientific socialism" of the Second and Third Internationals. Although these attempts often rested on very different epistemological premises, they shared a desire to trace the activities of the state beyond its repressive and coercive role, to examine the reciprocity between the state and civil society, the importance of ideology to subject formation, and the possibility of class consciousness and class struggle under the conditions of monopoly capitalism.

Between the 1920s and 1940s, among the notable contributions in the German-speaking world were the investigations of the rule of law and the exceptional state by Franz Neumann and Otto Kirchheimer (Scheuerman 1994; 1996), and of nationalism, culture, and constitutionalism by Austro-Marxists such as Max Adler, Otto Bauer, and Karl Renner (Bottomore and Goode 1978; Blum and Smaldone 2017; 2018; Adler 2019). A second major tributary of thinking about the state came from debates in Italian Marxism following the rise of Fascism. Although Gramsci's (1971) prison writings did not receive a wide audience until the 1950s, his innovative treatments of hegemony, the relationship between structural and conjunctural crises, and revolutionary political strategy were groundbreaking contributions in the postwar context for both Western communist parties and the New Left.

Beginning in the 1960s, the translation of Gramsci into English and the major retheorization of Marxism by Althusser and his circle further facilitated the critique of the base-superstructure model. While Althusser followed Lenin in asserting that the state was a repressive apparatus or machine, he developed the complementary notion of the ideological state apparatuses (including political parties and the law) as realizing and reproducing dominant ideology through interpellation by material practices (Althusser 2014). Moreover, by focusing on the concept of the mode of production, Althusser and his collaborators (Althusser et al. 2015) introduced a model of structural causality in which the economic, political, and ideological levels interacted in a complex way that excluded a linear determination by the economic – thereby counteracting the Stalinist orthodoxy that changes in the ideological superstructure would follow from a revolution in the base.

The 1970s marked the last major wave of developments in Marxist analyses of the state to date. The Miliband-Poulantzas debate (Miliband 1969; 1970; 1973; Poulantzas 1969; 1973; 1976) revolved around the question of the state's relative autonomy from the capitalist class. However, its reception in the Anglosphere schematically separated them into competing “instrumentalist” and “structuralist” approaches to the capitalist state, where the capitalist class either controlled the state through the influence of personal networks, or the state's independence was structurally guaranteed by its role in the capitalist mode of production (Gold, Lo, and Wright 1975).

In the wake of the debate and the crisis of the neo-Keynesian regime of accumulation in the 1970s, American scholars attempted to supplement the perceived shortcomings of Marxist theory with insights from Weberian sociology (Block 1977; Skocpol 1980; Katznelson 1981; Skocpol, Evans, and Rueschemeyer 1985). In Germany, two concurrent lines of inquiry unfolded. One involved the second generation of Frankfurt School critical theory (Habermas 1975; Offe 1984) focusing on the state's strategies for popular-democratic legitimation. The other was the “capital logic” school (Holloway and Picciotto 1978), which sought to derive the form of the capitalist state from a starting point with the category of capital. A second

tributary of thought influenced by the state derivation debate, the New German Reading of Marx, and the Open Marxist current has been “political form analysis” (Bonefeld 2021), as represented in various forms in the works of Werner Bonefeld, Simon Clarke, Heide Gerstenberger, and Joachim Hirsch (Bonefeld, Gunn, and Psychopedis 1992; Clarke 1991). The latter has advanced a view of the state as the contradictory political expression of the totality of capitalist social relations. An adjacent framework that has been in dialogue with the above is Jessop's (2016) development of a “strategic-relational approach” that sees the state as a social relation shaped both by structural incentives and the particular balance of social forces in a given conjuncture.

State theory in the twenty-first century

Despite this general interest in Marxist critiques of pluralist and elitist theories of power, by the mid-1980s, the research framework entered a period of decline alongside the waning of the New Left (Khachaturian 2019). Re-evaluations of the legacy of Marxist debates on the state from the 1990s onward have attempted to either synthesize the different strands of analysis or clarify existing divisions (Jessop 1990, 2002; Aronowitz and Bratsis 2002; Barrow 1993, 2016; Das 1996; O'Kane 2019a, 2019b). It has been difficult to formulate an overarching consensus, not least of all because plausible textual evidence in Marx's writings can be found for a variety of theoretical positions (Barrow 2000).

This lack of theoretical orthodoxy has largely turned Marxist state theory today into an open-ended and pluralistic research framework (e.g., Munro 2019; O'Connell and Özsü 2021; Hunter, Khachaturian, and Nanopoulos, 2023). In addition to new work in political economy (McCarthy 2017; Maher 2022) and political and legal theory (Shoikhedbrod 2019), at least four new research directions have emerged to supplement previous omissions. First, growing interest in social reproduction has reopened debates about the state's role in reproducing gender roles and the coordination of the non-waged labor necessary for capital accumulation (Vogel 2013; Bhattacharya 2017; Munro 2019). Second, recent discussions of “authoritarian neoliberalism” (Tansel

2017; Bruff and Tansel 2019; Ducange and Keycheyan 2019) have explored how new forms of the capitalist state exacerbate the crises of representative democracy. As a corollary, among US scholars, this has also led to growing interest in the role played by the state's coercive apparatuses, especially in connection to the carceral state (Gilmore 2007; Camp 2016), police power (Bargu 2019), and surveillance practices (Neocleous 2008; McQuade 2019). Lastly, the urgency of the climate crisis has drawn attention to the state as a site of social struggle over resource extraction and climate change mitigation (Riofrancos 2020; Battistoni, 2023).

What these strands of research share is a rejection of a view of the state as a juridical entity circumscribed by its formal constitution. There is agreement that the state has a *material* existence, as a set of institutions, but also as an ensemble of political, ideological, legal, economic, and social practices and relationships. These practices secure the state's claim to legitimacy by reproducing its effect as the representative of the general social interest, while continuing to facilitate capital accumulation, mediating between competing fractions of the capitalist class and integrating them into the global circulation of capital. Together, the research described above continues to revamp and adapt the history of Marxist thinking about the state to new problems, contributing to the ongoing development of this explanatory framework.

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See also

Marxism; Theories of the State II; Feminism and the State