When we read Karl Marx's descriptions of the capitalist mode of production in *Capital* and other writings, all our instincts tell us that these are descriptions of an unjust social system. Marx describes a society in which one small class of persons lives in comfort and idleness while another class, in ever-increasing numbers, lives in want and wretchedness, laboring to produce the wealth enjoyed by the first. Marx speaks constantly of capitalist "exploitation" of the worker, and refers to the creation of surplus value as the appropriation of his "unpaid labor" by capital. Not only does capitalist society, as Marx describes it, strike us as unjust, but his own descriptions of it themselves seem to connote injustice.

When we look in the writings of Marx and Engels for a detailed account of the injustices of capitalism, however, we discover at once that not only is there no attempt at all in their writings to provide an argument that capitalism is unjust, but there is not even the explicit claim that capitalism is unjust or inequitable, or that it violates anyone's rights. We find, in fact, explicit denunciations and sustained criticisms of social thinkers (such as Pierre Proudhon and Ferdinand Lassalle) who did condemn capitalism for its injustices or advocated some form of socialism as a means of securing justice, equality, or the rights of man. We even find, perhaps to our surprise, some fairly explicit statements to the effect that capitalism, with all its manifold defects, cannot be faulted as far as justice is concerned. Whatever else capitalism may be for Marx, it does not seem that it is unjust.
The fact that Marx does not regard capitalism as unjust has been noted before. But Marx's reasons for holding this view, and the concept of justice on which it rests, have been less frequently understood. It is of course true that Marx and Engels do not say much about the manner in which social or economic justice may be actualized, and that they do not concern themselves greatly with the ways in which just social institutions may be distinguished from unjust ones. And if, as I wish to argue, the attainment of justice does not, in itself, play a significant role in either Marxian theory or Marxist practice, these omissions are neither serious nor surprising. Nevertheless, Marx and Engels did take seriously the concept of justice and did have a place for it in their conception of society and social practice. Both were in fact highly critical of what they took to be the misuse of this concept in social thought, its "mystification" and ideological "glorification." This Marxian critique of justice may be viewed as an attempt to clarify the role of the concept of justice in social life and to prevent its ideological abuse. Much can be learned, I think, by tracing this critique to its roots in the Marxian conceptions of society and social practice, and viewing it in relation to Marx's own reasons for denying that capitalism is unjust while at the same time calling for its revolutionary overthrow.

1

The concept of justice has traditionally played an important role in theories of the rational assessment of social institutions. It is commonly felt that justice is the highest merit any social institution can possess, while injustice is the gravest charge which could ever be lodged against it. It seems to be no exaggeration to say that to both the philosopher and the common man justice has often appeared, as Engels once put it, "the fundamental principle of all society, . . . the standard by which to measure all human things, . . . the final judge to be appealed to in all conflicts." Why is such importance attached


to the concept of justice? "Justice" (Gerechtigkeit), according to Marx and Engels, is fundamentally a juridical or legal (rechtlich) concept, a concept related to the law (Recht) and to the rights (Rechte) men have under it. The concepts of right and justice are for them the highest rational standards by which laws, social institutions, and human actions may be judged from a juridical point of view. This point of view has long been regarded as being of particular importance for the understanding and assessment of social facts. It is not too much to say that the traditional Western conception of society is itself a fundamentally juridical conception. The social whole, according to this tradition, is the "state" or "body politic," the framework within which human actions are regulated by legal and political processes. The study of society in this tradition has been, above all, the study of these processes; the ideal society, since Plato's time, has been conceived of as the ideal state; and social practice, in its highest form, has been thought to be the skillful fashioning of a state through the giving of just laws, or the regulation of the actions of citizens by a wise government. The social life of man, according to this tradition, is his life in relation to the political state; man as a social being is man in relation to those powers which promulgate laws, guarantee rights, and issue juridical commands. Granted this conception of society, it is quite understandable that right and justice should be taken as the fundamental social principles, the highest measure of all social things.

The source not only of Marx's critique of justice, but also of the fundamental originality of his social thought, is his rejection of this political or juridical conception of society. Marx tells us in his preface to A Contribution to the Critique of Political Economy that the origins of his social thought lay in the discontent he felt with this conception as a student of law and the philosophy of law, and particularly of Hegel's Philosophy of Right. His critical reflections, he tells us—and we can see it for ourselves in the articles and manuscripts produced by Marx in the course of the year 1843—"led to the result that juridical relations [Rechtsverhältnisse], like forms of the state, are to be grasped neither through themselves nor through the so-called universal development of the human spirit, but rather are rooted in the material rela-

tions of life, whose totality Hegel . . . comprehended under the term 'civil society.'" The social whole, the fully concrete unity of social life was, in Hegel's view, to be found in the political state; the sphere of men's material activities and interests, civil society, was treated by Hegel as a system of social processes taking place within the political whole and dependent on it. Marx reversed this relationship. Human society, he maintained, is a developing system of collective productive activity, aimed at the satisfaction of historically conditioned human needs; its institutions, including juridical and political ones, are all aspects of this productive activity. As early as 1844 Marx tells us that "Religion, the family, the state, the law [Recht], morality, science, art, etc., are only particular modes of production and fall under its general law." And in the *German Ideology* Marx and Engels reject "the old conception of history which neglects real relationships and restricts itself to high-sounding dramas of princes and states."

The key to Marx's transformation of Hegel's concept of society is found in the Marxian conception of human practice. Human society, according to the Marxian view, is a fact of nature. But it is nevertheless characterized throughout by the essential quality of man as a natural phenomenon, by productive activity or labor, which distinguishes man from the rest of the natural world. "Men begin to distinguish

5. *Werke*, Ergänzungsband I, Teil 537. Cf. Karl Marx, *Early Writings*, trans. and ed. T. B. Bottomore (New York, 1964), p. 156; *Marx/Engels Gesamtausgabe* (Berlin, 1932), I/5, 25; *Writings of the Young Marx on Philosophy and Society*, trans. and ed. Loyd Easton and Kurt Guddat (Garden City, N.Y., 1967), p. 428. But for Marx the relation between civil society and the state was never something that could be reduced to simple formulas. Shlomo Avineri has argued convincingly that in Marx "the political never appears as a mechanistic or automatic reflection of the economic" (*The Social and Political Thought of Karl Marx* [Cambridge, Eng., 1968], p. 41). The political state, Avineri notes, is not only a "reflection" of civil society, but an alienated and distorted "projection" of it (*ibid.*, p. 52). Marx's transformation of the Hegelian concept of society, therefore, is not intended to provide a theory of political behavior, but to make one possible, by removing the illusion that political and juridical institutions themselves constitute an autonomous standpoint from which social reality can be understood. Since the political state is an alienated projection of civil society, even the rationality of juridical institutions is not transparent from the juridical or political standpoint, and must be understood from the standpoint of production. This fact will be seen later on to have important implications for the notion of justice.
themselves from animals when they begin to produce their means of life, a step conditioned by their bodily organization. The animal," says Engels, "merely uses external nature and brings about changes in it merely by his presence in it; man makes it serviceable to his ends through such changes, he masters it. This is the final and essential distinction between men and other animals, and it is labor which effects this distinction." The essential feature of labor for Marx and Engels is its purposiveness, the fact that it is the expression of will. Labor, says Engels, is that by which men "impress the stamp of their will upon the earth." Man alone, Marx points out, "makes his life-activity itself an object of his will and consciousness." And again, in Capital, he says: "What distinguishes the worst architect from the best of bees is that he raises his structure in his head before he builds it in wax. At the end of the labor process a result comes about which at the beginning was already in the representation of the laborer, which was already present ideally." But human productive activity, according to Marx, always takes place in particular historical circumstances. At a given point in human history, men are possessed of determinate methods and capacities for subjecting nature to their will—methods and capacities which they have inherited from previous generations through a specific process of historical development. These productive forces (Produktivkräfte), as Marx calls them, correspond to, and are expressed in, determinate relationships between men, within which alone these forces, in their historically given form, can be applied to nature. These relationships Marx calls production relations (Produktionsverhältnisse). Because men are not free to choose the degree of their mastery over nature at a given stage in history, they are also not free to choose the form these production relations will take. Hence production relations are, in Marx's words, "necessary and independent of their will."

Human productive activity, however, not only transforms nature; it

8. Ibid.
also transforms man himself. In altering nature and in developing his productive forces, man acts on himself as well. Human history, for Marx, consists above all in the development and transformation of human nature. The activity of labor itself is for Marx essentially man's self-production. This is because the employment of productive forces is not just a means to human ends, but is rather "a determinate kind of activity of individuals, a determinate way of expressing their life, a determinate mode of life. As individuals express their life, so they are. What they are is bound up with their production, and what they produce with how they produce." Men produce by adopting determinate modes of collective activity, modes which in turn act upon them and change them. As they satisfy their needs by productive activity, therefore, they are at the same time producing new forms of activity and new needs. "The production of new needs," say Marx and Engels, "is the first historical act."

Human productive activity, therefore, is a complex historical process composed of many interdependent factors acting upon and reacting with one another. Men's needs, their productive forces, their production relations are all decisive moments in it, but none of them is independent of the others. At a given stage in history these interdependent factors form a whole, a complex system of human activity with a kind of relative stability. Such a historically conditioned system of productive activity has its own characteristic forms of social and cultural life, and within it men have a characteristic human nature, distinguishing this system from the preceding system of activity out of which it arose historically and from the succeeding system into which it will eventually pass over. Such a historically conditioned social whole is called by Marx a "mode of production" (Produktionsweise).

The Marxian conception of society is sometimes described as "economic determinism." By this it is often meant that Marx's theory takes one aspect of social life (the "economic" aspect) to be the crucial one on which all others depend. Marx, according to this account, either reduces all of social life to economics, or he regards the rest of

social life as an epiphenomenon of economics, or else as a series of effects proceeding entirely from "economic" causes. This interpretation of Marx, it seems to me, is fundamentally mistaken. There is no space here to deal with this issue in the depth it deserves, but I would like at least briefly to suggest why it seems to me wrong to understand Marx's "determinism" in this simplistic way. In the first place, Marx did not regard himself primarily as a political economist; he thought of himself rather as a critic of political economy, attempting to preserve what was valuable in classical political economy within a more comprehensive theory of society and history. He criticizes political economists for the one-sidedness of their approach to social phenomena, for their failure to see the interconnection between the different factors in social life. When Marx refers to production relations as "economic" relations, he does not mean to isolate one "aspect" of social relations as the crucial one, but simply to emphasize that all such relations are forms of human productive activity, and should be viewed in their connection with production.

Marx does say that "the mode of production conditions social, political, and spiritual life-processes." He also says that "it is not men's consciousness which determines their being, but on the contrary their social being which determines their consciousness." But he does not mean to reduce social, political, and spiritual processes to processes of production, as some philosophers have tried to reduce mental phenomena to physical ones. Nor does Marx mean to say that "production," regarded as one factor among others in the social process, is in general the cause of the remaining social institutions. Marx's point here can best be understood if we keep in mind that his conception of society is a transformation of Hegel's conception, and can best be brought out by looking at Hegel's own anticipation of it early in the Philosophy of Right. Hegel is speaking about the function of legislation in the state, and says: "Legislation must not be considered abstractly and in isolation, but rather must be seen as a dependent moment in one totality, in its connection with all the other determinations which make up the character of a nation and an epoch." Legislation, according to Hegel, is one of the "determinations" (Bestimmungen)

which make up a nation and an epoch, one of the dependent moments in a totality. To be properly understood, therefore, it must not be treated as something independent of this totality, or something intelligible on its own, but rather must be viewed as a partial process within the total process. The totality of national life in a given epoch could, in this sense, be said by Hegel to determine and to condition the laws of the nation. It would, however, be either incorrect or unintelligible to say that for Hegel legislation could be reduced to the totality of national life. Hegel is not reducing legislation to anything; he is rather attempting to appreciate its richness by noting its connection with other factors in national life. Nor is it at all plausible to attribute to Hegel the view that legislation is a mere “epiphenomenon” of national life. Legislation, in Hegel’s view, might very well be said to be caused by specific factors within the totality of national life, but this is a result of the fact that legislation is itself a determination or dependent moment within this organic totality.

The organic whole of social life in a given historical epoch is of course not for Marx a nation or political state, but a mode of production. This whole is called a mode of production because human life is essentially productive activity. And Marx explicitly distinguishes “production” in this comprehensive sense from “production in its one-sided form” as one of the elements or “determinations” of the total process. Not only human needs, modes of commerce and exchange, and property relations, but also men’s political life, religion, morality, and philosophical thought are moments, phases, determinations of human productive activity. Like the more narrowly “economic” categories of exchange and consumption, they are “elements in a totality, distinctions within a unity. . . . There is an interaction between the various moments. This is the case with every organic whole.”


19. Werke, 13: 630f. Cf. Marx and Modern Economics, pp. 38f. Compare the following passage from the German Ideology: “This interpretation of history depends on setting forth the actual process of production, proceeding from the material production of life itself, and interpreting the form of interaction connected with and created by it, that is by civil society in its various stages, as the basis of all history; at the same time setting forth [civil society] in its action as state and tracing all the various theoretical products and forms of consciousness, religion, philosophy, ethics, etc., in their genesis from it. Then the matter can
political structures are therefore called "superstructures" by Marx; they are structures which are dependent on and hence "built upon" the mode of production within which they operate as regulative institutions.\textsuperscript{20} These institutions owe their existence and their form to the mode of production within which they operate, to the specific manner in which they regulate existing production relations and serve the needs of given individuals. Law and politics may indeed affect and condition these other moments of the social process, but they are also affected and conditioned by them. They "mirror" or "reflect" the productive social life they regulate.\textsuperscript{21} The task of comprehending them is not that of reducing political or juridical facts to economic facts, but that of discovering empirically the "connection [Zusammenhang] of the social and political structure with production."\textsuperscript{22}

I have been claiming that Marx's conception of society is founded on a reversal of the Hegelian relationship between social production (civil society) and the political state. I have argued that just as for Hegel civil society was a partial process within the totality of national political life, so for Marx the state was a partial process reflecting the life of civil society. This claim needs to be clarified and qualified, however. For it was not an "eternal truth" for Marx (nor, mutatis mutandis, for Hegel) that the political life and productive activity of man stand in this relationship to one another. Marx did not believe, in fact, be presented in its totality (and thus also the reciprocal effects of these various sides on one another)" (\textit{Gesamtausgabe}, I/5, 27; cf. \textit{Writings of the Young Marx}, p. 431).


21. \textit{Werke}, 23: 99: "This juridical relation [of exchange] . . . is a relation of wills in which the economic relation is mirrored [sich widerspiegelt]." Here as elsewhere terms suggesting "mirroring" or "reflection" (such as "sich widerspiegeln," "Reflexion," "reflektieren") have sometimes been seriously mistranslated using the English word "reflex." Thus Moore and Aveling translate the above as: "This juridical relation . . . is a relation of two wills, and is but the reflex of the real economic relation between the two" (\textit{Capital}, I, 84). This translation suggests that the juridical relation is like a knee jerk produced by an economic hammer-tap, or the mechanism of a Pavlovian dog emitting juridical saliva in response to economic stimuli. Such an impression is entirely the result of mistranslation, and has nothing to do with Marx's view of the matter. Marx's "mirroring" terminology is of course derived from Hegel (cf. \textit{Werke}, 25: 58; \textit{Capital}, III, 48 and \textit{Werke}, 23: 640; \textit{Capital}, I, 612).

that the identification of the social whole with the political state was necessarily false under all historical circumstances. In the *Grundrisse* he distinguishes three general types of society, the tribal, the oriental, and the ancient, which because they were rooted in the common ownership of means of production by the political whole or its representative involved no separation of the political state from civil society. In such societies the productive and political life of man was an immediate unity, and the productive activity of the individual was indistinguishable from his participation and membership in the political *Gemeinwesen*, the tribe, state, or polis. Thus from a Marxian viewpoint ancient political science, such as we find in Plato’s *Republic* or Aristotle’s *Politics*, cannot be faulted for conceiving of the social whole as identical with the laws, customs, and institutions of the polis. In ancient society, the social life of man was his political life, and it was quite correct to say, as Aristotle did, that the “way of life” of a people was its politeia.

The differentiation of the political state from civil society was made historically possible, Marx believed, by the introduction of commodity exchange into the productive life of society, and the resulting opposition between the form of common property corresponding to the tribal *Gemeinwesen* and the form of private property corresponding to the exchange of commodities. This opposition, present already in the oriental and ancient productive modes, made possible in Marx’s view the alienation of the state from civil society which characterized feudal production, and which reaches its extreme form in the fragmented life of capitalist civil society. Here the state, which began in immediate unity with the process of social production, has become a distinct institution operating within this process, which nevertheless still claims to represent society in its totality. The existence of the political state as a determination and alienated reflection of man’s productive life is therefore not an eternal truth about the nature of society, but a historical truth about those European societies which have passed through feudal to capitalist production.

The importance of human productive activity in the Marxian conception of society, however, transcends this historical process, or rather represents a principle of social life which emerges with increasing clarity from it. Only when the sphere of human productive activity
as such emancipates itself from the limiting regulatory forms of political life can the universal character of man’s social being as cooperative labor become apparent to him. Hence it was Marx’s view that social production, the true basis of all society, could not be appreciated as such by the ancient world, and only emerged with clarity in the economic life of the capitalist mode of production. This is why Marx repudiated the tendency of other thinkers, such as Rousseau and Hegel, to idealize the political life of the ancient world and to long for its restoration or to conceive of the modern state as a principle of social unity to be imposed on the fragmented world of capitalism. Instead, Marx saw implicit in the modern emancipation of civil society from the state the possibility of establishing men’s cooperative labor itself as the basis of a new form of Gemeinwesen. It is this notion of the replacement of the political state by a new form of community based on labor which lies at the root of Marx’s belief that in communist society the state will be abolished and transcended (aufgehoben).

II

The concept of justice, as we have seen, is in the Marxian account the highest expression of the rationality of social facts from the juridical point of view. This point of view, however, is always the point of view of one of the dependent moments of a given mode of production, the sphere of political authority or Staatsrecht. Marx, as we have seen, rejected the Hegelian notion that the organic unity of society is to be in any sense identified with the regulatory functions of the political state. Just as little is the state a power acting on the mode of production from outside, determining its form and controlling its historical destiny. The political state is rather a power acting within the prevailing mode of production, it is one of the instruments of production fashioned by the historical past and employed in the present by given individuals to satisfy their historically conditioned needs. The state is an expression, a determination, of the prevailing mode of production. Its point of view, the juridical one, and the conceptions of right and justice which express this point of view, are rationally comprehensible only when seen in their proper connection with other determinations of social life and grasped in terms of their role within the prevailing productive mode.
For all his detailed study of social reality and his profound concern with the rational assessment of it, we find no real attempts in Marx's writings to provide a clear and positive conception of right or justice. This relative neglect of juridical concepts and principles does not derive from a personal aversion to "moral preaching" or from an "amoral" attitude toward social reality, as some have suggested. It is due rather to Marx's assessment of the role of juridical conceptions in social life. Because Marx regarded juridical institutions as playing only a supporting role in social life, he attached considerably less importance to juridical conceptions as measures of social rationality than most previous social thinkers were inclined to do. The juridical point of view, for Marx, is essentially one-sided, and to adopt it as the fundamental standpoint from which to judge all social reality is to adopt a distorted conception of that reality. But it is not true that Marx tells us nothing about justice as a rational social norm. In *Capital* he says: "The justice of transactions which go on between agents of production rests on the fact that these transactions arise as natural consequences from the relations of production. The juristic forms in which these economic transactions appear as voluntary actions of the participants, as expressions of their common will and as contracts that may be enforced by the state against a single party, cannot, being mere forms, determine this content. They merely express it. This content is just whenever it corresponds to the mode of production, is adequate to it. It is unjust whenever it contradicts that mode. Slavery, on the basis of the capitalist mode of production, is unjust; so is fraud in the quality of commodities." 

This passage by no means amounts to a clear statement of a Marxian "theory of justice," but it is nevertheless quite illuminating. For although Marx speaks in the passage only of the justice of "transactions," the account he gives is general enough to apply to actions, social institutions, even to legal and political structures. And what he says about the justice of transactions does suggest several important theses regarding the concept of justice and its proper function in social theory and practice.

First, as we should expect, Marx views the concept of justice in

terms of its function within a given mode of production. The employment of this concept by human thought and its application to social practice are always dependent moments of the process of production. The rational validity of any such employment is, for Marx, always measured in terms of the prevailing mode of production. The political state and the concepts of law and right associated with the public regulation of society are for Marx both determinations of the prevailing mode of production and alienated projections of it. They mirror or reflect production, but in a distorted and mystified way. The state gives itself out as the true representative of society, and Rechtsbegriffe pretend to constitute the foundation for the rationality of social practice, based either on the autonomous rationality of the state or on unconditioned rational principles of "right" or "justice" beyond which no rational appeal can be made. But in Marx's view the real raison d'être of juridical institutions and concepts can be understood only from the more comprehensive vantage point of the historical mode of production they both participate in and portray. Justice, therefore, as a Rechtsbegriff, always requires explication from beyond "juristic forms." A determination of the justice of transactions or institutions demands, rather, an appreciation of their function in production. When Marx says that a just transaction is one that corresponds to the prevailing mode of production, he means, I think, that it is one which plays a concrete role in this mode, one which functions as an actual moment in the productive process. Just transactions "fit" the prevailing mode, they serve a purpose relative to it, they concretely carry forward and bring to actuality the process of collective productive activity of human individuals in a concrete historical situation. The judgment whether a social institution is just or unjust depends, then, on the concrete comprehension of the mode of production as a whole, and on an appreciation of the connection between this whole and the institution in question. This is perhaps why Engels says that "social justice or injustice is decided by the science which deals with the material facts of production and exchange, the science of political economy."24

Secondly, then, justice is not a standard by which human reason in the abstract measures human actions, institutions, or other social

facts. It is rather a standard by which each mode of production measures *itself*. It is a standard present to human thought only in the context of a specific mode of production. Hence there are no general rules or precepts of "natural justice" applicable to any and all forms of society. The ownership of one man by another, for example, or the charging of interest on borrowed money are not in themselves just or unjust. Under the ancient mode of production, the holding of slaves was, as Aristotle argued, both right and expedient. Usury, on the other hand, was essentially foreign for the most part to this mode of production; and where it involved simply making a profit on the momentary distress of another, it was certainly unjust. Under capitalist production, however, direct slavery is unjust; while the charging of interest on borrowed capital is perfectly just.

Thirdly, it is clear that Marx followed Hegel in rejecting a formal conception of justice. For Marx, the justice or injustice of an action or institution does not consist in its exemplification of a juridical form or its conformity to a universal principle. Justice is not determined by the universal compatibility of human acts and interests, but by the concrete requirements of a historically conditioned mode of production. There are rational assessments of the justice of specific acts and institutions, based on their concrete function within a specific mode of production. But these assessments are not founded on abstract or formal principles of justice, good for all times and places, or on implicit or hypothetical contracts or agreements used to determine the justice of institutions or actions formally and abstractly. Abstracted from a concrete historical context, all formal philosophical principles of justice are empty and useless; when applied to such a context, they are misleading and distorting, since they encourage us to treat the concrete context of an act or institution as accidental, inessential, a mere occasion for the pure rational form to manifest itself. But the justice of the act or institution is its concrete fittingness to *this* situation, in *this* productive mode. The justice of transactions, Marx says, is not a matter of form, but a matter of content. The justice of an institution depends on the particular institution and the particular mode of production of which it is a part. All juridical forms and principles of justice are therefore meaningless unless applied to a specific mode of production, and they retain their rational validity only as long
as the content they possess and the particular actions to which they apply arise naturally out of and correspond concretely to this productive mode. 25

Finally, the justice of acts or institutions does not depend for Marx on their results or consequences. We might think, for instance, that just acts and institutions would tend to make people happier than unjust ones. But this is by no means necessary. For if a mode of production rests on the exploitation of one class by another, then it seems likely that just institutions under that mode will tend in general to satisfy the needs of the oppressors at the expense of the oppressed. But if this is Marx’s view, we might at least be tempted to think that he would agree with Thrasymachus that justice is what is in the interest of the stronger, i.e., of the ruling class. And we may be inclined to think also that he would agree with Hume that those acts and institutions are just which contribute to the preservation, stability, and smooth functioning of society, i.e., of the prevailing mode of produc-

25. This is not to deny, of course, that there has been a certain continuity in philosophical treatments of the concept of justice. The discussions of this concept in Plato’s Republic and in Book 5 of the Nichomachean Ethics pose many of the same philosophical problems we meet with today. And Kant was quite correct, in the Marxsian view, when he said that a universal resolution of the question “Was ist Recht?” is the perennial task of the jurist (Gesammelte Schriften, Akad. Ed. [Berlin, 1914], 6: 229). But in the Marxsian view these facts point to the fundamental inadequacy of the tradition of social philosophy and jurisprudence based on the political or juridical conception of society. Jurisprudence, according to Engels, “compares the legal systems of different peoples and different times, not as the expression of their respective economic relations, but as systems having their foundation in themselves. The comparison presupposes that there is something common to them all, which the jurists set forth by a comparison of legal systems under the name ‘natural right.’ But the standard used to measure what is and is not natural right is just the most abstract expression of right itself, namely justice, . . . eternal justice” (Werke, 18: 276f.; cf. Selected Works, I, 564f.). By this procedure, it is possible to ask abstract questions about the nature of social institutions from an abstract, juridical standpoint, and to provide equally abstract answers to them, seeking a single formal and universal answer to a set of questions which can only be answered in concrete circumstances. The apparent unity in their philosophical concept of justice, as Engels goes on to point out, has not prevented men from maintaining the greatest conceivable diversity in “just” practices, and the common acceptance of universal philosophical principles of justice is even compatible with quite serious disagreement as to what sorts of actual social arrangements are just and unjust. “The conception of eternal justice,” he says, “therefore belongs among those things by which . . . ‘everyone understands something different’” (ibid.).
tion. For, we might argue, if a transaction is to arise naturally out of
the existing production relations, to correspond to the prevailing mode
of production and play a concrete role in it, then it must serve, or tend
to serve, the interests of the ruling class under that mode, and it must
contribute, or tend to contribute, to the security and stability of the
existing order of things. Now in the short run this may very well be
so, and just transactions may even be carried on in many cases with
the conscious intention of furthering the interests of a certain class or
maintaining the stability of the existing order. But if, as Marx believes,
there is an inherent tendency in each mode of production itself toward
mounting instability, increasing social antagonism and conflict, and
ultimately toward its own eventual overthrow and abolition, then in
the long run those very transactions which are most just, which are
most intimately a part of a specific mode of production, must also
contribute in an essential way to its instability and eventual destruc-
tion. For Marx, a transaction is just on account of its function within
the whole, and not on account of its consequences for the whole.

There is no reason, it seems to me, to regard the Marxian concept
of justice as a relativistic one. It is true that whether a given trans-
action or institution is just or unjust will depend for Marx on its rela-
tionship to the mode of production of which it is a part, and that some
institutions which are just in the context of one mode of production
would be unjust in the context of another. But one does not have to
be a relativist to believe that the justice of an action depends to a great
extent on the circumstances in which the action is performed, or that
the justice of an institution depends on its cultural setting. A relativist,
as I understand it, is someone who believes that there are or can be
certain kinds of fundamental conflicts or disagreements between peo-
ple, cultures, or epochs about whether certain specific actions are or
would be right or wrong, just or unjust, and that there is no rational
way of resolving such disagreements, no possible "correct answer" to
them. The Marxian concept of justice, however, involves no view of
this kind. If, for example, a historical analysis of the role of slavery in
the ancient world could show that this institution corresponded to,
and played a necessary role in, the prevailing mode of production,
then in the Marxian view the holding of slaves by the ancients would
be a just practice; and the claim that ancient slavery was unjust,
whether it is made by contemporaries of the institution or by modern men reading about it in history books, would simply be wrong. When Marx and Engels remark that men at different times and places have held diverse views about the nature of “eternal justice,” they are not espousing the relativistic position that different views are “right” at different times and places. They are rather arguing that all glorified, ideological conceptions of justice are in some respects false and misleading, since their applicability is limited as regards time and place, and also because they often express a one-sided view even of those institutions to which they do apply.

III

I want to turn now to the question whether the appropriation of surplus value by capital is for Marx an injustice. A number of socialists in Marx’s day argued that capitalism involved an unequal (and hence unjust) exchange of commodities between worker and capitalist. Their argument was based on Ricardo’s principle, later adopted in a slightly modified form by Marx himself, that labor is the sole creator of exchange value and that “the value of a commodity . . . depends on the relative quantity of labor necessary for its production.”26 The worker, these socialists pointed out, hires himself out to the capitalist for a definite wage, and is supplied by the capitalist with tools and raw materials—what Marx calls “means of production” (Produktionsmittel)—whose value is consumed by use in the process of labor. At the end of this process, however, the worker has produced a commodity of greater value than the combined values of the wages paid him and the means of production consumed. That this value, which Marx was to call surplus value (Mehrwert), should be appropriated by the capitalist is an injustice, according to these socialists. For, according to Ricardo’s principle, the worker’s labor was responsible not only for the value paid him in wages, but for the surplus value as well. Hence surplus value must have arisen because the capitalist paid the worker less in wages than what his labor was worth. If the capitalist had paid

the worker the full value of his labor, no surplus value would have resulted, and the demands of strict justice would have been satisfied.  

Marx, however, rejected both this account of the origin of surplus value and the claim that surplus value involves an unequal exchange between worker and capitalist. He thought that this explanation of surplus value was at bottom no different from the one given by Sir James Steuart and others before the physiocrats, that surplus value originated from selling commodities above their value. These socialists merely turned things around and explained surplus value by supposing that labor was purchased below its value. Both explanations made surplus value appear the result of mere accident, and were therefore inherently unsatisfactory.

The flaw in the argument that surplus value involves an unequal exchange, as Marx saw it, relates to the phrase “the value of labor.” Human labor itself, the creative exertion of the human mind and body, is strictly speaking not a commodity at all in capitalist society. “Labor,” says Marx, “is the substance and immanent measure of value, but has itself no value.” In the socialists’ argument, the phrase “value of labor” is in fact used to refer to two very different things. On the one hand, it is used to refer to the value created by labor, the value present in the commodity over and above the value of the means of production consumed in producing it. It is in this sense that the capitalist pays the worker less than “the value of his labor.” But, Marx points out, it is not the value created by labor which the capitalist pays for. He does not buy finished commodities from the worker, less the amount of his means of production consumed; rather, he buys, in the form of a commodity, the worker’s capacity to produce commodities for him. What he purchases from the worker is not the worker’s products, but rather what Marx calls his “labor power” (Arbeitskraft). It is this power which is sold as a commodity for wages. In the capitalist labor process, the capitalist merely makes use of what he has bought antecedent to the process. “As soon as [the worker’s] labor begins,” says

Marx, "it has already ceased to belong to him; hence it is no longer a thing he can sell." 30

The value of labor power, Marx points out, like the value of any other commodity, depends on the quantity of labor necessary for its production (or, according to the Marxian "law of value," the average labor time socially necessary for the production of commodities of that kind). In other words, the value of labor power depends on the quantity of labor necessary to keep the worker alive and working, or to replace him if he should die or quit. Marx does not hold, however, that this is necessarily the same as the worker's "bare subsistence," whatever that phrase is supposed to mean in general. The value of labor power depends on what is socially necessary: it therefore "contains a historical and moral element." 31 In China, it might consist of a bowl of rice a day; in affluent America, it might include the means necessary to supply the worker with a late-model automobile, a color television set, and similar depraving and debilitating necessities of life. The value of labor power, like the value of any other commodity, depends on the level of development of productive forces and on the concrete production relations to which they correspond. It can go up or down, but it cannot be just or unjust.

Now according to Marx, the wage worker is generally paid the full value of his labor power. He is paid, in other words, what is socially necessary for the reproduction of his life-activity as a worker. This is, according to the Ricardian formula and the strictest rules of commodity exchange, a just transaction, an exchange of equivalent for equivalent. 32 Surplus value, to be sure, is appropriated by the capitalist without an equivalent. 33 But there is nothing in the exchange requiring him to pay any equivalent for it. The exchange of wages for labor power is the only exchange between capitalist and worker. It is a just exchange, and it is consummated long before the question arises of selling the commodity produced and realizing its surplus value. The capitalist has bought a commodity (labor power) and paid its full value; by using, exploiting, this commodity, he now creates a greater value than he began with. This surplus belongs to him; it never

30. Ibid.
belonged to anyone else, and he owes nobody a penny for it. "This circumstance," says Marx, "is peculiar good fortune for the buyer [of labor power], but no injustice at all to the seller." 34 The appropriation of surplus value by capital, therefore, involves no unequal or unjust exchange.

Nevertheless, it might still seem that Ricardo's principle could be used to argue that the appropriation of surplus value by capital is an injustice to the worker. Ricardo's principle says that labor is the sole creator and indeed the very substance of value, that the means of production do not increase in value except as they are productively consumed by labor and incorporated in its products. It would seem to follow that this entire increase ought to go to the worker, since it is through his labor alone that it comes about. "The labor of a man's body, and the work of his hands," as Locke put it, "are properly his." 35 The full value of the commodity, exclusive of the means of production consumed in producing it, seems to belong by right to the worker. In appropriating a portion of that value without equivalent, the capitalist may not be engaging in an "unequal exchange" with the worker in the strict sense, but he is reaping the fruits of the worker's unpaid labor; he is exploiting him, taking from him what is justly his. Hence capitalism is unjust. It is really this argument, I think, that we attribute to Marx when we take his denunciations of capitalism as a system based on "exploitation" and "unpaid labor" to be denunciations of it for its injustice.

The argument is based on two assumptions. The first is that surplus value arises from the appropriation by capital of part of the value created by labor for which the worker receives no equivalent. The second is that each man's property rights are based on his own labor, so that every man has a right to appropriate the full value created by his labor, and anyone who deprives him of any part of this value may be said to have done him an injustice. Now Marx plainly accepts the first of these two assumptions. Does he accept the second? He recognizes, of course, that the notion that property rights are based on one's own labor is common among bourgeois ideologists, and he even sees

35. John Locke, Second Treatise on Government (Indianapolis, Ind., 1952), p. 17, par. 27.
reasons why this notion should seem plausible. "Originally," he says, "property rights appeared to us to be based on one's own labor. At least this assumption must be made, since only commodity-owners with equal property rights confronted each other, and the only means of appropriating an alien commodity was by alienating one's own commodities, which could only be replaced by labor." In a mode of production in which each individual producer owns his own means of production and exchanges the commodities he produces with other individual producers, property rights would be based entirely on a man's own labor. This simple, noble, petty-bourgeois ideal of production Marx sometimes calls the system of "individual private property." Under this system, the laborer would appropriate the full value of his product, and anyone who deprived him of part of this value (by a fraudulent exchange, say, or by robbery) would have done him an injustice. But in Marx's view, capitalist production differs from this idyllic mutualité in several important ways. In capitalist production, men are engaged in cooperative labor, using jointly the same means of production (as in a factory, for example). More importantly, capitalism is predicated on the separation of labor from the means of production, on the division of society into a class which owns the means of production and a class which owns only labor power. Marx describes in Capital how this separation arose historically, and he argues that this class separation aids capitalist development while itself becoming more and more pronounced as a result of this development.

Now in a society based exclusively on individual private property, surplus value would not exist. But the reason for this would be simply that since every individual owns the means of production he employs, labor power would not be among the commodities traded in that society. In capitalism, however, labor power does appear as a commodity on an ever-increasing scale, owing to the form taken by the productive forces and the historical tendency toward the separation of labor from the means of production. But labor power, like any commodity,

is only purchased to be used, and it cannot function as a commodity unless it is useful to its purchaser. If the entire value of the commodity produced by the wage laborer were expended in wages and means of production, the capitalist would have received no use from the labor power he purchased, and he would have done better simply to convert the value of his means of production into commodities he could consume. If he realized no surplus value, the capitalist would have no incentive to develop the forces of production, and no occasion to exercise that prudent abstinence for which he is rewarded by God and man alike. Hence the appearance of labor power as a commodity, according to Marx, brings about a "dialectical reversal" of the previously assumed foundation of the right of property: under the system of capitalist private property, "property turns out to be the right on the part of the capitalist to appropriate alien unpaid labor or its product, and on the part of the worker the impossibility of appropriating his own product. The separation of property from labor has become the necessary consequence of a law that apparently originated in their identity."39

The justice of the transactions in capitalist production rests on the fact that they arise out of capitalist production relations, that they are adequate to, and correspond to, the capitalist mode of production as a whole. The justice of property rights based on labor in a system of individual private property arises from the fact that these rights correspond to the production relations of individual producers each owning the means of production he uses. By the same token, then, the reversal of these property rights under capitalism is equally just. Capitalism is made possible by the existence of labor power as a commodity, by its use as a commodity to produce surplus value and expand capital. Labor power could not even appear as a commodity if there were no surplus value created by it for capital. Therefore, if there were no surplus value, if workers performed no unpaid labor and were not exploited, the capitalist mode of production would not be possible. Under a capitalist mode of production the appropriation of surplus value is not only just, but any attempt to deprive capital of it would be a positive injustice. Marx rejected slogans like "a just wage" and

“a fair day’s wages for a fair day’s work” because in his view the worker was already receiving what these slogans were asking for. A “just wage,” simply because it is a wage, involves the purchase of labor power by capital. The worker is exploited every bit as much when he is paid just wages as when he is paid unjust ones. Thus in response to the Lassallean demand for “a just distribution of the proceeds of labor,” Marx asks: “What is a ‘just’ distribution? Do not the bourgeois assert that the present distribution is ‘just’? And isn’t it in fact the only ‘just’ distribution based on the present mode of production? Are economic relations ruled by juridical concepts [Rechtsbegriffe] or do not juridical relations arise on the contrary out of economic ones?” 40

One of the reasons neoclassical economists repudiated the labor theory of value was the fact that this theory, especially in its Ricardian form, had been used by social malcontents to argue that profits on capital constitute an injustice to the worker. And on this point, at least, the neoclassical position was not merely a piece of shabby apologetics. The economists saw that the profits on invested capital were an essential part of the existing economic process, and that this process could not possibly function without them. They therefore rejected any view which made profits appear to originate merely from unjust exchanges or arbitrary practices of distribution, as a misunderstanding of the nature of the economic system and the role played in it by profits. For this and other reasons, they were content not only to repudiate much of what classical economics had accomplished but even to abdicate many of the traditional responsibilities of the science of political economy in order to free themselves from the labor theory of value. Marx’s analysis of capitalism, however, shows that the notion that profits are unjust does not derive from the labor theory of value alone, but follows only when this theory is combined with the labor theory of property, a natural rights doctrine often mistakenly associated or identified with it. Marx thought, moreover, that the labor theory of value could be used to advance criticisms of capitalism which did not depend for their force on the application to capitalism of juridical principles alien to it, but derived simply from a correct understanding of the organic functioning of capitalism and the suc-

cessive stages of development marked out for it by its nature as a mode of production. Those who insist on finding in Marx's critique of capitalism some "principles of justice" analogous to the labor theory of property are therefore only shifting Marx's critique back to the level on which he found the question in the socialist writings of his own day, and from which he did his best to remove it.

We might be tempted at this point to think that whether capitalism should be called "unjust" or not is merely a verbal issue. Marx did, after all, condemn capitalism, and he condemned it at least in part because it was a system of exploitation, involving the appropriation of the worker's unpaid labor by capital. If Marx chose to call these evils of capitalism not "injustices" but something else, they still sound to most of us like injustices, and it seems that we should be free to apply this term to them if we like. The difference between Marx and ourselves at this point, we might suppose, is only that his application of the term "justice" is somewhat narrower than ours.

It is extremely important to see why such an attitude would be mistaken. When Marx limits the concept of justice in the way he does, he is not by any means making a terminological stipulation. He is basing his claim on the actual role played in social life by the concept of justice, and the institutional context in which this term has its proper function. His disagreement with those who hold that capitalism is unjust is a substantive one, founded on his conception of society and having important practical consequences.

"Justice," as we have seen, is a Rechtsbegriff, a concept related to "law" and "right." And although Marx never tries to tell us precisely what the scope of the class of Rechtsbegriffe is, it is clear that the central role of all these concepts has to do with political or juridical (rechtlich) institutions, institutions whose function is the regulation of the actions of individuals and groups through socially imposed sanctions of some kind, whether civil, criminal, or moral in nature. These institutions include those promulgating, applying, or administering laws, those in which collective political decisions are made or carried out, and those regulating the actions and practices of individuals by generally accepted norms of conduct. When something is called an "injustice," or when it is claimed that a practice violates someone's "rights," some sort of appeal is being made to juridical insti-
tutions, to the manner in which they regularly do act or the manner in which they should act if they are to fulfill their proper social function.

When capitalist exploitation is described as an "injustice," the implication is that what is wrong with capitalism is its mode of distribution. When the appropriation by capital of the worker's unpaid labor is thought of as "unjust," the claim being made is that the worker is being given a smaller (and the capitalist a larger) share of the collective product of society than he deserves, according to the juridical or moral rules and practices which govern distribution, or at least, which should govern it. It is therefore being suggested that the answer to capitalist exploitation is to be found in the proper regulation of distribution by means of the promulgation and enforcement of laws, the taking of political decisions, and the stricter adherence by individuals to correct and appropriate moral precepts.

Such a conception of what is wrong with capitalist exploitation is, however, entirely mistaken according to Marx. Distribution, he argues, is not something which exists alongside production, indifferent to it, and subject to whatever modifications individuals in their collective moral and political wisdom should choose to make in it. Any mode of distribution is determined by the mode of production of which it is a functional part.41 The appropriation of surplus value and the exploitation of labor are not abuses of capitalist production, or arbitrary and unfair practices which happen accidentally to be carried on within it (like fraud, for instance, or smuggling, or protection rackets). Exploitation of the worker belongs to the essence of capitalism, and as the capitalist mode of production progresses to later and later stages of its development, this exploitation must in Marx's view grow worse and worse as a result of the laws of this development itself. It cannot be removed by the passage or enforcement of laws regulating distribution, or by any moral or political reforms which capitalist political institutions could bring about. Moreover, any "reforms" of capitalist production which proposed to take surplus value away from capital and put an end to the exploitation of the worker would themselves be injustices of a most straightforward and unambiguous kind. They

would violate in the most obvious way the fundamental property rights
derived from the capitalist mode of production, and constitute the
imposition on it of a system of distribution essentially incompatible
with it. It is a mystery how such well-meaning reformers could expect
to keep their scheme of “just” distribution working once it had been
set up. (One is reminded of Aristotle’s remark that any system, no mat-
ter how misconceived, can be made to work for a day or two.)

But this is not all. Even if revolutionary practice should put an end
to capitalist exploitation, and even if an important aspect of this prac-
tice should consist in a change in the juridical rules governing dis-
tribution, it would still be wrong to say that the end to exploitation
constitutes the rectification of “injustice.” Revolutionary politics does
not consist, for Marx, in the imposition on society of whatever moral
or juridical rules or “principles of justice” the revolutionary politician
should find most commendable. It consists rather in the adjustment
of the political or juridical institutions of society to a new mode of
production, of a determinate form and character, which has already
taken shape in society. Unless a fundamental change of this kind in
the mode of man’s productive activity is already taking place in
society of its own accord, any attempt at a truly revolutionary polit-
ics would be irrational, futile, and, to use Marx’s own word, mere
“Donquichoterie.”42 This is what Marx and Engels mean when they
say in the German Ideology that “Communism is for us not a state of
affairs to be brought about, an ideal to which reality must somehow
adjust itself. We call communism the actual movement which is tran-
scending [aufhebt] the present state of affairs. The conditions of this
movement result from presuppositions already existing.”43

Political action, therefore, is for Marx one subordinate moment of
revolutionary practice. Political institutions do not and cannot create
a new mode of production, but can only be brought into harmony with
a mode of production that men themselves are already bringing to
birth. They can only set the juridical stamp of approval, so to speak,
on whatever form of productive activity historical individuals are cre-
at ing and living. If revolutionary institutions mean new laws, new

standards of juridical regulation, new forms of property and distribution, this is not a sign that "justice" is at last being done where it was not done before; it is instead a sign that a new mode of production, with its own characteristic juridical forms, has been born from the old one. This new mode of production will not be "more just" than the old, it will only be just in its own way. If the new is higher, freer, more human than the old, it would be for Marx both entirely inaccurate and woefully inadequate to reduce its superiority to juridical terms and to commend it as "more just." Anyone who is tempted to do this is a person still captivated by the false and inverted political or juridical conception of society, since he insists on interpreting every crucial change in it as a change whose meaning is fundamentally political or juridical in character. He is treating the old mode of production as if it were merely one of the determinations of a mystical juridical structure of society, whereas in reality the actual juridical structure of society is a dependent moment of the prevailing productive mode. He is also treating the social whole as if he, in his sublime rationality, could measure this whole against some ideal of right or justice completely external to it, and could then, standing on some Archimedean point, adjust social reality to this ideal. He is removing social reality from his theory, and his social practice from reality. In Marx's view, when anyone demands an end to capitalist exploitation on the ground of its "injustice" he is employing an argument carrying no rational conviction to urge action with no practical basis toward a goal with no historical content.

Someone might think that capitalism could be condemned as unjust by applying to it standards of justice or right which would be appropriate to some postcapitalist mode of production. No doubt capitalism could be condemned in this way, but since any such standards would not be rationally applicable to capitalism at all, any such condemnations would be mistaken, confused, and without foundation. The temptation to apply postcapitalist juridical standards (however they may be understood) to capitalist production can only derive, once again, from the vision of postcapitalist society as a kind of eternal juridical structure against which the present state of affairs is to be measured and found wanting. The Marxian conception of society and social change, as we have seen, repudiates any vision of this kind. In
the Critique of the Gotha Program Marx points out that postcapitalist society itself will have different stages of development, to which different standards of right will correspond. And in the long run, of course, Marx believes that the end of class society will mean the end of the social need for the state mechanism and the juridical institutions within which concepts like "right" and "justice" have their place. If, therefore, one insists on saying that Marx's "real" concept of justice is the one he would deem appropriate to a fully developed communist society, one's conclusion probably should be that Marx's "real" concept of justice is no concept of it at all.

For Marx, justice is not and cannot be a genuinely revolutionary notion. The revolutionary who is captivated by the passion for justice misunderstands, in the Marxian view, both the existing production relations and his own revolutionary aspirations. He implies, by his use of juridical conceptions, that his protest against the prevailing mode of production is a protest against evils which can and should be remedied by moral, legal, or political processes, which in fact are only dependent moments of that mode of production itself. He views his revolutionary aspirations as a kind of ideal juridical structure underlying the existing society, an ideal or hypothetical contract or set of natural rights or rational principles of right, which are being violated, concealed, or disfigured by the rampant "abuses" and "injustices" of the present society. He thus treats the essence of the actual production relations as arbitrary and inessential, as a set of mere "abuses"; and he regards the social conflicts and antagonisms to which these relations give rise as unfortunate by-products of social abnormalities, rather than as the driving force behind his own revolutionary consciousness. His "revolutionary" aim is therefore not really to overthrow the existing society, it is only to correct the abuses prevalent in it, to rectify its tragic and irrational injustices, and to make it live up to those ideals of right and justice which are, or ought to be, its genuine foundation. Our determined revolutionary, in other words, animated by his passion for justice, is already equipped to deliver the keynote address at the next Democratic Convention.

Marx's call to the revolutionary overthrow of capitalist production therefore is not, and cannot be, founded on the claim that capitalism is unjust. Marx in fact regarded all attempts to base revolutionary
practice on juridical notions as an "ideological shuffle," and he dismissed the use of terms like "equal right" and "just distribution" in the working-class movement as "outdated verbal trivia." 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.

There can be no doubt that for Marx it was of the utmost practical importance that the worker's movement not be sidetracked by a preoccupation with the attainment of "justice" and "equal rights." But his insistence on the justice of capitalism was not motivated by tactical considerations. It is regarding this point that Tucker seems to me to go astray. He argues persuasively that Marx did not criticize capitalism for injustice and in fact did not believe it to be unjust. But he seems to me to be mistaken as to Marx's reasons for holding that capitalism is unjust, and to give an inadequate account of them.

Tucker says that the "underlying issue" for Marx in his refusal to condemn capitalism for injustice was his opposition to the position, held by Proudhon and others, that the solution to the social problems posed by capitalist production must consist in striking an equitable balance between the antagonistic interests of different social agents of production. Marx, in Tucker's view, believed not in the equilibrium of antagonisms but in their abolition through the revolutionary overthrow of the capitalist mode of production. Marx sought, he says, not a balance between interests but a harmony of interests. Thus, according to Tucker, Marx rejected the view that capitalism is unjust because

45. A good example of this insistence on finding an idea of "justice" implicit in the Marxian critique of capitalism is to be found in Ralf Dahrendorf, Die Idee des Gerechten im Denken von Karl Marx (Hanover, 1971). The same sort of misunderstanding has led Dahrendorf elsewhere to view Marx's analysis of class conflict as involving a conception of class "based essentially on the narrow, legal conception of property" (Class and Class-Conflict in Industrial Society [Stanford, Cal., 1959], p. 21). If the argument of the earlier part of this paper is correct, this estimate could not be farther from the truth.
“justice” and similar notions connote “a rightful balance in a situation where two or more parties or principles conflict.” Marx believed, however, that the antagonism between capital and labor should not be compromised or turned into a harmony, but rather abolished through the revolutionary destruction of capital as a social force. Thus Tucker regards Marx’s insistence that capitalism is not unjust as an expression of his fear that “the distributive orientation ultimately pointed the way to abandonment of the revolutionary goal.”47 Marx denied that capitalism is unjust, then, in order to persuade the workers’ movement to take a revolutionary rather than a reformist direction. Following Tucker’s account, Marx’s critique of justice appears to be fundamentally a tactical stance, motivated by the fear that the workers’ movement might abandon its revolutionary aspirations for some less radical program of social reform.

Now I do not want to deny that Marx believed that social antagonisms in general and the antagonism between capital and labor in particular should be abolished rather than balanced or compromised. This seems to me to have been Marx’s view, and also his major reason for disagreeing with Proudhon and others like him on many points. But I do not think this view by itself accounts for Marx’s insistence that capitalism is not an unjust system. In the first place, while it may seem to Tucker that the term “justice” always connotes a rightful balance between conflicting interests, I see no particular reason to think that Marx believed this. For him, justice is the rational measure of social acts and institutions from the juridical point of view. In a class society the administration of juridical relations will normally involve some mode of dealing with the antagonistic interests generated by the contradictions inherent in the mode of production. And while justice in this regard should consist in handling these antagonisms in a way which corresponds or is adequate to the mode of production, there is no reason to think it will do so by striking a “rightful balance” between opposing interests. Capitalist justice, for instance, which involves treating men as equals insofar as they are property owners, will presumably involve some sort of balance between the conflicting interests of two large capitalists, for example, but it can only handle

47. Ibid., p. 51.
conflicts between the interests of capital and labor by forcibly promot-
ing the former and ruthlessly suppressing the latter. From a Marxian
standpoint, this would be the only thing that justice as a "rightful
balance" of opposing interests could mean under capitalism, and the
phrase does not sound particularly appropriate.

But secondly, even if we grant that for Marx justice connoted a
rightful balance between conflicting interests, Tucker's account is still
not satisfactory. What Tucker says might then explain why Marx did
not dwell on the injustices of capitalism, and also why he would have
criticized those who did. But it could not explain why Marx positively
denied that capitalism was unjust. For if justice connotes a "balance"
between conflicting interests, Marx might very well have agreed that
no such balance is being struck between capital and labor, and admit-
ted that capitalism is unjust, but he might have urged at the same
time that injustice is not the primary defect of the capitalist mode of
production and insisted that the workers would be misled if they
devoted all their energies to rectifying these injustices. It would have
been of questionable tactical value, it seems to me, for Marx to go
further than this and positively deny that capitalist exploitation is
unjust, unless he thought he had good independent grounds for doing
so. Marx also seems to me not to have been as worried as Tucker thinks
about the danger of the distributive orientation undermining the revo-
lutionary character of the workers' movement. At any rate he was not
afraid that the long-range goals of the proletariat would be altered by
such petty-bourgeois nonsense. Whether or not we think subsequent
history has proven him wrong, Marx was always convinced that the
situation of the proletariat could never be made tolerable to the prole-
tarians themselves by anything short of a revolutionary transforma-
tion of production. His real worry was only that the widespread accept-
ance of false notions about the defects of capitalism and the condi-
tions for their removal would delay this transformation and make it
more painful. Marx's fundamental objection to the rhetoric of justice
was not that it was bad propaganda, but that it presupposed a theory
of society which he believed he had shown to be false. Speaking of the
distributive orientation espoused by the Lassalleans, he says: "Vulgar
socialism (and from it again a part of democracy) took over from the
bourgeois economists the consideration and treatment of distribution
as independent of the mode of production and hence the presentation of socialism as turning principally on the question of distribution. But after the real relation has long been made clear, why retrogress again?" 48

IV

If Marx did not criticize capitalism for being unjust, the question naturally presents itself: Why did Marx condemn capitalism? But it would be extremely naïve to suppose that there could be any single, simple answer to such a question. The only genuine answer to it is Marx's comprehensive theory of capitalism as a concrete historical mode of production; for it was as a whole that Marx condemned capitalism, and his condemnation was based on what he believed was a unified and essentially complete analysis of its inner workings and its position in human history. Capitalism, in Marx's view, had performed a valuable historical task in developing social forces of production. He even speaks of this development as the historical "justification" of capital. 49 But this development had taken place at enormous human cost. Not only had it impoverished the physical existence of the mass of workers whose labor had brought about the development of productive forces, but the intellectual and moral lives of men had been impoverished by it as well. The rapidity of social change under capitalism had created a permanent state of instability and disorder in social relationships which had taken away from human happiness perhaps more than was added by the increase in human productive capacities. But the capitalist era itself, in Marx's view, was drawing to a close. Marx argued that the capacity of capitalism further to develop the forces of production was meeting with increasing obstacles, obstacles resulting from the organic workings of the capitalist system of production itself. At the same time, and partly as a result of these same obstacles, the human cost of capitalism was growing steadily greater. The interests and needs of fewer and fewer were being served by its continuation, and its preservation was being made more and more difficult by the cumulative effects of its own essential processes.

Within Marx's account of the essential irrationality and eventual breakdown of capitalism, the concept of the "exploitation" of labor by capital plays an important role. And since it is the Marxian charge that capitalism is essentially a system of exploitation which has done most to create the impression that Marx condemned capitalism for injustice, I would like to try briefly to explain what role I think this charge actually plays in Marx's critique of capitalism.

Human society, according to some philosophers, is founded on the harmony of human interests, the fact that social relationships are of mutual benefit to those participating in them. In the Marxian view, however, past societies have equally been founded on conflicts of interest, and on the forced labor of one class for the benefit of another. All society, Marx believes, involves an "exchange of human activity" between agents of production;50 but one of the essential forms of such exchanges is the social relation of dominion and servitude. This relation, in Marx's view, constitutes the foundation of class conflicts and of the historical changes wrought by them.

The essence of servitude for Marx consists in the fact that servitude is a specific form of human productive activity: it is, namely, productive activity which, by means of the loss and renunciation of its products, is itself alienated from the producer and appropriated by someone or something external to him, standing over against him as the independent aim and object of his production. Dominion, as Marx points out, involves not merely the appropriation and enjoyment of things, but "the appropriation of another's will."51 When the master enjoys the slave's services or the fruits of his labor, he enjoys them as the result of the slave's productive activity, as something into which the slave has put his will and realized his purposes. The appropriation of the slave's products by the master, therefore, necessarily involves for the slave their renunciation, the alienation of the slave's own life-activity and the immediate frustration of his productive will. The labor of servitude is, as Hegel said, essentially "inhibited desire."52 In

its essence, such labor is, in Marx's words, "not voluntary but coerced, it is *forced* labor, . . . a labor of self-sacrifice, of mortification." 53

In capitalist production, according to Marx, these relations of dominion and servitude are disguised. The capitalist and the worker appear to be independent owners of commodities, exchanging their goods as free individuals. The exchanges between them are entirely just and their equal rights as property owners are strictly respected throughout capitalist production relations, thus giving rise to the illusion that these relations themselves are entirely the result of a voluntary contract between independent persons. In fact, however, since the capitalist mode of production is founded on the sale of labor power by one class to another, capitalist production rests essentially on the appropriation by capital of a part of the worker's product in the form of surplus value. Capital, by its very nature as capital, that is, by its function in capitalist production relations, necessarily exploits the worker by appropriating and accumulating his unpaid labor. And as Marx argues in *Capital*, the end result of the wage laborer's activity is always the further accumulation of capital, of his own product in an alien and autonomous form, which becomes both the necessary condition and the independent aim of his labor, of his life-activity itself.

This exploitation of the laborer by capital is not a form of injustice, but it is a form of servitude. "Capital obtains surplus labor," according to Marx, "without an equivalent, and in essence it always remains

53. *Werke*, Erg. 1, Teil 514. Cf. *Early Writings*, p. 125. The concept of the alienation (*Entfremdung*) of labor is not something confined to Marx's early writings, as is sometimes believed. Marx continued to use both the term *Entfremdung* and the concept throughout his analysis of capitalist production, and he continued to compare the accumulation of social wealth in the alienated form of capital to Feuerbach's theory of religion as the alienated essence of man conceived by man as an independent object. Consider, for example, the two following passages from *Capital*: "The laborer, on leaving the labor process, is what he was on entering it—a personal source of wealth, but destitute of all means to actualize this wealth for himself. Since before entering the labor process his own labor is alienated [entfremdet] from him, and appropriated and incorporated by the capitalist, it objectifies itself during the labor process in the form of an alien [fremdem] product. . . . The laborer therefore produces objective wealth in the form of capital, of a power alien to him [ihm fremde] which dominates and exploits him" (*Werke*, 23: 595f.; cf. *Capital*, I, 570f.). "As in religion man is dominated by a work of his own head, so in capitalistic production he is dominated by a work of his hand" (*Werke*, 23: 649; cf. *Capital*, I, 621).
forced labor, however much it appears to result from a free contractual agreement." Capitalist exploitation is not a form of fraudulent exchange or economic injustice, but it is a form of concealed dominion over the worker. Capitalism is a system of slavery, and a slavery the more insidious because the relations of dominion and servitude are experienced as such without being understood as such. The fundamental character of the capitalist relation is even hidden from political economy, in Marx's view, so long as it fails to solve the riddle of surplus value. By solving this riddle, Marx believes he has unmasked the capitalist relation and made it possible for the workers to understand their condition of poverty, frustration, and discontent for what it is: a condition of servitude to their own product in the form of capital.

It bears repeating that although this servitude is a source of misery, degradation, and discontent to the worker, it is not a form of injustice. Those who believe that the notion of servitude necessarily "connotes" injustice are the victims of prejudices which many men of less enlightened ages (Aristotle, for example) did not share. And for Marx the appearance of such prejudices in capitalist society is largely the result of the bourgeois ideology which praises capitalism for having done away with direct slavery and feudal serfdom, and for having replaced these "injustices" and "human indignities" with an open society of free men meeting in a free market. The actual servitude which hides behind this mask of universal liberty is, however, neither more nor less just than its predecessors in Marx's view. The servitude of the wage laborer to capital is rather an essential and indispensable part of the capitalist mode of production, which neither the passage of liberal legislation nor the sincere resolve by bourgeois society to respect the "human rights" of all its members can do anything to remove. Nor is the mere fact that capitalism involves servitude a sufficient ground for the workers to rise against it. It is not Marx's belief that servitude as such is an unqualified wrong, an evil to be abolished at all cost with an attitude of fiat justitia, pereat mundi. The servitude of capitalism, according to Marx, and even the direct slavery involved in capitalist colonies, have been necessary conditions for the develop-

ment of modern productive forces. To condemn this servitude unqualifiedly would be to condemn all the productive advances of modern society, which Marx was not about to do. Condemning a relation of servitude when it results from historical limitations on productive forces is for Marx about as rational as condemning medical science because there are some diseases it cannot cure.

A historically potent demand, a genuine and effective need for emancipation arises in an oppressed class only under certain conditions. This need does not appear merely as a social ideal, but always as an actual movement within the existing production relations toward concrete historical possibilities transcending them. And it arises, according to Marx’s theory, only where there is a disharmony or antagonism between the productive forces and the existing production relations. Within a given mode of production, men develop and change the forces of production. In this way they bring about new historical possibilities, and with them new human desires and needs. These new possibilities cannot be actualized, however, and these new needs satisfied, within the existing production relations. The productive forces have, so to speak, outgrown the production relations and have become antagonistic to them. It is this antagonism which, in Marx’s view, supplies the conditions for an epoch of social revolution. And it is only in terms of this antagonism that an effective need for emancipation on the part of an oppressed class can take shape. “Humanity,” says Marx, “only sets itself tasks it can solve”: “A form of society never perishes before all the productive forces for which there is room in it have developed; and new, higher relations of production never come forth before the material conditions for their existence have taken shape in the womb of the old society itself.”

Capitalism itself, Marx believed, systematically creates the forces which will eventuate in its revolutionary overthrow and historical transcendence. It is the inherent tendency of capitalist production to increase the rate of surplus value, to accumulate an ever-larger supply of social wealth in the form of capital. This historical tendency of capitalism leads, as Marx argues in Capital, to the mounting instability of capitalist production in a number of different but related ways.

Prominent among these tendencies to instability is the increasing burden of servitude placed on the workers by capitalist accumulation. Marx does not think that as capital accumulates, the wages of the worker will necessarily decrease. Indeed, he holds that in general those conditions under which capital expands most rapidly relative to labor are likely to be the most favorable for the worker's material situation. But the accumulation of capital does mean that the dominion of capital over the worker, and the "golden chain" the worker forges for himself, which fetters him to capital, tend to grow heavier and heavier. The slave's peculium may possibly increase, but his servitude necessarily grows more and more burdensome.

According to the Marxian theory, then, capitalist production accumulates on the one side an ever-growing supply of social wealth, an ever-expanding set of productive forces; but on the other side it creates at the same time a class of restless slaves, constantly growing in numbers and in discontent. It expands the capacities for the satisfaction of human needs, while at the same time cutting men off in steadily increasing numbers from the means of appropriating and making use of these capacities. And it expands the forces of production by means of the forced labor of precisely those who are alienated from them. Thus capitalism itself produces both the need on the part of the workers to overcome and abolish capitalist production and the material forces which make the abolition of capitalism a genuine historical possibility. It produces at once an ever-growing burden of servitude and an ever-greater capacity for emancipation. In this way, the productive forces it has created become increasingly antagonistic to the production relations by means of which it has created them. This does not mean, however, that for Marx capitalism is bad or irrational because its downfall is inevitable. On the contrary, Marx thought that its perpetuation of a condition of unnecessary servitude, its extension of this condition to the great majority of men, and its creation of human desires and opportunities which cannot be satisfied within a capitalist framework were precisely the sorts of defects which would

bring about its downfall. Capitalism, in Marx's view, was breaking
down because it was irrational, and not the reverse. The irrationalities
in capitalism were for Marx at once causes of its downfall and reasons
for its abolition.

But if Marx viewed the workers' desire for emancipation as an
important reason why capitalism should be abolished, it still seems to
me almost as mistaken to say that Marx's critique of capitalism is
founded on a "principle of freedom" as it is to say that it is founded
on a "principle of justice." I think it would be wrong, in fact, to sup-
pose that Marx's critique of capitalism is necessarily rooted in any
particular moral or social ideal or principle. It has sometimes been
claimed that Marx was fundamentally a utilitarian, because he be-
lieved the overthrow of capitalism would bring about greater human
happiness. Others have argued that Marx was really a Kantian, since
the servitude and exploitation of capitalism to which he objected in-
volve the treatment of men as means only, rather than as ends in
themselves. Still others have seen in Marx's hope for an expansion of
man's powers under socialism an implicit "self-realization" theory.
But of course it is quite possible for someone to value human hap-
niness without being a utilitarian, to object to the treatment of men as
mere means without being a Kantian, and to favor the development
of human powers and capacities without subscribing to any particular
moral philosophy. So there is no good reason, it seems to me, for the
adherents of any particular position in moral philosophy to claim that
Marx is one of their number. At any rate, Marx seems to me no more
a subscriber to any particular moral philosophy than is the "common
man" with whose moral views nearly every moral philosopher claims
to be in agreement.

Marx's own reasons for condemning capitalism are contained in his
comprehensive theory of the historical genesis, the organic function-
ing, and the prognosis of the capitalist mode of production. And this
is not itself a moral theory, nor does it include any particular moral
principles as such. But neither is it "merely descriptive," in the tedious
philosophical sense which is supposed to make it seem problematic
how anything of that sort could ever be a reason for condemning
what is so "described." There is nothing problematic about saying
that disguised exploitation, unnecessary servitude, economic insta-
bility, and declining productivity are features of a productive system which constitute good reasons for condemning it. Marx's theory of the functioning and development of capitalism does argue that capitalism possesses these features (among others), but Marx never tried to give any philosophical account of why these features would constitute good reasons for condemning a system that possesses them. He was doubtless convinced that the reasons for condemning capitalism provided by his theory were good ones, and that whatever information moral philosophers might or might not be able to give us about the nature of condemnations of social systems and the nature of reasons for them, no special appeal to philosophical principles, moral imperatives, or evaluative modes of consciousness would be needed to show that his own reasons for condemning capitalism were good and sufficient ones. That he was correct in these convictions is indicated by the fact that no serious defender of capitalism has ever disputed his critique solely on the grounds of moral philosophy. It has been argued in defense of capitalism that Marx's theory of capitalist production rests on unsound economic principles, that it distorts or misinterprets the relation between capital and labor, and that it gives an inaccurate, one-sided, or incomplete picture of capitalism. It has also been claimed that Marx's account of the genesis of capitalist production is historically inaccurate, and that his predictions about its future have been largely falsified by events which have happened since his time. But no one has ever denied that capitalism, understood as Marx's theory understands it, is a system of unnecessary servitude, replete with irrationalities and ripe for destruction. Still less has anyone defended capitalism by claiming that a system of this sort might after all be good or desirable, and it is doubtful that any moral philosophy which could support such a claim would deserve serious consideration.