To this point I have argued that both Marx's writings and the Marxist tradition of politics have a moral component and that there are no insuperable difficulties in reconciling this fact with other components of Marxism. If my arguments have been basically correct, there is no insuperable difficulty in reconciling the existence of a Marxist moral component or even a Marxist moral theory with: (1) Marx's (supposed) moral historicism, (2) the deterministic features of Marx's theory of historical materialism, (3) Marx's concept and theory of ideology, and (4) the (supposed) Marxist commitment to moral relativism. But even if all of this is true, there is still the question of whether or not Marx's views are compatible with theories (or even the concepts) of social justice and human rights. If it is not, then the hopes of those who wish to develop an adequate Marxist moral and social theory may well be in vain. It is the project of this chapter to show that—contrary to what has been claimed in much recent philosophical literature on the subject—Marxism and concepts and theories of social justice and human rights are compatible.

As shown in chapter 1, the most pervasive moral values found in Marx's works from the *Paris Manuscripts* of 1844 onward are freedom (as self-determination), human community, and self-realization. In chapter 3 I argued that Marx is a mixed deontologist as opposed to a utilitarian or any sort of consequentialist, strictly construed, and that he is committed to an equal distribution of freedom or, more specifically, to a maximum system of equal freedom, both negative and positive. Marx's concept of positive freedom, it was argued, includes a right to equal participation in social decision-making processes and a right to equal access to the means of self-realization, where the latter is best construed as an equal
opportunity to attain social positions and offices and a genuinely equal opportunity to acquire social primary goods.

But this way of rendering Marx's theory seems inconsistent with his critique of justice and rights, for I have claimed that Marx is not only committed to a general principle of equal freedom but that he can be interpreted (or reconstructed) as holding that people have certain rights. Furthermore, as Isaiah Berlin points out in a passage quoted in the same chapter, speaking of economic or social freedom makes sense only if we have a standard of justice by which to judge what people are entitled to, and thus of what they have been unjustly deprived. For it is only if we believe that individuals are being unjustly deprived of something that we speak of them as not being free to have or acquire it. If we accept this view, then the very fact that Marx is committed to notions of social and economic freedom requires us to account for his implicit commitment to principles of distributive justice as well as human rights.

There is, however, another reason for my giving an account of the compatibility of Marxism and the concepts of justice and rights. I have asserted that an adequate Marxist moral theory must be able to show that socialism is morally preferable to capitalism, since socialism—but not communism—can reasonably be considered a genuine historical possibility. This is so, it was argued, because the superabundance of material goods, which is a precondition for communism, is not likely to come about even if the world socialist revolution is completed. Furthermore, it may be doubted that a full-fledged communist society will come about even if the condition of a superabundance of material goods is realized because (1) people will not develop a communist consciousness even under these conditions, as Marx predicted they would, and/or (2) a correct understanding of the concept of material scarcity reveals that even people's time and cooperative behavior are goods; and since such goods must be rationed out in the pursuit of various goals, the condition of material scarcity can never be completely overcome (more on this in chapter 9). In any case, it seems that an adequate Marxist moral theory must contain criteria for deciding between different forms of society embodying the condition of moderate scarcity.

Furthermore, since according to Marx and virtually all other political theorists a state must continue to exist as a form of social organization in societies embodying this condition, an adequate Marxist moral theory must be able to provide a moral basis for political authority and political obligation, which, in turn, requires a theory of right and, I believe, a theory of social justice and/or human rights. It seems clear, then, that anyone who wishes to develop an adequate Marxist moral theory should supplement Marx's implicit moral theory with a more well-worked-out theory of right or, more specifically, a theory of social justice and/or human rights. (This does not beg the question against consequentialists, however, since utilitarians or consequentialists may provide such theories without repudiating their view that "the right" is derivable from "the good" and that principles of justice and rights are derivable from a commitment to maximize utility or some other good.)

The problem with this move, of course, is that Marx explicitly rejects it. He attacks concepts and theories of justice and rights on the basis that they are part and parcel of bourgeois ideology and (in "On the Jewish Question") as a sign of the sort of alienation whose elimination he sees as imperative. Furthermore, in his later works he explicitly rejects the thesis that capitalist exploitation is unjust to the workers and, at least implicitly, the notion that socialism is to be preferred to capitalism because it is more just or better able to observe people's rights. Finally, he believes that both concepts will become otiose in a communist society. This presents those wishing to base an adequate Marxist moral and social theory on justice and/or human rights with a dilemma. Either they must give up this attempt or they must show that Marx's criticism of these concepts and theories is in some way faulty. In the present chapter I grasp the second horn of the dilemma and attempt to show that Marx's criticisms of these concepts and of moral theories based on these concepts are not sound, and that there is no prima facie difficulty in either explicating Marx's moral views in terms of rights and justice or in basing what can legitimately be called a Marxist moral and social theory on these concepts.

But Marx's critique of justice and rights is not simple or unitary. It can, in fact, be broken down into several different kinds of criticisms. One set of criticisms consists in applying his objections to moral concepts and theories in general to the more specific concepts and theories of rights and justice. I shall adduce textual evidence to show this, but I shall not attempt to refute these criticisms since these issues were taken up in chapter 6 with regard to moral principles in general, and there is no essential difference in their application to principles of justice or rights in particular.

A second sort of criticism that can be found in Marx is based on the specific characteristics of justice and rights rather than on the
generic characteristics they enjoy as members of the moral community (so to speak). One of these specific criticisms is that justice is entirely an internal, juridical concept that is applicable only within the specific social formation of which it is an integral part. On this view, any attempt to apply an “external” principle of justice to a social formation is wrongheaded. Thus any attempt to condemn capitalism as unjustly exploitive is unsound because the standard of justice inherent in bourgeois society is the standard of laissez-faire. Allen W. Wood has recently defended this interpretation of the Marxist view of justice.

Another criticism Marx seems to have of the juridical concepts (i.e., the concepts of rights and justice) is that they are bound to become otiose with the advent of communism since the conditions on which their intelligibility depends—moderate scarcity and moderate egoism—will no longer hold. Robert Tucker was perhaps the first to emphasize this point. Because Tucker and Wood initially focused people’s attention on these two Marxist criticisms of justice, the general claim that Marx does not condemn capitalism as unjust or command socialism as just, and the related (implicit) claim that it is not consistent for Marxists to do so, has become known as the “Tucker-Wood thesis.”

In the present chapter I shall first consider Marx’s generic criticisms of justice and rights. Then I shall take up his specific criticisms, especially as amplified by such contemporary writers as...

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more about “usury,” when we say it contradicts “justice éternelle,” “équité éternelle,” “mutualité éternelle,” and other “vérités éternelles” than the fathers of the church did when they said it was incompatible with “grâce éternelle,” “foi éternelle,” and “la volonté éternelle de Dieu”?\(^2\)

Part of Marx’s criticism of Proudhon here is that he is putting the cart before the horse: he is attempting to explain the economic structure and laws of society in terms of the concept of justice, whereas (in reality) it is the latter that must be explained by the former. “Justice éternelle” is a juridical relation arising from the very economic structures he proposes to explain. In attempting to explain economic phenomena by moral principles, Proudhon has, on Marx’s view, reversed cause and effect. Nevertheless, there seems little doubt that Marx also found such notions as “justice éternelle” metaphysically suspect and that this is, in fact, the primary reason that they cannot be part of a legitimate explanation of natural or social phenomena or even the basis of an evaluative theory.

The second sort of generic objection Marx has to justice and rights is based on his misconception concerning the nature of justification of moral judgments, principles, and theories. On this misconception, actual disagreement about which moral judgments, principles, or theories are justified makes untenable the view that some of them are justified, while others are not. During his polemic against the Lassalean demand that principles of justice be included in the Gotha Program, for example, Marx notes that not only do bourgeois and socialist theorists differ on the appropriate principles of justice but that socialist theorists differ among themselves. “What is a fair distribution?” Marx asks. “Do not the bourgeois assert that the present-day distribution is ‘fair’? . . . Have not also the socialist sectarians the most varied notions about ‘fair’ distribution?”\(^3\) The inference Marx seems to draw from such examples is that there is no sense in which one principle of justice can be better justified than another. As we have seen, however, this direct inference is no better than inferring that there is no sense in which the judgment that the earth is round (or an oblong spheroid) can be better grounded or justified than the judgment that it is flat. Mere disagreement in morals does not automatically preclude that some positions can, in some sense, be better justified than others. Furthermore, this line of reasoning would seem to lead to either ethical skepticism or normative ethical relativism.

both of which are fatal for any political program. All political programs are based on normative political positions, which, in turn, are based both on empirical theories and moral (or at least normative) judgments and principles. Hence, it is not a line of reasoning a Marxist (or anyone else endorsing political positions) can consistently pursue.

Marx’s third generic criticism of justice and rights is based on his misconception that all moral theories are ideological in the sense that they invariably and necessarily support the social status quo. This criticism can be found at various points in his works. For example, he describes the bourgeois description of the surface (exchange) structure of capitalism—which he sees as one of the most pernicious ideological defenses of the bourgeois social status quo—as “a very Eden of the innate rights of man. There alone rule Freedom, Equality, Property, and Bentham.”\(^4\) Although it can be quite plausibly maintained that, in fact, only certain (e.g., bourgeois) ideas of freedom, equality, property, and rights are ideological, Marx seems to believe that at least the juridical concepts (i.e., justice and rights) are inevitably ideological in this sense. As argued in chapter 6 of the present work, however, neither morality in general nor the notions of justice and rights in particular would inevitably seem to meet one or more of the characteristics that make views or theories ideological.

Turning to the fourth sort of misconception, we can observe in “Critique of the Gotha Program” that Marx believes the employment of such juridical concepts as a means of effecting significant social change has the same pernicious consequences as employing other moral concepts or principles in this way. He states that

I have dealt . . . at length with . . . “equal right” and “fair distribution” . . . in order to show what a crime it is to attempt . . . to force on our Party again, as dogmas, ideas which . . . have now become obsolete verbal rubbish, . . . again perverting . . . the realistic outlook, which it cost so much effort to instill into the Party but which has now taken root in it, by means of ideological nonsense about right and other trash so common among the democrats and French Socialists.\(^5\)

Although, again, it can be plausibly argued that it is only some concepts or theories of justice and rights that have the pernicious effects Marx was concerned to combat, he seems to indict all jurid-

\(^2\) Marx, Capital, vol. 1, pp. 84–85

\(^3\) Marx, “Critique of the Gotha Program,” p. 385.

\(^4\) Marx, Capital, vol. 1, p. 176.

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Marx on Rights as Part of the Egoistic Image of Man

Although sometimes Marx seems to be objecting to only bourgeois rights rather than all rights or the concept of rights in general, there is—at least in his early works—a more radical critique in which all rights are to be rejected. In his 1843 polemical essay against Bruno Bauer (“On the Jewish Question”), he writes:

None of the supposed rights of man . . . go beyond the egoistic man, man as he is, as a member of civil society; that is, an individual separated from the community, withdrawn into himself, wholly preoccupied with his private interest and acting in accordance with his private caprice. Man is far from being considered, in the rights of man, as a species-being; on the contrary, species-life itself—society—appears as a system which is external to the individual and as a limitation of his original independence. The only bond between men is natural necessity, need and private interest, the preservation of their property and their egoistic persons.6

Since rights are integrally related to the conception of man as the egoistic individual, according to Marx, even their complete realization (i.e., political emancipation) will not result in genuine human emancipation. Human emancipation is release from the condition of being an egoistic individual, not emancipation of some sort within this condition. This critique of rights is, of course, intimately related to another of his specific criticisms of juridical concepts listed above, namely, the claim that such concepts will become otiose with the evolution of communist society. The reason, on Marx’s view, is, in part, precisely because the egoistic individual of capitalism will have become transformed into the autonomous but communal individual of communism. (The other reason is that Hume’s second condition of justice—moderate scarcity—will also be eliminated.)

There are two problems with this general indictment of rights. The first is its relevance. It may be doubted that full-fledged communism and the communist individual as Marx conceives them will ever evolve. Even if it is thought that they will, or might, evolve, there is the problem that Marx seems to leave no room for the concept of rights in the societies in which human beings will exist until the advent of such an ideal society. The problem here is that since the first stage of communism (i.e., socialism) will bear the birthmarks of the old society for quite some time—as Marx admits—there is a need for rights principles during this period.

Second, by tying the concept of rights so closely to that of the egoistic individual, Marx may have misinterpreted the concept, or at least not have allowed for the possibility of a more attractive conception of rights. As Allen E. Buchanan notes:

Put most simply, the main defect of Marx’s attack on rights is that he fails to see that there can be a vital need for a concept [of rights] . . . even where egoism and class divisions are not the only or even the main sources of conflict.7

According to the radical interpretation, Marx thought of rights exclusively as boundary markers which separate competing egoists in circumstances of unavoidably severe scarcity, which absolve them of responsibility for each other’s good, and which, through the coercive guarantees of the state, keep class conflict from erupting into outright war, while at the same time helping to preserve the dominant class’s control.

6 Marx, “On the Jewish Question,” p. 27.

7 Buchanan, Marx and Justice, p. 165.
over the means of production. Marx apparently thought that these are the defining functions of rights and hence that a conception of rights is needed only to cope with such egoistic conflict in class-divided societies. . . . he failed to consider the need for a different—and more attractive—conception of rights, grounded in a broader understanding of the sorts of conflicts which are to be dealt with by the invocation of rights and which admits the possibility that there are different rights in different socio-historical circumstances. 8

A more attractive conception of rights, from a Marxist point of view, might be one that would countenance all of the rights—or at least all of the kinds of rights—found in the United Nations' Universal Declaration of Human Rights. Although Classical Liberals and right-libertarians are sure to object to the "positive" rights contained in this document, since they maintain that only "negative" rights (i.e., rights not to be interfered with) are genuine rights, it is surely arguable that J. S. Mill is correct in his analysis:

When we call anything a person's right, we mean that he has a valid claim on society to protect him in the possession of it, either by the force of law, or by that of education and opinion. If he has what we consider a sufficient claim, on whatever account, to have something guaranteed to him by society, we say that he has a right to it . . . To have a right, then, is . . . to have something which society ought to defend me in the possession of. 9

There is certainly nothing in this analysis of rights as valid claims resulting in entitlements that necessarily limits them to "negative" as opposed to "positive" rights. The question, in this analysis, is not what "rights" someone or other intuit as "natural," but which moral principles are to be used in the validation of claims. If modern humanists—liberals as well as socialists—are correct in asserting that justice demands more than simple protection from force, theft, and fraud, then it can be plausibly argued that we have positive as well as negative rights. It can be argued that we have rights to well-being (e.g., the right to a minimum standard of well-being even if we are incapable of earning a living) and procedural rights (e.g., the right to legal counsel during a trial even if

we cannot afford it), as well as rights to noninterference (e.g., the right to free speech). 10

Be that as it may, in his later works many of Marx's criticisms of rights can be taken as criticisms not of the rights in general but of bourgeois conceptions of rights. In The Eighteenth Brumaire of Louis Bonaparte, for example, Marx is not critical of "the ... general staff of the liberties of 1848, personal liberty, liberty of the press, of speech, of association, of assembly, of education and of religion, etc." 11 In fact, he expresses regret that later in the course of the Revolution of 1848 "the right of association—one of the most essential of the political victories of the February days—was abolished." 12 Rather, he is critical of the fact that in reality "all those liberties [are] regulated in such a way that the bourgeoisie in its enjoyment of them does not come into collision with the equal rights of the other classes." 13

Engels also attacks bourgeois conceptions of rights on the grounds that they are not realized:

Nowadays . . . equality of rights is recognized—recognized in words, since the bourgeoisie, in its fight against feudalism and in the development of capitalist production, was compelled to abolish all privileges of estate, i.e., personal privileges, and to introduce the equality of all individuals before the law, first in the sphere of private law, then gradually also in the sphere of state law. But the urge toward happiness thrives only to a trivial extent on ideal rights. To the greatest extent of all it thrives on material means; and capitalist production takes care to insure that the great majority of those with equal rights shall get only what is essential for bare existence. Capitalist production has therefore little more respect if indeed any more, for the equal "right to the pursuit of happiness" of the majority than had slavery or serfdom. 14

Some Marx scholars, in fact, have interpreted Marx's critique of rights as consisting only of this criticism. John Plamenatz, for example, claims:

8 Ibid., p. 163.
10 This is not to say that there are no problems with developing such a conception of rights. But for an initial defense of such a conception, see my "A Defense of Rights to Well-Being."
12 Ibid., p. 468.
13 Ibid., p. 447.
As a matter of fact, Marx himself believed in the rights of man. If he had been asked whether men ought to enjoy these rights, or whether they would eventually come to enjoy them, he would have said that they ought and would.

He merely thought that, society being what it was in the eighteenth and nineteenth centuries, only the property-owning classes could in fact enjoy the rights. These classes, though often willing to concede that all men should enjoy the rights, were determined to preserve a system of property which, in Marx's opinion, made it impossible for most men to enjoy them. As he saw it, they falsely believed that these rights could be enjoyed by all classes in a class society, whereas the truth was that they could be enjoyed by all men only in a classless society.\(^5\)

If these are Marx's only criticism of rights, it might be argued—at least in his later works—that he is not really opposed to rights per se but only to certain rights (e.g., the bourgeois right to property), and to what, paraphrasing Rawls, we might call the divergence between equality of rights and equality in the worth of rights (i.e., equality in the ability to utilize or enjoy rights). But one could easily agree with both theses without objecting to rights per se. One need only claim that certain purported moral rights (e.g., the right to own and control productive as well as personal property) are not moral rights at all and that though a conceptual distinction can be made between rights and the ability to enjoy rights, justice requires not only equality of rights but at least approximate equality in the opportunity of persons to enjoy the rights they have (more on this in chapter 9).

These alterations in the standard liberal conception and theory of rights would go a long way, it seems, toward embodying the Marxist's more radically egalitarian moral intuitions. They would also go a long way toward allowing one legitimately to reinterpret Marx's moral theory as being based on the right to a maximum system of equal freedoms (both positive and negative) and to ground the right to equal participation in social decision-making processes and the right to equal access to the means of self-realization.


Another of Marx's specific criticisms of justice and rights is that such notions are bound to become outdated. He envisions the higher stage of communism as a stateless and coercionless form of social cooperation based on material abundance and the social ownership and control of productive property and providing for the all-around and full development of the individual. Marx apparently believes that conflict within such a society will be so minimized that the practice of individuals asserting claims against each other will become otiose: there simply will be no need for it. Since this is precisely the practice on which the very concepts of justice and rights are based, they, too, in Marx's view, will become otiose. As he puts it in "Critique of the Gotha Program":

In a higher phase of communist society, after the enslaving subordination of the individual to the division of labour, and therewith also the antithesis between mental and physical labour, has vanished; after labour has become not only a means of life but life's prime want; after the productive forces have also increased with the all-around development of the individual, and all the springs of cooperative wealth flow more abundantly—only then can the narrow horizon of bourgeois right be crossed in its entirety and society inscribe on its banner: From each according to his ability, to each according to his needs!\(^6\)

The "narrow horizon of bourgeois right" can be crossed because Hume's conditions of justice—moderate scarcity and moderate egoism—will both be superseded. But what is the relevance of this view as a part of Marx's critique of juridical moral concepts (i.e., justice and rights)? The answer to this question is far from clear. One perfectly reasonable response to this claim, even from a Marxist point of view, would seem to be: "So what! For the foreseeable future we must deal with societies that have not yet crossed this 'narrow horizon,' for this includes even what you [Marx] call the 'first stage of communism' and what today we commonly call 'socialism!' The point is that for all practical political purposes this thesis is, quite simply, irrelevant." The belief that Hume's conditions of

justice would be transcended in the not-too-distant future may help explain why Marx had such disregard for the concepts of justice and rights, but it is far from clear that this is a decisive critique of these concepts. But since he thought the very concepts of justice and rights were soon to become completely obsolete, it is small wonder he held that concentrating on developing a theory based on these concepts was—at the very least—a misdirection of one’s energies.

In part, of course, Marx’s attitude toward these juridical concepts was the result of an overly optimistic assessment of the speed and degree with which the world socialist revolution would take place and, quite possibly, also the speed and degree with which conditions of scarcity can and will disappear, even if capitalist property relations give way to socialist property relations on a worldwide scale. Today, however, it seems that no matter what portion of Marx’s empirical theory we accept, we are no longer in a position to accept the thesis that the condition of relative scarcity will cease to hold at some point in the near future even if the world socialist revolution succeeds. Furthermore, even if full-fledged communism is a utopian impossibility, would not Marxists want to claim that socialism (i.e., the first stage of communism) is superior to any form of capitalism? Would they not also want to have principles of justice and rights by which to judge such a society against other possible societies (e.g., capitalism), as well as by which to judge that society itself? The answer to these questions would seem to be yes.

Marxists presumably will want to claim, for example, that the government of a (democratic) socialist society is legitimate and ought to be supported, i.e., that except under exceptional circumstances we would have an obligation or duty to obey its statutes and laws. But how can one claim that a government or society is legitimate and deserves our loyalty (i.e., that it has legitimate political authority) without some sort of notion of justice (at least in those possible social worlds in which scarcity is still a problem).

But there is another point to be made here: a conception and theory of justice may be needed even in a society of material “superabundance” populated by individuals instantiating what Marx calls “social,” “collective,” “species,” or “communist” consciousness. Allen E. Buchanan has some extremely insightful remarks on this topic. First he points out that competition and conflict may not necessarily be completely eliminated even in such a full-fledged communist society, though they may be greatly reduced.

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CRITIQUES OF JUSTICE AND RIGHTS

There is no compelling reason to believe that significant divergences between the good of the individual and that of others or of society as a whole occur only as the result of egoistic interaction under conditions of class struggle for control over the means of production. Even in a society of thorough-going altruists in which no group has exclusive control over the means of production, there may be violent disagreements over what the common good is and over how it is to be achieved. And insofar as different individuals support or even identify with competing conceptions of the common good and of the path to its attainment, the interests of individuals will conflict, even though the conflict will not be egoistic or class-based.17

Buchanan, however, offers an even more radical thesis, namely, that Marxists have underestimated the problem of scarcity—and thus the need for juridical concepts and practices—because they have not realized the extent of the difficulty of allocating scarce social goods in the broadest sense of this term.

The concept of scarcity relevant to the comparison of social systems and to the idea of the circumstances of justice is the most general one imaginable. Scarcity exists wherever the choice of one line of individual or joint action precludes the pursuit of alternatives which are in any way valued. In this sense, not only coal and oil and foodstuffs are scarce but also cooperative activity and time itself. Hence so long as an individual or a group must decide to use some natural and social resources rather than others in pursuit of some ends rather than others, there is scarcity. In a word, the need to choose implies scarcity. The question then is not whether communism will abolish scarcity, but rather whether the problems of scarcity in communism will be radically different.18

The benefit of bringing Marxist moral theory into line with such commonly accepted concepts as social justice and human rights is, therefore, not to be underestimated. The incorporation of these concepts into the Marxist worldview is, in fact, essential. Furthermore, although you wouldn’t know it by reading many of the contemporary commentaries on the relation between Marx’s views and distributive justice, since they emphasize their supposed in-

17 Buchanan, Marx and Justice, p. 167.
18 Ibid., pp. 169–170.
compatibility, Marx does implicitly espouse a principle of distributive justice for governing the distribution of the consumable social product in a socialist society. Due to the fact that the initial or lower stage of communism has, ex hypothesi, not reached material abundance, together with the fact that, ex hypothesi, individuals have not been completely transformed into socially minded, "truly human" beings, the norm of distribution, according to Marx, is still the bourgeois norm of "equal pay for equal work."

The individual producer receives back from society—after the deductions have been made—exactly what he gives to it. What he has given to it is his individual quantum of labour. For example, the social working day consists of the sum of the individual hours of work; the individual labour time of the individual producer is the part of the social working day contributed by him, his share in it. He receives a certificate from society that he has furnished such and such an amount of labour (after deducting his labour for the common funds), and with this certificate he draws from the social stock of means of consumption as much as costs the same amount of labour. The same amount of labour which he has given to society in one form he receives back in another.

Here obviously the same principle prevails as that which regulates the exchange of commodities, as far as this is exchange of equal values. Content and form are changed, because under the altered circumstances no one can give anything except his labour, and because, on the other hand, nothing can pass to the ownership of individuals except individual means of consumption. But, as far as the distribution of the latter among the individual producers is concerned, the same principle prevails as in the exchange of commodity equivalents: a given amount of labour in one form is exchanged for an equal amount of labour in another form.

Hence equal right here is still in principle bourgeois right, although principle and practice are no longer at loggerheads.19

Does Marx wax apologetic here, one might wonder, as he does in his letter to Engels concerning his proposed standards of equal rights and justice for the International Working Men’s Association? There is no sign that he does. As a matter of fact, the only thing that seems to bother Marx about this proposal is that it may not turn out to be truly equal or fair. He claims:

In spite of this advance, this equal right is still constantly stigmatised by a bourgeois limitation. The right of the producers is proportional to the labour they supply; the equality consists in the fact that measurement is made with an equal standard, labour.

But one man is superior to another physically or mentally and so supplies more labour in the same time, or can labour for a longer time; and labour, to serve as a measure, must be defined by its duration or intensity, otherwise it ceases to be a standard of measurement. This equal right is an unequal right for unequal labour. It recognises no class differences, because everyone is only a worker like everyone else; but it tacitly recognises unequal individual endowment and thus productive capacity as natural privileges. It is, therefore, a right of inequality, in its content, like every right. . . . Further, one worker is married, another not; one has more children than another, and so on and so forth. Thus, with an equal performance of labour, and hence an equal share in the social consumption fund, one will in fact receive more than another, one will be richer than another, and so on. To avoid these defects, right instead of being equal would have to be unequal.20

This standard of distribution, Marx claims, is not fair because it allows those with “natural privileges” to capitalize on them and thus garner a greater share of the social wealth. Notice, however, that Marx (or anyone else) would have such a worry only if they accepted the underlying principle that people are entitled only to what they deserve and that no one deserves the natural advantages they are born with. (Rawls makes a similar point when he speaks about the “natural lottery” and claims that the fact that one does better or worse in it—is or at least should be—morally irrelevant.)

Second, it is not fair according to Marx because it does not take into consideration differentials of need. This is presumably the point he is making in comparing one worker who has a family with another who doesn’t. He claims that the worker without a family is “richer” even if both have the same income because the worker with a family has more “needs,” namely, providing for the mem-

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20 Ibid., pp. 387–388.
bers of his family. Now this may not be a very plausible case for the point Marx is trying to make since it could very well be maintained that their “needs”—so long as they are both healthy, etc.—are not different and, further, that neither is “richer” than the other but, rather, that one has chosen to spend his income in one way (for a family) and the other in another. A better case to illustrate this concern would be one in which the two workers receive equal pay but one has a need or needs that are (1) vital to his wellbeing, (2) very expensive to meet, and (3) nonvoluntarily acquired. The case of two workers of equal income, one healthy and one having kidney disease requiring dialysis (for which he must pay), would serve as a good example in today’s world.

Nevertheless, the concern Marx evinces here is a very common one in theories of justice: how to take differential need into consideration. The point is that he is concerned—very genuinely concerned—with equality and with what we would commonly call distributive justice in these passages. This would seem to prove that even Marx saw this critique of justice and rights as destined to be otiose in future communist society as an irrelevant objection for practical purposes of dealing with present-day and even socialist societies.

Marx’s Conception of Justice as an Internal Standard of Social Systems

Even in the face of all this evidence (and more), there are still those who insist that Marx did not condemn capitalism as unjust or advocate socialism because it is more just than capitalism. On Robert Tucker’s interpretation of Marx, “the only applicable norm of what is right and just is the one inherent in the existing economic system. Each mode of production has its own mode of distribution and its own form of equity, and it is meaningless to pass judgment on it from some other point of view.”²¹ Allen Wood concurs. In his seminal article on this issue (“The Marxian Critique of Justice”) he attributes to Marx and defends the view that juridical practices and principles are “rationally valid” if, and only if, they correspond to (and thus stabilize and/or promote) the prevailing mode of production. Consequently, justice is not a standard by which human actions and social institutions can be measured: it is a standard by which each mode of production measures itself. This means that slavery is necessarily just in a slave society (but unjust in feudal or capitalist societies), and that capitalist exploitation is necessarily just in a capitalist society (and unjust in noncapitalist societies).

Although these consequences would seem to constitute a reduc- tion ad absurdum of this view of justice, Wood and others have aggressively defended it both as a correct interpretation of Marx and as a correct analysis of justice and juridical moral concepts in general. In the present section, I shall concentrate on this view as an interpretation of Marx. In the following section, I shall take up Wood’s attempts to defend this analysis of justice as correct.

The passages on which this interpretation of Marx is based are primarily of two sorts: (1) those in which he asserts that the exploitation of the worker by the capitalist is no injustice to the worker, and (2) those in which the thesis that one cannot use juridical concepts to critique the entire system of which it is a part is stated in abstract, general terms. Turning to the first group of passages, we find Marx claiming the following of the capitalist and worker as buyer and seller of labor-power in Capital:

The circumstance, that on the one hand the daily sustenance of labour-power costs only half a day’s labour, while on the other hand the very same labour-power can work during a whole day, that consequently the value which its use during one day creates, is double what he pays for that use, this circumstance is, without doubt, a piece of good luck for the buyer, but by no means an injury to the seller [emphasis added].²²

The capitalist maintains his rights as a purchaser when he tries to make the working-day as long as possible, and to make, whenever possible, two working-days out of one. On the other hand, the peculiar nature of the commodity sold implies a limit to its consumption by the purchaser, and the labourer maintains his right as seller when he wishes to reduce the working-day to one of definite normal duration. There is here, therefore, an antinomy, right against right, both equally bearing the seal of the law of exchanges. Between equal rights force decides [emphasis added].²³

Let us ignore for the moment the possible contradiction between these two passages in that the first asserts that the nature of the relation between capital and labor is "by no means an injury" to

²² Marx, Capital, vol. 1, p. 194.
²³ Ibid., p. 235.
the worker, and the second would seem to indicate that the relation is an injury to the worker in that the worker's right (presumably to receive back the full value of the products he produces)—though under the circumstances not an enforceable right—is violated by this relationship. Let us look, instead, at a few passages that make clear the general principle behind Marx's refusal to condemn capitalist production relations as unjust. In "Critique of the Gotha Program," he claims that "right can never be higher than the economic structure of society and its cultural development conditioned thereby." This claim is further explicated in the third volume of Capital, where Marx claims that the content of the rules governing economic exchange "is just whenever it corresponds, is appropriate to the mode of production. It is unjust whenever it contradicts that mode. Slavery on the basis of capitalist production is unjust; likewise fraud in the quality of commodities" [emphasis added].

How seriously we should take Marx to be making a normative, moral claim as opposed to a factual, empirical one is the key consideration here. While Tucker, Wood, and others see him as making a genuine normative claim—by disallowing the claim that capitalism is unjust on these grounds—this seems to me extremely dubious. It seems to me that rather than taking a normative position here, Marx is really taking an internal point of view with respect to capitalism, but an external point of view with respect to his own standards, and then reporting certain facts about how capitalism is to be judged from its own operational normative standards. He is really simply pointing out that by the rules of the game it has set up, so to speak, capitalism is not unjust.

To get at the distinction I am making here, let us consider an analogous case. In anthropology and ethnology, taking the internal point of view in reporting on a culture or society is called taking the "emic"—rather than the "etic"—point of view with respect to that culture or society. An analogous case, therefore, would be an anthropologist insisting that the Yanomamo Indians of the Amazon do nothing morally wrong to individuals in neighboring villages when they brutally ambush and murder them in the jungle, nor to their own wives when the husbands savagely beat them, since both sorts of activities are tolerated—rather than condemned—in Yanomamo society. Now, given the fact that many people—including many anthropologists and ethnologists—are not cognizant of the distinctions between the various forms of "ethical relativism"—descriptive, normative, metaethical, and (according to one, at any rate) metaevaluative—we might have an extremely difficult time convincing the anthropologist in question that he doesn't really believe that the Yanomamo do nothing morally wrong when they engage in these activities. However, if both of us were patient and persistent enough, I believe that we could convince him—assuming he is not a psychopath or a sociopath—that he doesn't really think that it is morally permissible for people to do such things to one another and, further, that what he is really doing in saying that the Yanomamo do no wrong when they engage in these activities is taking the point of view of the Yanomamo in reporting on their activities rather than making a moral judgment.

If we were able to explain in sufficient detail the distinctions between descriptive, normative, and (at least) metaethical relativism and convince the anthropologist that moral judgments and principles are universalizable and, thus, that one cannot really be a normative ethical relativist, then the anthropologist would come to see that he does not really want to claim that the Yanomamo men do nothing morally wrong when ambushing others or savagely beating their wives, as opposed to claiming that they do not perceive themselves to be doing wrong. It could then be pointed out to our anthropological interlocutor that the second claim is not equivalent to and does not entail the first: we do not, for example, accept the claim that a cold-blooded mass murderer has done nothing wrong simply because he is cold-blooded and thus does not perceive himself as having done anything morally wrong. (Whether or not and to what extent he should be punished for his moral wrongdoing is, of course, a separate issue involving other considerations, e.g., the person's sanity and, perhaps, moral "knowledge" and "ignorance.").

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Once the anthropologist came to realize that he was judging the Yanomamo’s practices from a point of view internal to them but external to his own values, and that only judgments made from the latter point of view are normative or moral judgments, he would be much less likely to claim that what the Yanomamo were doing to one another is not morally wrong. This is perfectly compatible, of course, with being a metaethical or metaphilosophical relativist in the sense of holding the view that there may be no way to convince even a perfectly rational Yanomamo that what he is doing is morally wrong, as well as a “cultural liberal” in the sense of wanting to maintain a great degree of leniency and tolerance in dealing with other cultures.

In the same sense, I believe that if Marx were alive today and had the patience and good grace to go over these distinctions with us, he, too, would come to see that his claims—that the capitalist does the worker no injustice and that capitalism is not unjust—are being made from a point of view internal to the capitalist system but external to his own considered normative point of view. If this analysis is basically correct, however, the Tucker-Wood thesis is not nearly so serious as may have first appeared. At first glance it seemed to entail that Marx’s considered normative judgment is that capitalism is not unjust; but if the above analysis is correct, Marx is not really making a normative judgment at all in the passages quoted. Given this fact, some interpreters of Marx assume that he must have been speaking in an ironic, tongue-in-cheek or inverted-comma sense whenever he speaks of capitalist exploitation being just. Ziyad I. Husami, for example, criticizes Wood for missing Marx’s “ironic tone” in the passages in which he claims that capitalist exploitation is just. Richard Arneson takes the same position:

It is true that Marx occasionally seems to characterize as “just” aspects of capitalism that strike us and him as fairly horrible. But when Marx uses terms of moral evaluation he is often employing them in what has been called the inverted-comma use, and this is almost invariably so when characterizations of justice are being mooted: that is, Marx’s “this is just” can almost always appropriately be rendered “this is what is called just.”

Nancy Holmstrom makes essentially the same point when she claims that, from a Marxist point of view, “calling [the exchange between capitalist and worker] a just exchange could only be done tongue-in-cheek, or to mean: ‘This is [erroneously] taken to be just.’”

In fact, Marx occasionally supplies the inverted commas himself—for example, around the word “fair” at certain points in “Critique of the Gotha Program.” And, as Arneson notes, “In other places, context and sense make it plain that the inverted comma sense of a moral term is intended.” But it does not seem that Marx is being ironic in all of the passages in question. The presumption being made by proponents of the position that he is always ironic in such contexts is that since he did not really believe capitalism to be just, he must be speaking ironically when he says it is. But in order for Marx to have been making these claims in an ironic or tongue-in-cheek fashion, he would—by definition, I presume—have had to be conscious of doing so. Thus there is another possibility: he may not have been fully cognizant (or conscious) of this inconsistency. If this is so, then it is possible that he did not really believe capitalism just and that sometimes he was not speaking ironically when he claimed that it was. On this interpretation, as G. A. Cohen puts it, Marx “must be treated as someone who thinks capitalism is unjust, even if he does not realize that he thinks it is.”

Norman Geras concurs with Cohen’s assessment when he states that “Marx did think capitalism unjust but he did not think he thought so.”

Although we tend to give great thinkers the benefit of the doubt when faced with obvious inconsistencies in their writings and thus usually attempt to explain them away in one way or another, there are cases in which it is more reasonable to assume that they really are enmeshed in such obvious inconsistencies. I believe this is probably such a case. Due to his various confusions about morality in general and the juridical notions of justice and rights in particular, Marx seems to have explicitly held capitalist exploitation to be just while implicitly condemning it as unjust. And, as Jon Elster is fond of pointing out, Marx can at times be maddeningly inconsistent—perhaps more so than most great thinkers. As to the issue at hand, I agree with Elster that “no interpretation of Marx’s vari-

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rous remarks on justice and rights can make them all consistent with one another."33

But just because Marx was enmeshed in such confusions and inconsistencies does not mean that contemporary Marxists have to be. Above all, just because Marx explicitly refuses to condemn capitalism as unjust does not mean that contemporary Marxists ought to follow suit. Next, however, we shall consider some arguments by Allen Wood to the contrary.

Allen Wood not only interprets Marx as unquestionably holding the position that capitalism cannot be condemned on grounds of justice (or rights) but insists that we should maintain the same position today. As to the interpretive issue, Wood states:

It is simply not the case that Marx's condemnation of capitalism rests on some conception of justice (whether explicit or implicit), and those who attempt to reconstruct a 'Marxian idea of justice' from Marx's manifold charges against capitalism are at best only translating Marx's critique of capitalism, or some aspect of it, into what Marx himself would have consistently regarded as a false, ideological or 'mystified' form.34

But Wood also offers a number of arguments against accepting principles of justice, or at least against Marxists accepting such principles. Since in some ways his attack on justice is just an extension of his various criticisms of morality in general, I shall first briefly review these criticisms and what I consider to be their counterarguments (as expressed at earlier points in the present work). Then I shall consider Wood's main arguments against justice per se: (1) the argument stemming from his quasi-Hegelian conception of justice (which he imputes to Marx), and (2) his so-called 'class interest argument.' I hope to show that neither is sound.

Since justice—along with obligation, duty, fairness, and rights—is, for Wood, a moral good partly because, it is open to all of his criticisms of morality per se. These are: (1) morality is ideological, because (2) it subverts our self-understanding and understanding of social reality, and (3) it always serves the function of preserving the social status quo. Wood also holds that (4) morality demands an impartial treatment of everyone's interests, regardless of class,

and (5) morality can have no rational basis or justification outside of reference to its functional role in a particular social system.

Let us consider the first criticism. "Morality is a form of ideology," according to Wood. "Morality...is necessarily ideological in the characteristically Marxian sense of the term."35 The first ground on which morality is ideological, according to Wood, is that "morality fundamentally subverts the self-understanding of every individual who follows it, whatever the class position of that individual may be."36 Apparently this is, in part, because as "Nietzsche and Freud have helped us to realize...morality...is bound up with neuroses and self-destructive impulses."37 More importantly, for Wood, even though "objective moral norms represent the demands of the current social order,"38 they tend to be accepted by all classes within that order and thus "to the oppressed classes, morality represents as rationally fulfilling a course of conduct which is in fact directly opposed to their interests."39 Thus members of the oppressed classes are misled concerning their own interests or at least how best to fulfill their interests. But even to the members of the ruling class, who benefit from the system of conduct the norms promote, the demands of morality are deceptive and subversive of rationality. For while these norms in fact represent the class interests of such people, morality claims to represent something quite different, something exalted and sublime, a universal interest to which each subject is bound not by ties of class interest or empirical solidarity, but solely by ties of impartial and objective rationality.40

(We shall consider Wood's 'impartiality criticism' of morality presently.)

A second (and closely related) ground on which morality is ideological, according to Wood, is that "morality...is an essentially conservative institution,"41 that is, "morality [serves] an exclusively conservative social function."42 This is because "objective

33 Elder, Making Sense of Marx, p. 230.
36 Ibid., p. 687.
37 Ibid., p. 687.
38 Ibid., p. 687.
39 Ibid., p. 687.
40 Ibid., p. 687.
42 Ibid., p. 11.
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moral norms” (i.e., norms that are accepted by and large in a society) are those that “represent the needs of the prevailing mode of production.” This is especially true of juridical principles. Wood holds, in fact, that acts or institutions are just only if they support the social status quo (more on this presently).

Adverting to my criteria for being ideological in chapter 6, we can see that Wood is claiming that all morality is ideological on the grounds, first, that it is systematically misleading and socially mystifying and, second, that it represents the interests of the ruling class as the common interest of society: serves to justify the social status quo and/or the interests of the ruling class; and/or functions to maintain the social status quo and/or defends the interests of the ruling class. But, as shown in chapter 6, it is simply false that morality in general (i.e., all moral values, principles, and theories) always fulfills one or more of these criteria. Perhaps the most persuasive counterexample to Wood’s claim in this context is Marx’s own implicit moral values and theory. As I explicated and reconstructed it in chapter 3, Marx’s theory demands a maximum system of equal freedoms, both positive and negative. Wood, of course, would disagree with this interpretation primarily because its formulation includes the term “equal,” which, according to Wood, is a moral concept and therefore not to be allowed a place in Marx’s (purportedly) immoralist worldview. But Wood is not adverse to the demand that such “nonmoral” values as freedom (as self-determination), community, and self-realization be pursued or even maximized. He writes, “Presumably when historical materialism ‘breaks the staff of all morality,’ it does not undermine the value of human emancipation, community, or development, values to which Marx himself often appeals.”

According to Wood, one cannot claim that pursuing or maximizing these goods is an obligation or duty since these, too, are forbidden moral concepts. But, as argued in detail in chapter 4, these distinctions are totally arbitrary and extremely misleading. Whether we interpret Marx as demanding an approximately equal distribution of these goods or merely recommending their pursuit (without regard to equal distribution), he is still—on any nonarbitrary definition of “moral”—proffering a moral principle or theory. More importantly, as argued in the last sections of chapters 4 and 6, Marx’s theory and many other moral theories and theories of

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justice do not function to preserve the social status quo and are not in any other way ideological.

Support for this view can be found even among the Classical Marxists. Although Engels, for example, claims that “justice is but the ideologised, glorified expression of the existing economic relations, now from their conservative, and now from their revolutionary angle,” he also realizes that “the modern demand for equality is . . . a claim to equal political or social status for all human beings, or at least for all citizens of a state or all members of a society,” and that, historically speaking,

the bourgeois demand for equality was accompanied by the proletarian demand for equality. From the moment when the bourgeois demand for the abolition of class privileges was put forward, alongside of it appeared the proletarian demand for the abolition of the classes themselves—at first in religious form, basing itself on primitive Christianity, and later drawing support from the bourgeois equalitarian theories themselves. The proletarians took the bourgeoisie at their word: Equality must not be merely apparent, must not apply merely to the sphere of the state, but must also be real, must be extended to the social and economic sphere. Engels claims, furthermore, that

The demand for equality in the mouth of the proletariat has therefore a double meaning. It is either . . . the spontaneous reaction against the crying social inequalities, against the contrast of rich and poor, the feudal lords and their serfs, surfeit and starvation. . . . Or, on the other hand, the proletarian demand for equality, drawing more or less correct and more far-reaching demands from this bourgeois demand [serves] as an agitational means in order to rouse the workers against the capitalists, on the basis of the capitalists’ own assertion.

In any case, it hardly seems that these juridical concepts do play a conservative role in the revolutionary movement. Almost every revolutionary socialist movement in existence expresses its program partially in terms of rights and justice, and rightfully so.

Wood’s fourth criticism of morality is that it requires an impar-

seems to confuse the evaluative question of why one ought to support a particular class with an empirical-explanatory question of what the “objective” consequences of doing so are. Of course, the two are connected, at least if one is concerned with the historical efficacy of one’s action. To see the distinction, however, one needs only realize that the question “what class interests do your actions objectively support?” is different from the question “why should you support those class interests?” Two people could agree on the answer to the first question but disagree on the answer to the second: one person might support those class interests on purely prudential grounds, for example, while another might do so on moral grounds. And, of course, two people could agree on what class interests a certain type of action supports and still disagree on whether or not to support them. Notice, also, that Wood’s theory provides no reason for choosing to pursue one class’s goals rather than another’s. It is equally rational to pursue the bourgeoisie’s goals as the proletariat’s. Wood’s theory cannot even sensibly say that it is better to support the goals of the working class! Finally, there is a genuine question as to whether or not all “intentions which are not directed specifically to class interests”—especially all theories of social justice—ought to be taken as only “vehicles or masks of class interests” (more on this presently).

Let us take the following passage as Wood’s last attempt to formulate a sound version of his class interest argument:

Because we want (and rationally ought to want) a unified and harmonious conception of ourselves as historical agents, we will form (or at least revise) our aims and intentions in light of the historical meaning we understand them to have. We will adopt intentions which coincide with the historical meaning of what we do. Since we recognize that objectively speaking the pursuit of justice is only a vehicle or mask for the pursuit of class interest, we will no longer think of ourselves as pursuing justice, but will come to think of ourselves as pursuing the interests of a particular class. For only in this way can we harmonize our conscious intentions with our historical self-understanding and thus attain to self-conscious historical agency.  

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65 ibid., p. 27.
opinions about how social resources should be used. For all of these reasons, it is clear that the pursuit of justice is not merely a vehicle or mask for the pursuit of class interest. Thus Wood's argument fails on this ground as well. Furthermore, if this reductionistic thesis is a consequence of the class interest thesis, then the latter also must be rejected. Certainly there is nothing in this reductionistic thesis or the more general class interest thesis to indicate that they are canonical to Marxism, as Wood suggests.

But why is Wood so adamantly opposed to justice and to morality generally? The answer, I suggest, is that Wood believes that acceptance of justice or morality is inimical to a vigorous prosecution of the class struggle. According to Wood,

Practical recognition of the class interests thesis begins to interfere with this course of action [of attempting to reconcile the pursuit of proletarian class interests with the pursuit of justice] only when our concern for justice threatens to interfere with or predominate over our concern for the interests of the proletariat. In such cases, recognition of the class interests thesis dictates that we get our priorities straight and thus dampen our enthusiasm for justice, so that we may get on with what really matters [emphasis added].

This is a rather startling claim. Does Wood really mean to suggest that the vigorous prosecution of the class struggle ought not be bound by any constraints imposed by justice, even the requirements of a just war, e.g., bans on indiscriminate killing of civilians, the use of chemical or biological weapons, or the torture of prisoners? Perhaps this will be regarded as a red herring. It might be argued that Wood has in mind only the distribution of such goods as income and wealth when he speaks of justice. But it seems to me extremely important for Marxists to make clear that while they are in favor of utilizing virtually any means to effect the socialist transformation—up to and including popular revolution and civil war if absolutely necessary—they are not in favor of violating the Geneva Accords in such situations or in any way violating the constraints of just-war theory, even if doing so would increase the chances for success.

Let us assume that sensible Marxists (including Wood) would not commit themselves to such violations. Although this in and of itself refutes the position that Marxism and considerations of jus-

tice are incompatible, let us reformulate the question. It seems to me that what Wood really may be worried about is that the dictates of justice may not even allow the prosecution of the class struggle within the limits set out above, i.e., that justice may even rule out the "standard" methods of proletarian class struggle: militant strikes, the formation of workers' councils and workers' militias, revolutionary uprisings, and—if unavoidable—civil war. Whether or not, and under what circumstances, such methods can be legitimately employed will depend, of course, on what theory of justice, as well as on what empirical views, one accepts. But almost all theories of social justice leave room for the possibility of justified and, indeed, just revolutions. If we accept even a moderately egalitarian theory of social justice and accept Marxist empirical theory as being essentially correct, then socialist revolutions will be justified. In fact, a strong case can be made for the claim that even Locke's moral theory will result in some socialist revolutions being justified if one interprets his right to life as both a negative (i.e., security) right and a positive (i.e., subsistence) right (more on this in chapters 9 and 10).

Some theorists have gone so far as to claim that, given these empirical assumptions, the pursuit of proletarian class interests will, in fact, never conflict with the demands of morality or social justice. This is Kai Nielsen's position, which he compares to Wood's as follows:

Where Marxist immorality most decisively comes in, Wood claimed, is in the belief (resulting in a commitment) that if there is ever a conflict between proletarian class interests and what is disinterestedly good, the proletarian interests trump those moral interests. This reverses the usual belief that moral considerations override any such conflicting considerations.

The justicizing Marxist (the Marxist moralist) should reply that this is an unreal situation, a desert islandish, hypothetical situation. Given a realistic understanding of what proletarian class interests are, they cannot, as a matter of fact, conflict with what is disinterestedly good; therefore, a historical agent could not be faced with a situation where he or she must choose between struggling to realize proletarian class interests and supporting what is disinterestedly good. The Marxist, rightly or wrongly, conceives the matter in such a way that the class interests of proletarians will also, as a matter of fact

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a Ibid., p. 22.
although surely not as a matter of definition, be the interests of the vast majority of humankind: proletarians and, as well, many other groups (farmers, lumpen-proletarians, petty bourgeoisie, and most intellectuals and professionals). 68

The defender of the class interests thesis does not have to choose between pursuing class interests and pursuing what is disinterestedly good, for by pursuing [working] class interests he or she thereby pursues what is disinterestedly good. 69

I would also assert that if Marxist empirical theory is basically correct, then the vigorous pursuit of proletarian class interests is almost always justified and almost never comes into conflict with what is disinterestedly good. But I cannot agree with Nielsen that they, as a matter of fact, will never conflict in the real world. As shown by the previous example of employing heinous means in order to increase the chances of winning a just revolutionary war, there are cases that are not only conceivable but historically possible in which justice and proletarian class interests may conflict. One might, of course, argue that the use of such heinous means would not be in the interest of the proletariat (and other oppressed classes), even if they increased the chances of winning a just revolutionary war, because the enemy would retaliate in kind, and such a precedent might end up undermining all civilization, etc. But even if it turns out that—given Marxist empirical assumptions—proletarian class interests and justice never diverge in the actual world, we must still distinguish the two because it is at least possible that the Marxist empirical assumptions will turn out to be wrong and, thus, that the pursuit of proletarian class interests may not lead to the best or most just society that is historically possible. And this could be true even if the class interest thesis, as originally stated by Wood, is taken to be true. It is at least logically possible that it is true that “our actions are historically effective only insofar as they involve the pursuit of class interests,” but false that “the pursuit of proletarian class interests never diverges from the demands of justice.” This would be the case, for example, if the pursuit of those interests were to result in a situation in which the proletariat is materially better off, but grave injustices are perpetrated against other segments of the population from that point in time on. I am not claiming there is any reason to believe they will diverge, but we at least have to be able to talk about such possibilities. Nor am I suggesting that the discussion of such abstract possibilities is important to the actual class struggle. As Nielsen puts it, “Proletarian militants, particularly when they are not also theoreticians, need not engage in such complicated reasoning. In the midst of class struggle, furthering proletarian class interests should be their aim.” 70

Another concern I suspect Wood may have is that the demands of justice may interfere with the policies of a revolutionary socialist regime. In particular, he may be worried that taking justice as the fundamental concern would mean that no one’s civil liberties could ever be limited, even if this were absolutely essential to the success of a revolution and to the stabilization of the new revolutionary regime. The charge that socialism will inevitably (and unjustifiably) violate people’s civil liberties is often trumpeted by opponents of Marxism and socialism. Nielsen’s response to this is:

The vital interests of capitalists that center on what are usually called our civil liberties need not be affected in most situations. Where they would be affected, say in the unsettled aftermath of a bitter civil war, their free speech rights would indeed be overridden. But, or so a Marxist is perfectly and consistently at liberty to claim, they still (in the way Joel Feinberg has shown) remain inalienable. What happens in such a particular situation is no different than what happens in any bourgeois society when it is in a state of war (or something similar) where all sorts of censorship restrictions are routinely recognized as essential. Moreover, they are recognized to be essential from the perspective of what is disinterestedly good. (Leon Trotsky was surely right in pointing out in his Their Morals and Ours the hypocrisy of bourgeois critics of the communists on such issues.) 71

Such claims are quite controversial and obviously depend on the empirical assumptions one makes, as well as on the moral principles one espouses. But the point is that Marxists can consistently take justice as their fundamental concern and still remain faithful

68 Nielsen, Marxism and the Moral Point of View, pp. 235-236.
69 Ibid., p. 237. It should be noted that although Nielsen sometimes identifies Wood’s class interest thesis as propounding that proletarian interests always come first (or always trump other interests), this is not actually what Wood states and—so far as I can tell—isn’t even entailed by Wood’s original statement of the thesis. It is, of course, a thesis put forward by Wood in “Justice and Class Interests.”
70 Ibid., p. 270.
71 Ibid., p. 236.
to their basic normative political positions. But this does mean that if a Marxist were to come to the conclusion that pursuing the interests of the working class (by trying to overthrow capitalism and establish a socialist society) would lead to greater injustice, rather than less, then it would be irrational—or at least immoral—for him or her to continue to pursue those interests. (Indeed, how could it be otherwise?) But it is important to keep in mind that here I am using the word “justice” to refer to the protection not only of negative liberties but of all the rights people have, including their basic rights to well-being, i.e., their security and subsistence rights. But to decide whether the result of pursuing certain class interests or creating certain social formations is more just or less, we obviously need a well worked out theory of social justice. To provide at least the outline of such a theory is the task of the remaining two chapters of this work.

Assuming that the circumstances of justice—moderate scarcity and moderate egoism—will continue to pertain to human societies even if a world socialist society is established, it seems clear that any adequate moral and social theory requires a theory of social justice that will provide us with principles governing the distribution of the benefits and burdens of social cooperation, as well as with the moral grounds of legitimate political authority and political (or social) obligation. The question thus becomes: what theory of social justice ought we adopt? Given the problematic of the present work, this question becomes: what theory of social justice must be adopted by an adequate Marxist moral and social theory?

One suggestion might be that we simply adopt the principles of distribution advocated by Marx for the first stage of communism. As found in “Critique of the Gotha Program,” these principles are:

1. One can receive remuneration only for one’s own labor and can acquire only the “means of consumption,” i.e., personal property and consumer goods.
2. An individual is to receive remuneration in exact proportion to the number of hours he or she works.
3. Except for those incapable of doing so, everyone is required to labor.
4. Those unable to work shall be provided with at least a minimally decent standard of living.

There are two reasons why adopting these principles won’t work. The first is that there may be cogent objections to some of them, especially if we take them to apply to well-developed as well