

**MARX AGAINST BOURGEOIS LAW: A HISTORICAL-MATERIALIST CRITIQUE OF  
LIBERAL AND CONSERVATIVE JURISPRUDENCE ON PROPERTY, RIGHTS, AND  
TRADITION**

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*This essay contends that Marx's historical materialist method furnishes a sustained critique of liberal and conservative jurisprudence by situating doctrines of property, rights, liberty, and tradition within the class relations that generate them. Reading Locke, Bentham, Mill, Burke, and Rousseau alongside Marx, it argues that these frameworks, though presented in universal terms, are historically specific formations bound to bourgeois social organization. Simultaneously, Marx does not simply discard these traditions; he exposes the tension between their formal ideals and the material conditions of their realization. Liberal legality and conservative appeals to inherited order thus emerge as juridical forms that both express and stabilize structures of domination. What remains normatively valuable within those traditions, including freedom, equality, and communal life, can be realized more fully only through the transcendence of bourgeois law and the social relations on which it rests.*

## I. Introduction and Thesis

Karl Marx and Friedrich Engels' *Manifesto of the Communist Party* launched a radical critique of modern liberal and conservative theory by exposing their roots in the bourgeois epoch and reframing them through a materialist, class-centered lens.<sup>1</sup> Classical liberal thinkers such as John Locke grounded political authority in natural rights, consent, and a labor-based account of property, whereas Bentham and Mill advanced utilitarianism, insisting that law's legitimacy is ultimately judged by its contribution to overall welfare.<sup>2</sup> Conservatives like Edmund Burke defended inherited hierarchy, tradition, and the "decencies" of civilized order against rationalist revolution.<sup>3</sup> Rousseau, meanwhile, articulated a republican ideal of the general will that sought to reconcile freedom and equality through a political community oriented to the common good.<sup>4</sup>

Marx, drawing especially on *The Communist Manifesto* and "On the Jewish Question," turns these projects on their head.<sup>5</sup> Locke's natural right of private property becomes, in Marx's account, a historically specific regime of "bourgeois property," neither eternal nor just.<sup>6</sup> Bentham's and Mill's exaltation of individual liberty and rights reflects the "egoistic" isolation of man in bourgeois civil society.<sup>7</sup> Burke's reverence for feudal "chivalry" appears as "feudal socialism," a nostalgic but ultimately reactionary critique of capitalism.<sup>8</sup> Rousseau's vision of a unified people legislating through the general will points beyond liberal individualism and conservative traditionalism, yet for Marx, it remains trapped within a political form that leaves

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<sup>1</sup> Karl Marx and Friedrich Engels, "Manifesto of the Communist Party," *Marx/Engels Selected Works vol. 1*, (1969).

<sup>2</sup> John Locke, *Second Treatise of Government*, (Hackett Publishing, 1980), 39; Jeremy Bentham *The Works of Jeremy Bentham*, (William Tait, 1843), 42; John Stuart Mill, *On Liberty* (Batoche Books 2001), 13.

<sup>3</sup> Edmund Burke, *Reflections On the Revolution In France* (1790), 28.

<sup>4</sup> Jean-Jacques Rousseau, *The Social Contract*, trans. Jonathan Bennett (2010), 7.

<sup>5</sup> Marx and Engels, *Manifesto*, 22; Karl Marx, *On the Jewish Question*, (Marxists Internet Archive, 1844), 12.

<sup>6</sup> Locke, *Second Treatise of Government*, 39; Marx and Engels, *Manifesto*, 22–23.

<sup>7</sup> Mill, *On Liberty*, 13; Bentham, *The Works of Jeremy Bentham*, 42; Marx, *On the Jewish Question*, 42.

<sup>8</sup> Burke, *Reflections On the Revolution In France*, 63.

underlying class relations intact.<sup>9</sup> In each case, political and moral ideals are explained as expressions of material relations and class interests rather than timeless principles.<sup>10</sup>

This paper argues that Marx's historical-materialist method enables a penetrating critique of liberal and conservative jurisprudential foundations, namely, doctrines of property, rights, liberty, and tradition, by revealing them as ideological reflections of bourgeois class power, to be superseded by a classless society grounded in collective emancipation. This paper proceeds by first outlining Marx's historical-materialist method, then contrasting it with Locke on property, Bentham and Mill on rights and liberty, Burke on tradition, and Rousseau on the general will.

## **II. Marx's Historical Materialist Method**

Marx's analysis begins from a historical materialist premise: social and political doctrines cannot be understood apart from the material conditions and class relations that produce them.<sup>11</sup> The *Communist Manifesto* famously opens by asserting that "the history of all hitherto existing society is the history of class struggles."<sup>12</sup> Each epoch's dominant ideas reflect the ruling class's interests and the prevailing mode of production. Thus, doctrines of natural rights, liberty, and tradition are, for Marx, ideological forms of the bourgeois or feudal eras. Modern bourgeois society arose from the revolutionary dissolution of feudalism and is structured by the antagonism between the bourgeoisie and the proletariat.<sup>13</sup> Marx argues that "the modern state is but a committee for managing the common affairs of the whole bourgeoisie"; that is, even when liberal-democratic states proclaim universal equality and rights, their typical tendency is to stabilize and administer capitalist class relations.<sup>14</sup> This contrasts sharply with social-contract theories like Locke's, which posit abstract, pre-social individuals who freely agree to form civil

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<sup>9</sup> Rousseau, *The Social Contract*, 12; Marx & Engels, *Manifesto*, 22–23.

<sup>10</sup> Marx and Engels, *Manifesto*, 22.

<sup>11</sup> Marx and Engels, *Manifesto*, 25.

<sup>12</sup> Marx and Engels, *Manifesto*, 14.

<sup>13</sup> Marx and Engels, *Manifesto*, 15.

<sup>14</sup> Marx and Engels, *Manifesto*, 15.

society to protect their natural rights. In “On the Jewish Question,” Marx argues that the very language of the “rights of man” presupposes a split between man as a citizen in the political sphere and man as an isolated, self-seeking individual in civil society.<sup>15</sup> Political emancipation, that is, formal equality, rights, and citizenship, is real but partial.<sup>16</sup> It leaves intact a bourgeois order in which private property, competition, and market dependence continue to divide individuals.<sup>17</sup>

For Marx, “the ideas of the ruling class are in every epoch the ruling ideas.” Capitalist society strips away feudal mystifications and bases itself on “naked self-interest” and “cash payment,” yet still clothes its own relations in universal terms: “liberty,” “equality,” and “rights.”<sup>18</sup> These ideals correspond to real changes (the freedom of commodity owners in a market) but are limited by their class basis.<sup>19</sup> Marx reads this definition of liberty as law-governed non-interference as functioning like a right of separation: each individual’s protected sphere is bounded the way property is bounded, universal in form yet bourgeois in social meaning.<sup>20</sup> Marx’s method is therefore to demystify political doctrines by situating them within the history of class formation and struggle.<sup>21</sup> He does not simply reject liberal and conservative theories; he seeks to sublimate them to explain their origin, preserve what truth they contain, and show how they are transcended in a higher, non-bourgeois form.<sup>22</sup>

### **III. Locke and Property vs. Marx’s Critique of Bourgeois Property**

John Locke’s *Second Treatise of Government* grounds private property in individual labor. In the state of nature, the earth is held in common, but “every man has a property in his

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<sup>15</sup> Marx, *On the Jewish Question*, 6, 11.

<sup>16</sup> Marx, *On the Jewish Question*, at 5, 7.

<sup>17</sup> Marx, *On the Jewish Question*, 13, 14, 20.

<sup>18</sup> Marx and Engels, *Manifesto*, 15–16.

<sup>19</sup> Marx and Engels, *Manifesto*, 14.

<sup>20</sup> Marx, *On the Jewish Question*, 12.

<sup>21</sup> Marx, *On the Jewish Question*, 3, 5.

<sup>22</sup> Marx and Engels, *Manifesto*, 25, 26.

own person,” and by “mixing” his labor with natural objects, he makes them his own, so long as he leaves “enough and as good” for others and does not allow what he claims to spoil.<sup>23</sup> The invention of money relaxes this “spoilage” limit by providing a durable medium through which people can, by consent, accumulate far beyond immediate needs, thereby legitimizing large inequalities of wealth.<sup>24</sup> For Locke, the chief end of civil government is the preservation of “property” (life, liberty, and estate): political power is fiduciary, bound by settled law and “indifferent” judgment, and arbitrary seizure without consent is tyranny, hence the right to “appeal to Heaven” when rulers betray their trust.<sup>25</sup> Even Locke’s own discussion of enclosure, commerce, and monetary consent marks a shift from the “first ages” toward more complex property relations but not yet a fully developed wage-labor economy.<sup>26</sup> Locke, in other words, theorizes property under pre-industrial conditions.<sup>27</sup> Read charitably, then, Locke is not offering a blank check for unlimited accumulation; he frames appropriation through moral constraints and a trust-based account of legitimate authority aimed at social peace and reciprocal security.<sup>28</sup> On a Marxian reading, the issue is not that Locke celebrates exploitation, but that his moral vocabulary of labor, improvement, consent, and property can be redeployed to legitimate capitalist relations once the underlying social conditions shift.<sup>29</sup> In that new setting, the same categories can help naturalize historically contingent relations: wage labor is redescribed as voluntary exchange among formally free rights-holders, dispossession is reframed as the legitimate boundary of ownership, and law’s protection of accumulation presents itself as safeguarding the fruits of labor.<sup>30</sup> In my reconstruction, Locke supplies an idiom of legitimacy

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<sup>23</sup> Locke, *Second Treatise of Government*, 11, 12.

<sup>24</sup> Locke, *Second Treatise of Government*, 14.

<sup>25</sup> Locke, *Second Treatise of Government*, 40, 42, 53.

<sup>26</sup> Locke, *Second Treatise of Government*, 11–15.

<sup>27</sup> Locke, *Second Treatise of Government*, 11–15.

<sup>28</sup> Locke, *Second Treatise of Government*, 11–15.

<sup>29</sup> Marx and Engels, *Manifesto*, 26.

<sup>30</sup> Marx and Engels, *Manifesto*, 28.

that can outlive its original context, where it is carried forward to rationalize a society in which workers must sell their labor power to live (that is, where labor-power itself functions as a commodity).<sup>31</sup>

Marx targets this picture in *The Communist Manifesto* by arguing that liberal property theory reflects the historical perspective of the bourgeois proprietor.<sup>32</sup> The famous summary of communist theory “abolition of private property” refers specifically to the abolition of bourgeois private property: the private ownership of the social means of production by a class of capitalists.<sup>33</sup> Marx distinguishes this from “the personal possession of the products of labour,” which capitalism has already largely destroyed for small peasants and artisans.<sup>34</sup> Under capitalism, wage labor produces capital, not property for the laborer.<sup>35</sup> The worker sells labor power and receives only a subsistence wage; the product and surplus value accrue to the capitalist.<sup>36</sup> Capital is “a collective product” and a “social power,” yet it is privately controlled by the bourgeoisie, enabling them to exploit labor.<sup>37</sup> In this context, Locke’s claim that each person has a right to the fruits of his labor is inverted: the fruits of many people’s labor are appropriated by a few.<sup>38</sup>

Locke’s property right appears as a right of independence; Marx responds that bourgeois property deprives the majority of independence and property.<sup>39</sup> In bourgeois society, “living labour is but a means to increase accumulated labour (capital).”<sup>40</sup> The past, embodied in capital, dominates the present, embodied in workers.<sup>41</sup> When liberals object that abolishing private

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<sup>31</sup> Marx and Engels, *Manifesto*, 18.

<sup>32</sup> Marx and Engels, *Manifesto*, 23.

<sup>33</sup> Marx and Engels, *Manifesto*, 22.

<sup>34</sup> Marx and Engels, *Manifesto*, 23.

<sup>35</sup> Marx and Engels, *Manifesto*, 21.

<sup>36</sup> Marx and Engels, *Manifesto*, 23.

<sup>37</sup> Marx and Engels, *Manifesto*, 23.

<sup>38</sup> Locke, *Second Treatise of Government*, 11; Marx and Engels, *Manifesto*, 18.

<sup>39</sup> Locke, *Second Treatise of Government*, 42; Marx and Engels, *Manifesto*, 23.

<sup>40</sup> Marx and Engels, *Manifesto*, 23.

<sup>41</sup> Marx and Engels, *Manifesto*, 23.

property would destroy personal freedom, Marx answers that for the proletariat, there is almost no property to lose; they possess only labor power, which reproduces capital for others.<sup>42</sup> Marx thus reframes Lockean property as the ideological expression of an epoch in which the bourgeoisie has already expropriated the producers. The liberal state that Locke imagines as an impartial guardian of property is, in Marx's account, the guarantor of bourgeois property relations, defining "theft" in a way that criminalizes a hungry worker taking bread but legitimizes the systematic appropriation of surplus labor as "profit."<sup>43</sup>

Historically, Marx credits the bourgeoisie with having shattered feudal privilege and unleashed enormous productive forces, realizing a progressive moment of human development.<sup>44</sup> But once capitalism becomes a fetter on further development and a source of mass immiseration, bourgeois property itself must be overcome.<sup>45</sup> In a communist society, the social means of production would be commonly owned, and accumulated labor would serve the free development of living labor.<sup>46</sup> Marx presents this as the true fulfillment of the intuition that labor should receive its due: not by reasserting Lockean small proprietorship but by abolishing the class structure that allows some to live from others' labor.<sup>47</sup>

#### **IV. Bentham and Mill vs. Marx on Rights and Liberty**

Jeremy Bentham and John Stuart Mill articulate a liberal vision of rights and liberty grounded in utilitarianism and individualism.<sup>48</sup> Bentham dismisses natural rights as "nonsense upon stilts."<sup>49</sup> Rights exist only as legal constructs, and laws should be evaluated by their contribution to "the greatest happiness of the greatest number."<sup>50</sup> He supports security of person

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<sup>42</sup> Marx and Engels, *Manifesto*, 22.

<sup>43</sup> Locke, *Second Treatise of Government*, 42; Marx and Engels, *Manifesto*, 29.

<sup>44</sup> Marx and Engels, *Manifesto*, 15.

<sup>45</sup> Marx and Engels, *Manifesto*, 17.

<sup>46</sup> Marx and Engels, *Manifesto*, 23.

<sup>47</sup> Marx and Engels, *Manifesto*, 15. 26-27.

<sup>48</sup> Bentham, *The Works of Jeremy Bentham*, 121; Mill, *On Liberty*, 14.

<sup>49</sup> Jeremy Bentham, "Anarchical Fallacies; Being an Examination of the Declaration of Rights Issued During the French Revolution," *The Works of Jeremy Bentham*, vol. 2, 1843, 501.

<sup>50</sup> Bentham, *The Works of Jeremy Bentham*, 121-22.

and property not because of metaphysical entitlement, but because they incentivize industry and promote general welfare, where radical leveling, he contends, would undermine security and thus prosperity.<sup>51</sup>

Mill, while also a utilitarian, gives pride of place to individual liberty. In *On Liberty*, he articulates the “harm principle”: power may be exercised over individuals against their will only to prevent harm to others; over “his own body and mind, the individual is sovereign.”<sup>52</sup> Liberty of thought, expression, and lifestyle is justified both because it promotes human flourishing (“individuality”) and because it advances truth and social progress.<sup>53</sup> Mill grounds these claims in “utility in the largest sense,” not in natural-rights theory, but treats robust individual freedom as a central condition for human happiness, that is, one that must be protected not only against the state but also against the informal tyranny of social opinion.<sup>54</sup> On this reading, liberal rights are not merely “egoistic shields”; they can function as institutional preconditions for critique, association, and movements that contest domination.<sup>55</sup> The Marxian question, then, is not whether Mill values freedom, but whether formal liberties can reliably secure genuine independence under capitalist relations of production.

Marx sees Benthamite and Millian liberalism as limited by their embeddedness in bourgeois civil society. In “On the Jewish Question,” he closely analyzes the “rights of man” proclaimed by the French Revolution. Liberty, defined as the right to do anything that does not harm others, is interpreted as “the right of separation,” the right of the isolated individual concerned with his private interests.<sup>56</sup> The right to property is defined as the right to dispose of

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<sup>51</sup> Bentham, *The Works of Jeremy Bentham*, 554.

<sup>52</sup> Mill, *On Liberty*, 13.

<sup>53</sup> Mill, *On Liberty*, 53.

<sup>54</sup> Mill, *On Liberty*, 14.

<sup>55</sup> Mill, *On Liberty*, 20, 25, 101.

<sup>56</sup> Marx, *On the Jewish Question*, 12.

one's goods "without regard for other men, independently of society."<sup>57</sup> Security becomes "the insurance of egoism."<sup>58</sup> None of these rights, Marx argues, transcends "egoistic man... separated from the community."

Mill's sovereign individual fits this model of the "restricted individual": formally free and equal but socially embedded in relations of economic dependence.<sup>59</sup> Marx emphasizes that legal equality and contractual freedom coexist with deep material inequality between the capitalist and the worker.<sup>60</sup> The liberal vocabulary of "each to count for one" obscures this asymmetry. In the labor market, the owner of capital and the propertyless worker meet as legal equals, yet the worker's lack of alternatives makes this "equality" largely illusory.<sup>61</sup>

Bentham's utilitarian calculus also presupposes this world of individual interests and market relations.<sup>62</sup> Marx derides Bentham as a codifier of bourgeois common sense.<sup>63</sup> While both Bentham and Marx reject natural-rights metaphysics, Bentham resolves rights into legal protections justified by aggregate utility; Marx insists that legal and civil rights in a class society remain tied to the reproduction of that society's structure.<sup>64</sup> Formal rights of property and contract, even if universally distributed, stabilize the capitalist mode of production.<sup>65</sup>

Marx's point is not that liberty and rights are worthless, but that under capitalism they are structurally limited.<sup>66</sup> The liberal right to property becomes, in practice, the right of capitalists to own the means of production and of workers to own nothing but their labor power.<sup>67</sup> The liberal right to liberty becomes the worker's "freedom" to sell his labor under compulsion of need and

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<sup>57</sup> Marx, *On the Jewish Question*, 12.

<sup>58</sup> Marx, *On the Jewish Question*, 13.

<sup>59</sup> Mill, *On Liberty*, 13.

<sup>60</sup> Marx, *On the Jewish Question*, 13.

<sup>61</sup> Marx and Engels, *Manifesto*, 20.

<sup>62</sup> Bentham, *The Works of Jeremy Bentham*, 122.

<sup>63</sup> Karl Marx, *Capital: A Critique of Political Economy, Vol. 1: The Process of Production of Capital*, (Progress Publishers, 1887), 424.

<sup>64</sup> Bentham, *The Works of Jeremy Bentham*, 541; Marx, *On the Jewish Question*, 14.

<sup>65</sup> Marx and Engels, *Manifesto*, 21.

<sup>66</sup> Marx and Engels, *Manifesto*, 18.

<sup>67</sup> Marx and Engels, *Manifesto*, 18.

the capitalist's freedom to exploit that labor.<sup>68</sup> Marx's line that "between equal rights force decides" captures the idea that legal symmetry does not prevent material domination.<sup>69</sup>

Communism, in Marx's view, would realize a deeper form of freedom. In a classless association where the means of production are commonly owned, individuals would no longer confront one another as competitors guarding separate spheres but as associates jointly directing their collective labor.<sup>70</sup> *The Communist Manifesto's* vision that "the free development of each is the condition for the free development of all" recasts liberty not as non-interference among isolated individuals but as shared control over the social conditions of life.<sup>71</sup> Marx thus shifts the question from "How much liberty does the individual have against the state?" to "What social order enables genuine human emancipation?"<sup>72</sup>

#### V. Edmund Burke and Marx on Tradition: "Feudal Socialism" Unmasked

Edmund Burke's *Reflections on the Revolution in France* offers a classic conservative defense of tradition, hierarchy, and the moral "drapery" of social life.<sup>73</sup> Burke laments that "the age of chivalry is gone. That of sophisters, economists, and calculators has succeeded," mourning the loss of "pleasing illusions" that once "made power gentle and obedience liberal."<sup>74</sup> For him, the French Revolution's appeal to abstract rights and popular sovereignty destroys an organic social order, that is, a "partnership... between those who are living, those who are dead, and those who are to be born."<sup>75</sup> Charitably read, Burke is also offering an epistemic caution: rapid rationalist redesign can destroy tacit social knowledge and fragile practices of mutual obligation, even where hierarchy is unjustified.

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<sup>68</sup> Marx and Engels, *Manifesto*, 18.

<sup>69</sup> Marx, *Capital: A Critique of Political Economy*, 164.

<sup>70</sup> Marx and Engels, *Manifesto*, 27.

<sup>71</sup> Marx and Engels, *Manifesto*, 27.

<sup>72</sup> Marx, *On the Jewish Question*, 3.

<sup>73</sup> Burke, *Reflections On the Revolution In France*, 64.

<sup>74</sup> Burke, *Reflections On the Revolution In France*, 63.

<sup>75</sup> Burke, *Reflections On the Revolution In France*, 80.

Marx analyzes this kind of reaction under “Feudal Socialism” in *The Communist Manifesto*. Dispossessed aristocrats, unable to restore the old regime, turn to literary criticism of bourgeois society.<sup>76</sup> To gain a hearing, they “waved the proletarian alms-bag in front of them as a banner,” styling themselves defenders of the poor against the crass bourgeoisie.<sup>77</sup> Their critiques often contain “witty and incisive” observations about capitalist vulgarity and social disintegration.<sup>78</sup> But Marx insists that this position is “ludicrous” and historically impotent: it fails to grasp that the bourgeoisie is the “necessary offspring” of feudal society itself.<sup>79</sup> Feudal socialists decry the reduction of all ties to “naked self-interest” and “cash payment,” but what they truly resent, Marx says, is not exploitation as such but the bourgeoisie’s destruction of the paternalistic forms and “illusions” that once adorned exploitation.<sup>80</sup> They also quietly adapt to capitalist reality, investing in industry while publicly romanticizing the past. When workers actually act for themselves, these aristocrats “join in all coercive measures against the working class.”<sup>81</sup>

Burke exemplifies this pattern.<sup>82</sup> His denunciation of “sophisters, economists, and calculators” overlaps with Marx’s acknowledgment that the bourgeoisie strips away feudal sentimentality.<sup>83</sup> But where Burke sees only catastrophe, Marx sees a necessary step in historical development. Feudalism, with all its “chivalry,” was itself a system of class domination.<sup>84</sup> The bourgeoisie’s rise is progressive insofar as it shatters feudal privilege, revolutionizes production, and clarifies social relations, even if it simultaneously subjects workers to new, intensified forms

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<sup>76</sup> Marx and Engels, *Manifesto*, 28.

<sup>77</sup> Marx and Engels, *Manifesto*, 28.

<sup>78</sup> Marx and Engels, *Manifesto*, 28.

<sup>79</sup> Marx and Engels, *Manifesto*, 28.

<sup>80</sup> Marx and Engels, *Manifesto*, 28.

<sup>81</sup> Marx and Engels, *Manifesto*, 28.

<sup>82</sup> Burke, *Reflections On the Revolution In France*, 63.

<sup>83</sup> Burke, *Reflections On the Revolution in France*, 63; Marx and Engels, *Manifesto*, 15.

<sup>84</sup> Marx and Engels, *Manifesto*, 15.

of exploitation.<sup>85</sup> Marx's critique of feudal socialism is therefore double-edged.<sup>86</sup> On the one hand, he takes its indictment of bourgeois society's moral and social costs seriously.<sup>87</sup> On the other hand, he insists that any attempt to "roll back the wheel of history" is reactionary and impossible.<sup>88</sup> The only forward-looking solution is not a return to feudal cohesion but a transition beyond both feudalism and capitalism to a classless, socialist order.<sup>89</sup> In such a society, some of what Burke cherished, such as social solidarity, mutual obligation, and a sense of shared destiny, could be realized without hierarchy or mystification.<sup>90</sup>

## **VI. Rousseau's "General Will" vs. Marx's Class Politics**

Rousseau's *Social Contract* treats the general will as the authentic will of a people oriented toward the common good: in obeying laws that express this will, the citizen "obeys only himself."<sup>91</sup> Legitimate law reconciles freedom and authority by having each person participate in collective self-rule.<sup>92</sup> Behind this political ideal stands a more romantic anthropology: Rousseau thinks humans were once more equal and independent, and that the rise of private property and social comparison generated domination, envy, and dependence.<sup>93</sup> Civic re-education is therefore central.<sup>94</sup> Through institutions that cultivate public spirit, citizens can be reshaped so that they identify with the whole and partially recover a lost, more "natural" equality.<sup>95</sup> Arguably, even from a Marxian perspective, Rousseau's insistence that law express the common good pushes beyond mere interest aggregation.

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<sup>85</sup> Marx and Engels, *Manifesto*, 16, 20.

<sup>86</sup> Marx and Engels, *Manifesto*, 28.

<sup>87</sup> Marx and Engels, *Manifesto*, 17.

<sup>88</sup> Marx and Engels, *Manifesto*, 18.

<sup>89</sup> Marx and Engels, *Manifesto*, 27.

<sup>90</sup> Marx and Engels, *Manifesto*, 27.

<sup>91</sup> Rousseau, *The Social Contract*, 7.

<sup>92</sup> Rousseau, *The Social Contract*, 18.

<sup>93</sup> Rousseau, *The Social Contract*, 18.

<sup>94</sup> Rousseau, *The Social Contract*, 20.

<sup>95</sup> Rousseau, *The Social Contract*, 20.

Marx takes this democratic, anti-oligarchic impulse seriously, but subjects it to his historical materialist method.<sup>96</sup> Instead of asking whether institutions conform to a timeless “general will,” he asks what social relations and property forms make such a will possible or impossible.<sup>97</sup> In a society organized around private ownership of the means of production, the separation between a political state and civil society means that any purported general will is likely to be formal and ideological.<sup>98</sup> Equal rights and popular sovereignty are proclaimed in the political sphere, while in civil society, individuals confront one another as owners and non-owners, capitalists and workers, bound together by “cash payment” and competition. The liberal language of rights and citizenship, as well as conservative appeals to organic tradition, therefore expresses in different registers the same underlying reality: bourgeois class power embedded in the economy.<sup>99</sup>

From this standpoint, Rousseau appears as a transitional figure for Marx. Rousseau’s critique of property and inequality points beyond liberal individualism, but he remains at the level of political will and moral education.<sup>100</sup> Marx argues that the alienation Rousseau diagnoses cannot be overcome by better lawgivers or more virtuous citizens alone; it is rooted in the way production and property are organized.<sup>101</sup> As long as a minority controls the means of production, the “people” will be fractured into classes with antagonistic interests, and the general will is destined to be captured by the dominant class.<sup>102</sup> Historical materialism, therefore, both preserves and radicalizes Rousseau’s insight: the idea of a unified popular will is valid, but only as the

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<sup>96</sup> Marx and Engels, *Manifesto*, 20.

<sup>97</sup> Marx and Engels, *Manifesto*, 14.

<sup>98</sup> Marx and Engels, *Manifesto*, 14.

<sup>99</sup> Marx and Engels, *Manifesto*, 20.

<sup>100</sup> Rousseau, *The Social Contract*, 15, 26.

<sup>101</sup> Marx and Engels, *Manifesto*, 20.

<sup>102</sup> Marx and Engels, *Manifesto*, 27.

outcome of a material transformation that abolishes the social conditions producing inequality and dependence.<sup>103</sup>

A genuinely general will, on Marx's view, becomes possible only in a classless society.<sup>104</sup> Once private ownership of the means of production is abolished and collective control over social labour is established, there is no longer a structural gap between the interests of rulers and ruled.<sup>105</sup> The "public power" ceases to be an instrument of class domination and instead administers common affairs; the distinction between state and society begins to wither.<sup>106</sup> In that setting, what Rousseau imagined as a contract among formally equal citizens is realized in a different key: not as an abstract agreement among possessive individuals, but as conscious coordination by associated producers over their shared conditions of life.<sup>107</sup> Marx's critique of liberal rights and conservative tradition is thus not merely negative.<sup>108</sup> By revealing them as ideological reflections of bourgeois class power, he clears the ground for a higher form of collective self-rule, that is, one in which the emancipatory promise of the general will is fulfilled, not in the language of abstract rights, but in the concrete social relations of a classless, collectively emancipated society.<sup>109</sup>

## VII. Conclusion

Marx's historical-materialist method ultimately reorients how we should understand the foundations of Western law.<sup>110</sup> Against liberal and conservative theorists who treat property, rights, liberty, and tradition as either natural or normatively self-justifying, Marx insists that these categories are historically specific expressions of class relations.<sup>111</sup> Locke's natural right of

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<sup>103</sup> Marx and Engels, *Manifesto*, 20.

<sup>104</sup> Marx and Engels, *Manifesto*, 34.

<sup>105</sup> Marx and Engels, *Manifesto*, 27.

<sup>106</sup> Marx and Engels, *Manifesto*, 27.

<sup>107</sup> Rousseau, *The Social Contract*, 6, 7.

<sup>108</sup> Marx and Engels, *Manifesto*, 34.

<sup>109</sup> Marx, *On the Jewish Question*, 15.

<sup>110</sup> Marx, *On the Jewish Question*, 6.

<sup>111</sup> Marx, *On the Jewish Question*, 6.

private property, Bentham's and Mill's exaltation of individual liberty and utilitarian welfare, and Burke's defense of inherited hierarchy and chivalric "decencies" all appear, from Marx's perspective, as ideological forms adequate to the bourgeois epoch.<sup>112</sup> They stabilize and legitimize a legal order in which the protection of property and contractual freedom is paramount, while the underlying relations of exploitation and domination remain obscured.<sup>113</sup>

At the same time, Marx's critique is not merely destructive. In each case, he exposes a tension between the ideological form and its emancipatory content.<sup>114</sup> Liberal doctrines of subjective rights and personal liberty articulate a genuine aspiration to security of person, freedom from arbitrary domination, and meaningful self-development; conservative appeals to tradition and community express a longing for social cohesion, mutual obligation, and a substantive common life.<sup>115</sup> Marx's point is that, under bourgeois conditions, these ideals are systematically constrained and distorted by private property, the wage relation, and the competitive market. Liberal rights become "egoistic rights" of isolated individuals in civil society; conservative invocations of tradition collapse into nostalgic defenses of feudal or bourgeois privilege. The law, in turn, codifies and reproduces these limitations by presenting contingent class arrangements as universal and necessary.

Marx's engagement with Rousseau highlights this dialectic particularly clearly.<sup>116</sup> Rousseau's notion of the general will pushes beyond both liberal atomism and conservative particularism by imagining a juridical order oriented to the common good rather than the aggregation of private interests.<sup>117</sup> But for Marx, Rousseau remains trapped within the abstract

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<sup>112</sup> Locke, *Second Treatise of Government*, 39; Bentham, *The Works of Jeremy Bentham*, 121–22; Burke, *Reflections On the Revolution In France*, 63; Mill, *On Liberty*, 59.

<sup>113</sup> Marx, *On the Jewish Question*, 14.

<sup>114</sup> Marx, *On the Jewish Question*, 15.

<sup>115</sup> Burke, *Reflections On the Revolution In France*, 63.

<sup>116</sup> Rousseau, *The Social Contract*, 7.

<sup>117</sup> Rousseau, *The Social Contract*, 7.

framework of political rights in a society still structured by private property.<sup>118</sup> The promise of a truly general will, that is, one that could unify freedom, equality, and community, is realizable only when the material conditions that generate class antagonism have been overcome.<sup>119</sup> In a classless society, the content of liberal and conservative ideals could be preserved and transformed: rights would no longer function as juridical shields for property, liberty would no longer mean merely market freedom, and tradition would no longer serve as a legitimating rhetoric for hierarchy.<sup>120</sup>

For contemporary legal theory, this analysis has a sharp implication because Marx invites us to treat liberal and conservative doctrines of property, rights, and state authority not as neutral foundations of Western law, but as historically contingent expressions of bourgeois class power.<sup>121</sup> His critique measures these doctrines against the very values they profess: freedom, equality, community, the common good, and argues that those values can be fully realized only beyond the bourgeois legal order that first articulated them. In this way, Marx both negates and redeems the liberal and conservative traditions: he reveals their juridical ideals as ideological yet insists that their emancipatory content points beyond capitalism and its law to a transformed social and legal order grounded in collective emancipation.

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<sup>118</sup> Rousseau, *The Social Contract*, 7; Marx, *On the Jewish Question*, 6.

<sup>119</sup> Marx, *On the Jewish Question*, 6.

<sup>120</sup> Marx, *On the Jewish Question*, 6.

<sup>121</sup> Marx, *On the Jewish Question*, 6.

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