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PARTISAN UNIVERSALISM

CONTENTS

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Introduction

This essay engages with the discussion on the relationship between subjecthood, the ideal of justice and the Global South and attempts to situate it within the theoretical canon of Marxist legal theory. Attending to the ‘peculiar’ unraveling of the Marxist subject of history, the classical working class, in its Global South versions, it invites the reader to an exploration of the domain of law and legal subjectivity based on reflections of political struggles in the post-colonial world. The main purpose of the essay is to attend to applications of Marxist theory as it pertains to the role and function of the law in these presumably different contexts of discontent. Specifically, it focuses on politics of dissent and subject formation that articulate ideals of justice across these ‘alternative geographies’. The question of how to deal with the Marxist category of emancipation outside or on the

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justice and contestations of the post-colonial state as a form and decolonization as a condition.

The Compass

The term ‘Global South’ as it applies to Marxism refers to debates that build on Marx’s work with specific reference to struggles, social movements and political discontent in ‘Other(ed) geographies’. Marxisms of the Global South is marked by two major camps: realist takes on socialist liberation movements emanating from the Global South, and, academic debates on what Marxist analysis and movements offer as alternatives to transformative politics in the Global South. Here, I will keep my focus within the parameters of the latter take.

Addressing the wave of anticolonial and national liberation movements, followed by an upsurge of postcolonial dissent that emerged after the Second World War in Africa, India, the Middle East and Latin America, Marxisms of the Global South derive their distinct status from their commitment to understand not just the colonial, but also the post-colonial, neo-colonial and neo-imperial forms of exploitation and oppression, and, continuation of various forms of deep dependence. They have a genuine engagement with and reflect upon political resistance as an ongoing process rather than dealing with the cooptation of the working class. Within these debates, however, there is limited application of ‘Marxism and the law’ discussion. This is the very point where I hope to make a tangible contribution from within the tradition of radical hope exemplified by Ato Sekyi-Otu’s work.

Of Marx’s own writings, it is estimated that only about 400 pages deal with non-European societies and these are, for the most part, his journalistic or impressionable writings on India, China, and the Ottoman Empire and then again mainly from the standpoint of British domestic policies (Pradella 2017). The regional specificity of Marx’s work could easily lead to regional exceptionalism, absolutizing the specificity of Europe and by default that of the Global South, and of course to the all-too-common charge of Eurocentric universalism. In contradistinction, interrogations of Marx’s critique of political economy in the context of the Global South and southern epistemologies entertain a non-Eurocentric conception of history and are enriched by Marx’s incorporation of colonialism and imperialism directly into his analysis of accumulation (Wolfe 1997, Pradella 2013). In this latter context, the antagonism between wage-labour and capital is defined in global

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tance of anti-colonial and post-colonial struggles, thus breaking with the Eurocentric mold of historical change. Indeed, from the perspective of contemporary critiques of the state, law and legal subjectivities, there is a lot to be learnt from the Marxist analysis of the post-colonial and anti-imperialist movements in the Global South.

Marxisms of the Global South by definition have to start with the deliberation that Marx's analysis focused on Europe as the site where capitalism, as a system, took root, rather than conveying that European experiences were unique. Secondly, his ideas concerning modes of accumulation and class apply to all societies (Marx 1853, 1854, Katz 1990). To the extent that capitalist relations developed and exhibited specific characteristics in the Global South, the outcry for radical-democratic and anti-capitalist social and political change is equally valid in these alternative geographies, which incidentally cover two thirds of the world. Third, society's deeply-held prejudices and material practices of oppression and exploitation exemplified in forms such as violence against women, institutionalized patriarchy and creation and sustenance of racialized minorities constitute a universal vocabulary of class struggle. Finally, Marxist discussions of the capitalist society offer us tools to understand not just the political economy, but also the state, the law, and cultures of resistance as they harbour ideas about transformative political practices in the Global South perhaps even more so than in Europe and the Global North. It may not be erroneous to suggest that revolutionary critique par excellence has now a new home, the post-colonial world.

Marx's focus on the materiality of life is also highly relevant to the Global South, where suffering is naturalized and class differences are pontified. His dialectical materialist perspective (Marx 1853, 1854) allows us to see the Global South not just in terms of stark material problems but also in terms of its intrinsic relations with the imperialist and neo-colonialist systems as a whole. Here, paying attention to law and legal subjecthood is a methodological necessity (Lefebvre 2009). As productive forces develop, and further and more variegated forms of surplus is produced, exacerbating class inequality, transnational alliances built amongst capitalist classes regionally and globally reach out for monopolizing law to protect their interests in the seemingly unending cycles of accumulation. In this context, societies in the Global South are faced with a double challenge of not just countering their native capitalist classes and handmaiden states with regulatory legal regimes parading as law, but an international and transnational consortium of interests keen on aborting democratic movements, urban uprisings, agrarian revolutions, and anti-capitalist movements in general. I posit that the capitalism of the Global South is deeply impacted

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A major consequence of the contemporary global restructuring of regimes of accommodation in the Global South has been the twin processes of integration of every sector of life into market relations, on the one hand, and social exclusion and creation of new marginal and subaltern classes, on the other. The latter led to layered legal subjectivities, where the lives and deaths of some are more valuable than others. These processes have meant growth of demands made from the state and its laws by the deinstitutionalized and increasingly dispossessed classes. Resulting urban grassroots movements and migrant discourses of dissent herald new forms of politics of discontent. In this essay, I critically navigate through the culture of utopian outcries, anti-institutional survival strategies, urban and rural networks of everyday resistance and attempt to conceptualize these strategies of resilience against globalized capitalist relations from within the debate on Marxist readings of the law. I make the case that the new global restructuring of capital is reproducing new subjectivities in the Global South that are most potently situated to stand against the ‘quiet encroachment of the ordinary’ committed by historical capitalism that Marx depicted so precisely some hundred and fifty years ago (Bayat 2000).

Which State? Whose History? and Other Troubling Questions

Following the rules of Hegel’s dialectical transition (2004) from ‘civil society’ to the Rechtsstaat, or the lawful state, which of course is the capitalist state *par excellence*, the contradictions of regimes of accumulation find home within the justificatory comforts of the law (Penczynski 1984, Hardt 1995). This is the point where this essay differs from Marxist theory of the state vis-à-vis law which adopt an omnipresent view of the state, leaving no scope for even the partial autonomy of the law or the ideal of justice (Marx 1875). Instead, it posits that the contemporary state in the Global South has been forming a more complex relationship with the ruling capitalist classes and the capitalist market economy in the context of globalization of both capital and labour.

Capitalism has historically been a global phenomenon, a uniquely orchestrated combination of economic, social and political processes which operate at the level of the world economy as a whole. This is not to undermine the importance of the changes introduced to the system by the dictates of neoliberalism, but historically confining our understand-

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with the accumulation processes as well as the ideological lull and promise it delivers to those whose exploitation and toil the regimes of accumulation depend on. A key part of the present endeavour is to counter the theoretical enterprises which conceptualize the contemporary world in terms of economic and political subsystems subservient to the core. This kind of methodological ordering of historical experiences leads to reduction of the post-colonial realm into a position of perpetual dependency (Chase- Dunn 1981). In this context, the state-law relationship in the Global South must be understood not as a matter of 'internal affairs' of individual societies but in relation to the development of global capital (Jessop 1990). The key to the neoliberal transformations engulfing capitalist societies in the Global South is a radical change in the mobility of not just capital and goods, but also labour, leading to novel manifestations of the crisis of social relations.

At this historical moment of suspended crisis, the question of law's role in progressive and radically subversive politics has become increasingly important. This is reflected in an upsurge in scholarship dealing with law's curious and porous relationship to power. Accounts of legal subjectivity are being redefined. The formative power of epistemic violence and progressive appropriations of the ideal of justice by the classes who are excluded from the determination of the language of state-made law point to law bursting beyond its traditional limits to address systemic or structural problems. Yet with one caveat: this progressive politics of legal subjectivity must take advantage of content of the disruptive outcries for substantive justice without falling a victim to law's form (Knox 2009). This issue will be fully addressed in Pashukanis' 2017 analysis of possibilities of law beyond the bourgeois state.

Ultimately, concerning the relationship between Marxist thought and the fate of law, taking the rule of law to be a system of institutionalized restraints on social and political power is directly challenged by grassroots encounters with the law. Indeed, opposition to the repressive, ideological, and purely instrumental uses of law and the rejection of the premises of the rule of law that protects the status quo is characteristic of everyday politics of justice across the post-colonial geographies (Krygier 1990; Chimni 1999).

Law, Human Emancipation and Beyond

On the *Jewish Question*, addressing the freedom of religion, Marx (1875, 1989) openly criticized the French and American 18th-century bourgeois-revolutionary declarations of the

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cobs 1992). Accordingly, the right to liberty is the expression of human separation rather than meaningful association, the right to equality is little more than a right to having an equal liberty to suffer, the right to property is the prime expression of self-interest, so on and so forth (Engels and Kautsky 1977, McKown 1995).^[1]

In *The German Ideology*, written only a few years later with Engels, Marx promptly assimilates law to religion and openly talks about the juridical illusion that reduces law to a metaphysical understanding of the human will, thus independent of the real relationships amongst people and the effects of institutions as well as covering up its organic relationship with political power (Marx and Engels 1965; Cain 1974). In this utopian narrative of a perfect legal order, the state is presented as the embodiment of an 'illusory communal life' and the struggles within it are naturalized and thus neutralized (Mandel 1986, p. 8). These misgivings could easily be depicted in the body of earlier manuscripts, clearly signalling the distinction Marx makes between political and human emancipation. Similarly, a line of demarcation is drawn between citizenship as the modern form of political, bourgeois emancipation originally realised by the American and French Revolutions, and human emancipation as necessitating a very different kind of revolution, leading to the constitution of a novel type of bond between the individual and the social and not simply between the citizen and the state as contemporary notions of legal subjectivity dictate.

In summary, Marx's formulation of human emancipation is grounded in his critique of bourgeois ideology of political emancipation, as he regards the latter as intentionally de-capacitating the dialectical relationship between political and economic relations. The bourgeois social bond individualises life, survival and rights and creates a dangerous abstraction hiding the dependency of the capitalist classes upon others. Post-Marxist theoretical work, notably that of Étienne Balibar's (1988) alternative understanding of the forms of emancipation presenting citizenship as a platform for making substantive claims, is therefore often titled as 'thinking emancipation after Marx'. Here, I will continue with this particular debate by engaging with something a lot messier in the context of political movements in the Global South.

In *The Communist Manifesto*, bourgeois jurisprudence is labelled as 'the will of your class made into a law for all, a will whose essential character and direction are determined by the economic conditions of existence of your class' (Marx and Engels 1848, p.116). Marx's mature works do not substantially depart from these formulations. Rather, the ideas are deepened and given more precision.^[2] Accordingly, the legal and political superstructure rises above the relations of production although it is determined by them. Furthermore

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ther elaborates on the base/superstructure metaphor and its relationship with the law. Specifically, the chapters on ‘The Expropriation of the Agricultural Population from the Land’ and ‘Bloody Legislation Against the Expropriated’, provide a detailed account of the role of law in the sustenance of primitive accumulation.^[3]

There are similar accounts pertaining to how juridical relations are essential for the maintenance of the deceptive and fetishistic forms of commodity exchange in capitalism, as they mystify the actual social relations of domination and dependence which underlie the whole system (Mandel 1986; Carver 1975). For instance, in the *Critique of the Gotha Programme*, law takes central stage for the maintenance of the *fiction* of the ‘fair distribution of the proceeds of labour’ (Marx 2008). As a critical pronouncement on the decimation of the human need under the veil of law, this final critique stationed social democracy and the rights discourse as a transitional stage between capitalism and what is to follow after it.

For the purposes of this essay, the above themes will be further examined in the work of modern Marxist legal theorists, many of whom were not part of the canonized European Marxist circles. In fact, one of the most significant attempts to reconcile Marxist critique and the law was made in the 1920s by Soviet theorist E.B. Pashukanis. He strove to develop a Marxist theory of law along the lines of Marx’s treatment of commodity fetishism in *Capital Volume One*.^[4] Though criticized for his neglect of the relations of production in his overall analysis, Pashukanis (2017) successfully elucidated the specifically bourgeois historical character of basic juridical categories in modern state law. The most important of these is the ‘legal subject’ endowed with the precise amount of free will that is necessary for purposes of ratification of the legal realm, which in effect reflects the unequal and compulsory nature of the relations of production. Furthermore, he made an important distinction between law and other types of social rules and political norms, as an extension of his understanding of the legal subject (Fletcher 2013).^[5] He was thus able to give precise meaning to the notion of the ‘withering away of law’ if there was no longer a need to protect the status quo pertaining to capitalist relations of production (Mandel 1986, p. 7).

The revival of interest in Pashukanis’ Marxist legal theory in the late 1970s, which evolved from the retranslation of his major works and subsequently a slew of review articles, is regarded as part of the ‘Marxist legal renaissance’. Worthy of special note here is G.A. Cohen’s work from 1949 on law’s super-structural character in his seminal article on ‘Socialism and the Law’. Accordingly, capitalist relations need the law, not only because

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exemplified by the work of Leszek Kolakowski (1983), Norman Geras (1989) and other Eastern European scholars' work on the rights struggles (Cowling 2018). None, however, attended to its use for subversive ends except the latest wave of Marxism and the law debate as did its particular rendition amongst Third World Approaches to International Law (TWAAIL) scholarship.^[6] Ultimately, the most substantive critique of law from within Marxism emanated from the Global Southern scholarship as a result. This essay is written in kindred spirit to the TWAAIL approach underlining the possibility of redefining legal subjectivity as a transformative affair.

The Long Road from Pashukanis 'General Theory of Law' to 'Left Universalism and the Law'

While the *General Theory* belongs to the tradition of Marxist thought (Pashukanis 2017), it is also heavily influenced by the school of *Rechtsphilosophie* in that the problem of establishing appropriate principles of formal organization and administration of law are notably pressing for him. In his 1932 essay on 'Marxist Theory of State and Law', for instance, there is a consistent dual plea of the legal specialist striving to eschew arid formalism and to foreground the social relation standing behind the legal form within the context of the Marxist class analysis (Hunt 1996). Pashukanis is vehement that law, at that very juncture in [Soviet] history, is far too important to be left to lawyers and jurists alone. Accordingly, his strategic arguments are grounded in positions derived from the theory of commodity fetishism in Marx's *Capital* through which law can be seen simultaneously as the expression as well as the guarantee of specific social relations. In other words, law is unintelligible except when analysed in terms of social relations within which it is embedded. It is the abstract and formal conception of law divorced from history and sociality that provides it with the mysterious power of being timeless and self-contained. It is precisely this very form that must be brought down from the throne, and herein lies Pashukanis' enduring contribution to legal theory as well as his relevance for the conceptualization of redefined subjectivities in the Global South through encounters with the law and legal order.

In Pashukanis' work (2017), the task of creating a form of law purpose-designed for the construction of socialism, one that is no longer bound by unequal social relations and

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and the letter of the law, the twin dangers of formalism and formlessness, Pashukanis became acutely aware that Marxist legal theory was inadequately developed in comparison with bourgeois legal theory. Juridical formalism deliberately ignored both the historical context and social consequences of law (Bergmann and Zerby 1945). As a result, there was a rigid dichotomy established between law and administration. This dichotomy had to be abandoned and legal certainty and normative analysis had to be reconciled with the requirements of effective policy implementation. Pashukanis' views were essential in the formulation of this model. His work on the impact of the legal form on the economic relations determining the social realm, and the complex problems pertaining to the interaction of legal form and economic planning, reflected his desire to undo the reductionist tendencies of legal fetishism. In its place we are offered a progressive fusion of legal and administrative tasks and the replacement of emphasis on legal form with that of substantive content and the actual societal purposes of law and regulation.

Overall, what Pashukanis' work offers to contemporary legal theory very much depends on what we ask of legal theory in particular, and law in general. Pashukanis' analysis (2017) of law's capacity to promote both permanence and change in social relations while being capable of either expressing or obscuring what is most fundamental about them is of great use in the context of law's appropriation by movements of dissent. Much of contemporary legal theory does not concern itself with these issues. The fact that law has a distinct form and promises the balancing of rights and duties between autonomous legal subjects in addition to the regulative tasks it performs, and that the legal form can be explained in material terms as the product of definite historical conditions also allows us to avoid jurisprudential idealism. Pashukanis (2017) locates the basis of legal form in the social relations of commodity exchange and accumulation. By using the methodological guidelines of Marxist thought, he attempts to apply the Marxist theory of fetishism as a basis for a general theory of [bourgeoisie] law as a particular genre of ideology. If so, the distinctiveness of modern law is its structured and institutionally protected normativity monopolized by the state.

While Marx and Engels devoted considerable attention to particular laws that were the focus of intense political debates of their time, such as the English 1834 Poor Law Amendment and the Corn Laws, and engaged in discussions of the base-superstructure dichotomy as embodied by the legal system, they provided no comprehensive discussion of law within the context of historical materialism (McBride 1970, p. 127; Stone 1985, p. 39). The legal system is only addressed as part of more general analyses of the movement of

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direct point of entry in this discussion on legal subjectivity with a future promise. His contribution of seeing law as a marker but not the maker of subjecthood is pivotal in a context marked by the conditions of accumulation, exploitation, and integration of the state into the global networks of relations of domination across the Global South.

Criminal law is far less important for the maintenance and functioning of the capitalist social order than civil and in particular administrative law. Furthermore, though classical Marxist theory (1859) sought to discredit notions of an autonomous or egalitarian legal realm capable of transcending or resolving the discord (Hoffman 1986), unfulfillment and subjugation of everyday life characteristic of the oppressive social order of capitalist societies, as Pashukanis' work indicates, there is more to law and the construct of the legal subject than what is dictated by bourgeois law. At this point, I will shift the frame of reference from Soviet-era discussion on bourgeoisie law and Pashukanis' Marxist theory of law to the colonial/post-colonial/decolonial contexts marking the Global South. In the remainder of this essay, I will posit that Marxist legal theory has to go through yet another reiteration in order for us to understand law and its myriad functions during processes of historical appropriation and subjugation and their aftermath.

Asiatic Mode of Production: Destiny or Choice?

In order to find a fulsome address for the intersection of Marxism and the law in the Global South, dealing with the 'Asiatic mode of production' debate described by Karl Marx in his basic evolutionary model for human society is essential. In rudimentary terms, the phrase defines a special form of society marked by exclusive state ownership of the means of production and extensive intervention by the state in all forms of social life (Dunn 2012). The addendum that often accompanies the phrase itself is the problem-laden term 'Orient'. The depreciating idea of 'a dynamic, progressive, participatory polity in the West as opposed to a static, unchanging, despotic polity in the East' goes back to the self-perception of the Greeks vis-à-vis the Persians. Specifically, the introduction of the notion of Oriental Despotism to the European canon is owed to the Latin translation of Aristotle's Politics back in the thirteenth century (Sawer 2012). With Montesquieu, despotism of the Orient was enlarged in its scope to include absolutism. Following suit, for Georg W. F. Hegel (2004), China and India lay 'outside the world's history', while John Stuart Mill (1863/2017) regarded the Orient as far too fixed and unchanging to join the

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that he adhered to the image of China in particular and the Orient in general, wherever that may be, as socially and politically stagnant (Boer 2016). Consequently, his work characterizes the ‘Asiatic society’ with a series of absences and excesses: absence of private property in land, large-scale irrigation works, an omnipotent state ruling in a despotic manner through a wide network of politico-administrative elite, and absence of political participation and social dynamism, resulting in stagnation, absence of class differentiation, class consciousness, and in the end, class struggle. Engels, in *The Origin of the Family, Private Property, and the State* (2007), which is published after Marx’s death, further integrated Marx’s ideas on Oriental despotism and Asiatic society into the larger framework of historical materialism.^[7]

The Asiatic mode of production debate enabled Marxist thinkers to bring China, India, the Ottoman Empire and other large areas of the world where the majority of the global population live into the debate on historical materialism but from the backdoor. As such, flat readings of the Asiatic mode of production easily lead to generic conclusions. The Global South was depicted as a conglomeration of societies with weak, underdeveloped bourgeoisie and at least historically speaking, virtually no working class to lead the class struggle. On the other hand, appropriation of the Marxist critique of political economy in the context of the Global South and reading it through the application of ‘southern epistemologies’ obliges us to take a position against the Eurocentric conception of history starting with Adam Smith.^[8] Addressing Marx’s ‘silenced sociology of colonialism’ requires that we incorporate colonialism and imperialism into his overall analysis of accumulation (Tansel 2015, p. 78). If the antagonism between wage-labour and capital is understood as a global historical phenomenon, colonial and neo-colonial forms of exploitation and oppression are to be brought into the fold. This, in turn, allows us to address the potential for anti-colonial/post-colonial and decolonial struggles and international solidarities, and to reconnect the critique of political economy with struggles in the Global South (Pradella 2017).

The subaltern classes, the dispossessed, the precarious, the ones who have nothing to lose never even stood a chance to be integrated into the system across the Global South. The spontaneous radicalism of the subaltern classes lacks the incise language befitting Marxist class struggle debate to this day. And yet, the most effective movements of dissent in these diverse geographies are often led by groups representing a mixture of Marxism, utopianism and vernacular radicalisms. The list is too long to be included here, but from liberation theologies of the Latin American societies to some regions of India to

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systemically subversive projects linking social movements with radical local traditions. All these movements are utopian in spirit and take their energy that propels them to move forward from broadly defined alliances and an outcry for another world and a new ideal of justice.

No doubt there are some parallels, resemblances, and interconnections between contemporary right-wing populisms and the populism of inner-city, student, and agrarian resistance movements. They all lack a definite class identity in Marxist terms.^[9] Their agenda for political confrontation is often either far too pragmatic or far too idealistic, though the second option definitely works well for building a united front of system challengers. This kind of structural transformation requires a reclaiming of the initial moment of broadband populism and forging a reformulated class-conscious countercurrent. This, in turn, could be done by using a reformed language of law and justice as formulated by Pashukanis (2017), but within the trajectory of what the prominent post-colonial thinker Ato Sekyi-Otu (2018) spelled out as ‘radical universalism’.

Historically, successful reforms or revolutions were direct outcomes of the dialectically linked weakening of a ruling elite and the strengthening of the system’s challengers. Political work of defeating contemporary right-wing populism cannot rely solely on either weakening right-wing populists. It is in this context that what is deemed as the world of the Asiatic mode of production in classical Marxist literature could make a come-back: it has the material basis and political potential to split the ranks of those who benefit from the way things are while broadening the basis of societal and global discontent (Rajagopal 2003).

Conclusion: Radical Universalism, Left Universalism, and Other Visions of the Legal Subject

Left Universalism, Africentric Essays is not just a defense of universalism as a ‘metaethical position’. It reinforces a thorough re-evaluation of the transdisciplinary conflation of moral universalism with the European cultural and political imperialism. This conflation, Sekyi-Otu warns us, allows for dangerous, ahistorical, unchallenged or unscrutinised assumptions about what is considered to be the human nature (Sekyi-Otu 2018). All the

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closes the possibility of imagining a different future and using a pluralist vocabulary of human emancipation.

It may be argued that ‘left universalisms’ is a continuation of an earlier debate that already found address in the Marxist tradition of critique. Specifically, the term radical universalism crowned by the Budapest School comes to mind. This earlier reiteration of universalism referred to the idea that human beings are marked by, and bound by a set of unique qualities that allow for imagining above and beyond their current predicament (Heller and Ferenc 1991). It thus assumed a meaning which was indebted to the questioning of all that was taken as universal, at least as far as the inner tenets of the European Enlightenment are concerned. Agnes Heller is perhaps the best known theorist of the loosely constituted Budapest School originally formed by Georg Lukács in the middle of the 1960s and she is often referred to as the forerunner of ‘humanist Marxism’ (Tosel 2008). Heller’s particular contribution to left radicalism and ‘the renaissance of Marxism’ amounts to a decided encouragement of plural visions of Marxism and an invitation to heterodox, critical, iconoclastic takes on the Marxist tradition. Still, unless read alongside with the voices emanating from the Global South, it suffers from the kinds of limitations that Marx’s own works were characterized by in terms of working on the experiences of circumscribed geographies and at the expense of silenced histories.

A classical case in point is the Haitian Revolution of 1791–1804, which led to the establishment of Haiti as the world’s first independent Black Republic. It was represented as a slave rebellion, an anti-colonial war, and a race war (Nesbitt 2008). Against the white archives of Atlantic slavery narrating a ‘universal’ history predicated upon assumptions of black passivity and powerlessness, the Haitian experience removed the stigma of being ‘objects of other people’s exploitation’ and exalted the once-slaved population of the colonized French Saint-Domingue to makers of their own faith (Kaisary 2012). The question is whether this story is one of continuity or one of rupture. Perhaps it is neither, as an offer of an emancipatory vision of decolonisation must be built upon the liberation of the subject, including what has been identified as the legal subject in Marxist debates on law. Challenging the notion that the values of universal nature are exclusively under the purview of European gaze is taken onto a different plane when we can speak of other kinds of universalisms. In this pursuit, the original debate on radical universalisms as an internal critique of the Enlightenment does not suffice though being a remarkably radiant attempt (Ingram 2005).

Revisiting the original inquiry of this paper, that of how to read Marxism and the law.

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severed' from the mainstream (Kruger 2019, p. 268). According to Sekyi-Otu (2019), the ethical obligation of the subject to be truly emancipated can be fulfilled as the latent property of being universal, but only via the manifest property of being particular. In such instances, the critical Marxist re-examination of the category of the legal subject is indeed a gateway towards the realization of the particular as the embodiment of the potential of the universal. Sekyi-Otu's desire for 'suffusing every moment in the history of human society with its own *telos*' (2019, p. 278), if read in the context of the voices of not just discontent but also transformative socio-political engagement in the Global South, is a welcoming gesture towards the appreciation of vernacular. It is the vernacular that allows us to locate alternative narratives to the 'eternally recurring story of injustice' otherwise known as capitalism. Thus, it moves us away from the drama of justifying universalisms or reductive historicisms of celebratory formulations of human emancipation.

As to the special space allocated to the law-human emancipation coupling throughout this paper, though law does not squarely fall under the beautiful canopy of the seemingly endless riches of Sekyi-Otu's work, the making/unmaking of the [legal] subject certainly does. The kind of historical consciousness embraced by *Left Universalism* provides us with a new vocabulary for Marxism's legal subject that is not subservient to the impositions of the bourgeoisie legal order but empowered to speak in tongues about justice. The literature on Marxism and the law is often underpinned by the idea that without ensuring a certain subject position in the registers of capitalism, legal subjecthood exercised in the form of questioning the ideal of justice parsed out by the system and undertaken as an individual act has no power to even produce a counter-discourse to the complex relations of base/superstructure. However, vernacular politics of dissent so widely resorted to in the Global South forces us to engage with a different interpretation of the treacherous road to true human emancipation above and beyond what the law dictates. Often interpreted as occupying the 'middle space' in normative claims, politics of discontent in the Global South are seen as an extension of the state of affairs in the Global North. Sekyi-Otu's increasingly forceful call for the recognition of other kinds of ethical claims of truthfulness arms us with the conviction that critical engagements with capitalism and the law will remain incomplete without an understanding of the practices that both facilitate and constrain it in 'not so other' geographies that speak of a different kind of historicity which includes but clearly exceeds the Enlightenment tradition.

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1. The relationship of Marxism to Marx's discussion of the 'Jewish Question' is complex. Among others, Karl Kautsky, Leon Trotsky, Ber Borokhov, Abram Leon, and several figures associated with the Frankfurt School, investigated the actual policies in the socialist and communist movements and explored the unique history of the perception of 'Jewishness' in Marxist traditions. Here, I do not dwell on this particular subject, but do find its bracketing useful. For further debate, see Jacobs, J. (1992). *On Socialists and 'the Jewish question' after Marx*. NYU Press. ↵
2. The classic statement is in the Preface to *A Critique of Political Economy*, where Marx employs the architectural metaphors of 'base' and 'superstructure'. It was from studying law, Marx says, that he found that 'legal relations as well as forms of state are to be grasped neither from themselves nor from the so-called general development of the human mind, but rather have their roots in the material conditions of life'. Citation from the online version at <https://www.marxists.org/archive/marx/works/1859/critique-pol-economy/pref-ace.htm> ↵
3. Marx, K. (2019). *Capital: Volume One*. Courier Dover Publications. On the critical notion of primitive accumulation, see De Angelis, M. (2001). Marx and primitive accumulation: The continuous character of capital's 'enclosures'. *The Commoner*, 2(1), 1-22. Suffice to say that David Harvey's adaptation and redeployment of Marx's notion of 'primitive accumulation' as 'accumulation by dispossession' brought this concept back with rigour into contemporary debates. The fact that Harvey's 'accumulation by dispossession' is most persistent within the Global North, should not negate its political implications in the era of neoliberal globalization, and hence the adoption of the model in the Global South. For a historical understanding of regimes of accumulation, see Amin, S. (1974) *Accumulation on a world scale: a critique of the theory of underdevelopment*. New York and London: Monthly Review Press and Amin, S. (1976) *Unequal*

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- York: Monthly Review Press. For Harvey's reappropriation of the notion, see Harvey, D. (2003) *The new imperialism*. Oxford: Oxford University Press. ↵
4. It is also important to note that Pashukanis' work has been much maligned and some argue has been direly misunderstood (Head 2007). ↵
 5. See Fletcher, R. (2013). Legal form, commodities and reproduction: Reading Pashukanis. *Feminist Encounters with Legal Philosophy, Routledge*, 138-157 on the beneficial aspects of Pashukanis' legal subject for critical studies on legal form. ↵
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 7. As cited in J. A. Fogel, *Politics and Sinology: The Case of Naito Konan (1866-1934)* (Cambridge, Mass., 1984), 3-5. ' Karl Marx to Friedrich Engels, 2 June 1853, Karl Marx and Friedrich Engels, Selected Correspondence 1846-1895, Dona Torr, trans. (1942; rpt. edn., Westport, Conn., 1975), pp. 64-66. In a similar vein, G. Lichteim noted that 'the Orient had not evolved anything corresponding to private property in land: unquestionably one of the preconditions of feudalism'; *Marxism: An Historical and Critical Study* (New York, 1961), 158. ↵
 8. See M. Sawyer (2012), *Marxism and the Question*, pp. 43-52; S. Dunn (1982), *The Fall and Rise of the Asiatic Mode of Production*; A. Dirlik (1978), *Revolution and History: The Origins of Marxist Historiography in China 1919-1937*; and G. A. Hoston (1986), *Marxism and the Crisis of Development in Prewar Japan*, especially chapter 6, and, L. Krader (1975), *The Asiatic Mode of Production: Sources, Development and Critique in the Writings of Karl Marx*, pp. 62-67. ↵
 9. There is a very rich literature in agrarian and peasant movements, including classics such as Moore, B. (1993). *Social origins of dictatorship and democracy: Lord and peasant in the making of the modern world* (Vol. 268). Beacon Press; Wolf, E. R. (1990). *Peasant wars of the twentieth century*. Princeton, N.J.: Princeton University Press.

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