A Fourfold Defense of Marx's Theory of Justice

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Marx's discussion of justice is accomplished through his critique of "political economy." The premise of his argument is the elimination of private ownership; this is determined by his theoretical mission. The basic logic of Marx's theory of justice is that the relations of distribution are to be interpreted not through political and legal concepts of fairness and justice, but through the relations of production, and the relations of production are to be interpreted through productive labor. Only by starting with the critique of political economy can we truly grasp the crux of the desert theory of justice and the true nature of the issue of modern justice. The concept of justice in liberalism and other contemporary Western political philosophies is a lower-order concept, whereas Marx's concept of justice is a higher order concept with broader implications. Starting from "human society or socialized humanity," this higher-order concept is founded on the organic social cooperation of "free men" and depicts the highest principle of justice possible for human society, a principle that is the result of the logical and historical self-sublation of all previous principles of justice throughout human history. In the course of building up the framework of contemporary China's justice theory, Marxism should not only play the part of a critic but should also be responsible for providing normative theories for real life.

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In discussing Marx’s theory of justice, a challenging but unavoidable question is: Was Marx himself in favor of discussing the difference between capitalism and socialism from the point of view of justice and injustice? Furthermore, does the argument for capitalism’s replacement by socialism on the grounds of moral rationality conflict with historical materialism, with its core doctrine of historical inevitability? A more basic question derived from these disputes is: Is there a Marxist theory of justice? In answering these questions, we seek to build a fourfold defense of Marx’s theory of justice.

I. The Critical Premise of Marx’s Theory of Justice

The difference between Marx’s theory of justice and other justice theories lies not in the specific expression of the concept of justice, but in the premises of the arguments and the distinctive nature of the theoretical framework on which they rely. Only by first reviewing these premises and theoretical frameworks can we elucidate Marx’s discussion of the issue of justice and the kind of justice theory he proposes.

From Plato to Rawls, “desert” has always been understood as the basic meaning of justice. In this interpretation, what is called justice is the fair distribution of goods, and fair distribution means giving each person his due, that is, distributing goods fairly according to the principle of desert. Injustice is when people do not get what they deserve or get what they do not deserve. Plato takes justice as the harmonious order of different classes of society, emphasizing that each class should get its due. Aristotle distinguishes between distributive and corrective justice in order to provide a basis for the implementation of the principle of desert in the two different but complementary domains of actual social distribution and judicial practice. Thereafter, justice was defined as giving each his due or his desert. This kind of desert-centered justice theory is known as the “desert theory of justice.”

According to this theory, a person’s deserts are entirely dependent on his having a particular entitlement to them, whether the good in question be rights, honor, position or wealth. A person deserves a right because he has a specific status that entitles him to that right. For example, someone may deserve an honor because particularly virtuous behavior entitles him to that honor, or may deserve wealth because a particular connection with that wealth entitles him to its possession. Thus the desert theory of justice presents evidence for “desert” based on the inherent relationship between the person to whom something is due and the good in question, that is, the special relationship of subordination between the good and the person deserving it. However, for different forms of good, the inherent nature of such subordination is not equally clear for all forms of good. Rawls lists the primary distributable goods: rights and liberties, power and opportunities, and income and wealth. These primary goods are made up of two categories, one related to political rights and the other related to real goods. Since the Enlightenment, human history has been accompanied by the political struggle for

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human rights, and accordingly political philosophy since then has discussed desert justice mainly on the basis of personal political rights and liberties. In today's society, the idea that everyone has equal political rights is universally accepted and is a fundamental law in most social and political systems. But differences spring up when determining what's deserved in terms of real goods: income and wealth. Therefore, in a modern society where "political emancipation" (Marx's words) has been actualized, the real difficulty for the desert theory of justice is how to find a rational basis for the fair distribution of income and wealth (private property).

The desert theory of justice takes private property and private ownership as the premise of the argument for what's deserved in terms of income and wealth, claiming that desert is grounded in a special affiliation between income and wealth (private property) and the private owner; that is, it is grounded in the private ownership character of private property. Thus the desert theory of justice basically uses private ownership as the premise justifying fair distribution; what it tries to explain is simply why unequal distribution is fair given the inequality of the private property system. To the extent that it pursues equality, its goal is simply equality of political rights; the claims of equality halt before the fact of the inequality of private property. No matter what guise it appears in throughout history, the theory of justice has retained as its core concept the notion of desert based on unequal ownership of property. In other words, according to the desert theory of justice, the justice of the very source of inequality, private ownership itself, is a matter that needs no discussion, and hence does not appear in any theory of justice.

The highest goal of Marxist theory is the elimination of private ownership. In the Communist Manifesto, Marx and Engels clearly point out, "the theory of the communists may be summed up in the single sentence: abolition of private property."

This implies, firstly, that if Marx does have a theory of justice, it has already completely toppled and overturned the premise of the desert theory of justice. Therefore, Marx's theory of justice is based on a completely different premise from the desert theory of justice; it is a different kind of theory. To explain Marx's theory of justice in the same way as we describe other theories of justice is a dead end. For desert justice, there is a special inherent affiliation between private property and private ownership: the two stand in the same inherent relationship as freedom and equality do to man. Consequently, private property is the private owner's desert, and the system governing this relationship is just. But Marx subverts the premise of the desert theory of justice by his rejection of private ownership and private property; thus he fundamentally rejects the justice of the affiliation between private ownership and private property.

The bourgeois Enlightenment fought for equal rights and appealed to human nature and reason. Taking as the premise of its argument "all men are born equal," an abstract theory of human nature, it incorporated equal political rights in the bourgeois charter as the desert of all men, and realized political liberation. Through the extension of political rights to all, the

desert theory of justice expanded the sphere of desert, breaking the idea of desert that had held since Plato: the idea that political rights were to be enjoyed by only a part of the population. However, faced with the right to private property, this justice theory stands stock still, as if bewitched by equal political rights and unequal economic rights, formal equality and substantive inequality. Marx says, "The state as a state annuls, for instance, private property, man declares by political means that private property is abolished as soon as the property qualification for the right to elect or be elected is abolished.... The property qualification for the suffrage is the last political form of giving recognition to private property." "Nevertheless, the political annulment of private property not only fails to abolish private property but even presupposes it." This youthful perception later gave him an important motivation for his in-depth exploration of the secret of private property in civil society. In his view, the key to breaking the spell of the desert theory of justice was not to be found in the political realm; rather, it lay concealed in the realm of production, and could only be discovered through observation of the substantive nature and formative processes of private property.

People often think that Marx has no theory of justice, adducing as one of their main arguments the fact that unlike Aristotle or Rawls, Marx never systematically discusses the issue of political justice, focusing rather on the study of economics. In fact, Marx's discussion of justice could only be accomplished through his critique of "political economy," in keeping with his theoretical mission. The basic logic of his justice theory is that the relations of distribution are to be interpreted not through political and legal concepts of fairness and justice, but through the relations of production; the relations of production are to be interpreted through productive labor; and the economic base is to be used to interpret the superstructure. In this logic, productive labor is the starting point. The contacts and relationships that grow up in the course of production are the most basic social relations, and it is only on the basis of the relations of production that other social relations may be rationally interpreted. Marx points out clearly that distribution is a link in production relations, and together with production, exchange and consumption, these links form different parts within a unity. Among these links, production is decisive because how people produce determines how they distribute, and not the other way round. Production determines not only itself but also the other factors of production. Distribution, as one of these factors, is also a production factor in itself. It was precisely for this reason that Marx believed that the political system that supports private property is grounded not in politics but in the economy. The basis of the state and the basis of law are not to be found in themselves but in civil society; only by starting from the critique of political economy can we really grasp the crux of the desert theory of justice and the true nature of the issue of modern justice. Classical economics is the core and foundation of the capitalist ideology and its economic argument for the rationality of the capitalist market system establishes the starting point for an interpretation of the whole of life in capitalist society. The desert theory of justice, which has been in constant flux since

the advent of modern times, is based on the hypothesis of classical economics that private ownership is natural, rational and eternal. This hypothesis, in the words of Marx, is equivalent to “We presupposed private property, the separation of labor, capital and land, and of wages, profit of capital and rent of land—likewise division of labor, competition, the concept of exchange value, etc.”4 In criticizing this presupposition, Marx illustrates his own theory of justice. The highest goal of the theory of desert justice is to realize equal political rights without sabotaging the system of private property. So although it sets out from the premises laid down by classical economics, its core issue is norms of political behavior. Marx’s theory of justice aims to achieve substantive equality executed in terms of economic interests, so it has no choice but to pursue the economic conditions required to realize such equality. Thus the unique choice of Marx’s theory of justice was to start with a critique of classical political economy rather than go directly to a “political critique.”

If we want to study Marx’s theory of justice, we must begin with his critique of private ownership and private property. He states clearly, “Political economy starts with the fact of private property; it does not explain it to us. It expresses in general, abstract formulas the material process through which private property actually passes, and these formulas it then takes for laws. It does not comprehend these laws, i.e., it does not demonstrate how they arise from the very nature of private property.”5 As Marx puts it, the contradiction in the study of classical political economy, the lynchpin of the ideology of capitalist society, are precisely the contradictions within society itself which gave birth to this ideology. The two contradictions are in accordance. If, starting from the premise of classical political economy, people can find no rational explanation for life in society, but only internal contradictions, then the defense of social justice by classical economics or any philosophies or political theories based on it loses its foundation. Here is the logical thread in Marx’s theory of justice: finding the theoretical contradictions of classical economics in the facts it provides, proceeding to reveal the contradictions in capitalism itself, and then revealing the injustice of capitalism and the justice of socialism. Marx chooses to dismantle “eternal private ownership” as a stepping stone into the sphere of justice. On this foundation, he reverses the discussion of justice. Fair distribution, originally based on private ownership, becomes a secondary issue; it is whether private property itself is just or unjust that is the primary issue we need to examine.

Marx’s contribution is mainly to be found in his economic research, represented by the masterpiece Das Kapital and its manuscripts. However, it would be a complete misunderstanding if we were to see Marx’s discussion of economic issues as an attempt to explain economic problems only. As early as Economic and Philosophical Manuscripts of 1844, Marx begins to discuss the inherent contradictions of capitalism, starting with analyzing the economic theories of Adam Smith, David Ricardo and others. This early work is consistent with his later work in writing Das Kapital and its manuscripts. In fact, it is in this

4 Ibid., p. 155.
5 Ibid.
earlier period that he sketches out his future research; it thus provides a full statement of intent for his economic studies. In *Manuscripts*, he analyzes the classical economics of Adam Smith and others with the basic aim of revealing the essence of the alienation of capitalist society and thereby showing that it is morally unjust and inhumane. He thus declares the justice of communism through an explanation of the sublation of the nature of alienated man. Here we can very clearly see that the essential purpose of Marx's economic critique is concern for justice rather than explaining economic processes. In order to understand the alienated nature of capitalism and its injustice, we must give priority to the examination of economic life, since it most profoundly reflects man's alienation and political inequality. In order to achieve an in-depth understanding of equality, we first need to study political economy, because it provides the starting point for the political and philosophical defense of inequality.

Marx was clearly aware that all bourgeois theories built on the spirit of the Enlightenment, whether in economics, political science or philosophy, are trying to establish one thing by different means: how to attain the goal of social justice by achieving equality. But the problem is that these theories, "the alienated forms of the alienated ruling power," have become a false consciousness that conceals the reality of inequality. Though pursuing the value goal of equality, they put themselves into a position from which this goal is out of reach. Therefore, the primary task of Marx's theory of justice is to set off from this standpoint and thence reveal the secrets of political economy. In Marx's view, so long as one continues to take a stand based on the premises laid down by these theories (that is, to premise all discussion on private property and private ownership), equal political rights will be seen as the final form of equality and justice will be regarded as the realization of individual political rights in civil society. Marx's theory of justice requires a completely different premise and standpoint.

II. Marx's Concept of Justice Is Based on "Human Society"

Starting with the critique of political economy, Marx criticizes the bourgeois ideology on two different levels. On the one hand, he criticizes "civil society" from the standpoint of "human society or socialized humanity," seeking support from the rules of justice demanded by human society or socialized humanity. On the other hand, he criticizes civil society from the standpoint of civil society itself, according to its own rules of justice. Failure to distinguish these two levels makes it difficult to explain Marx's theory of justice clearly; it is easily to see as merely a castle in the air, a transcendent ideal that could never be implemented in the real world.

In the 10th thesis of *Theses on Feuerbach*, Marx makes a classic distinction between human society and civil society: "The standpoint of the old materialism is civil society; the standpoint of the new is human society or socialized humanity." His purpose is not to illustrate the epistemological foundations of two different types of materialism by distinguishing between

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their two philosophies, but to distinguish between two intellectual positions by separating out
the two kinds of "society" on which the two forms of materialism are based. The 10th thesis
contains his basic intention of examining the problem of justice. Of course, Theses, short as
it is, cannot clearly depict his thinking and his intentions. If we look back to Manuscripts,
written less than a year earlier, we get a clearer view of the main thrust of his ideas.

In Manuscripts, Marx says "Society, as it appears to the political economist, is civil
society in which every individual is a totality of needs and only exists for the other person,
as the other exists for him, insofar as each becomes a means for the other. The political
economist reduces everything (just as does politics in its Rights of Man) to man, i.e., to the
individual whom he strips of all determinateness so as to class him as capitalist or worker."
As political economists presuppose the eternal existence of private property, they, in their
study of social life, consider "society" as an organic system of connections between people
in which each becomes a means for the other. This is the theoretical model of civil society
described by Adam Smith and others; and this is the civil society portrayed by Hegel as a
"system of needs." In their theoretical models of civil society, everyone's needs are met when
they meet the needs of others, i.e., each obtains his needs through market-like exchanges. In
these connections in which "each satisfies the needs of the other," all are satisfied with their
positions, society operates harmoniously and justice occurs automatically.

This theoretical model of civil society, based as it is on market exchange relationships,
serves as evidence of the justice of capitalism and is undoubtedly the premise of the desert
type of justice. Locke and other early modern thinkers regarded civil society as a naturally
occurring, logical model of society derived from man's natural self-interest. In this model,
society can not only regulate itself but can protect the individual against the state. From this
position, a rational explanation can be found for private property and the equal distribution
of social goods. But in Marx's view, such a standpoint was to be denounced. He believed
that civil society, as a kind of social coalition that advanced rapidly towards maturity from
the 18th century on, was based on capitalism, this special form of private ownership. On the
surface, people are bound together by their mutual needs, which join the whole of society
in a harmonious community and hence realize the socialization of production. In fact, such
socialization is founded on meeting the needs of individual self-interest in a kind of "pseudo-
socialization" that makes people into means to an end. A social coalition based on this kind
of socialized production is far from being an ideal model for the common life of man. Worse
still, though such a social coalition binds people together in a common life in which each
meets the needs of the other, it separates production activity, which does meet people's needs,
from the object of production. As a result, an activity that met human needs becomes a kind of
alienated labor and eventually, amid this alienated labor, confirms human beings as inhuman.
In fact, all the contents of the Manuscripts go to prove this single point. What Marx wants to
clarify is that, from the standpoint of private ownership and civil society, political economy

and all other philosophies and political theories are absolutely unable to explain either the special nature of man or the social justice demanded by man's nature. On the contrary, they can only end up as ideologies that prevent their realization. So he believed that it is only by transcending that standpoint that people can obtain a true understanding of justice, and it is only from the standpoint of human society or socialized humanity that we can truly understand man and society and the social justice that is suited to them.

The human society proposed by Marx is an ideal society that transcends and replaces civil society. If the civil society envisaged by Adam Smith, John Locke and others provides a theoretical model of the harmonious society on the basis of market exchange, then the human society devised by Marx offers an alternative theoretical model of the harmonious society which would replace civil society. Hence all features of "human society" become understandable when compared with civil society, just as all features of "socialized humanity" become understandable when compared with the instrumental nature of human beings in civil society. In short, human society does away with social alienation. There, human production is not a means of survival but the release of human ability; people are no longer actuated by self-interest and no longer treat others as means or tools for satisfying their own needs, or as objects; and they treat nature not as a source of profit but as a subject of aesthetics. Only then does man, as a "species-being," become truly man, and only then does the individual, as socialized humanity, merge into society as a whole. In the end, man's harmonious union with nature and society is realized. Only then does man achieve real freedom; only then is the justice that accords with man's nature realized in the true sense.

Marx's stand on the critique of civil society as against human society is an important aspect of his theory of justice and expresses his ultimate understanding of justice. Plato founds the justice of the polis on "ideas" and "virtue"; Adam Smith founds the justice of the capitalist market economy on private property and civil society; and Marx likewise founds the justice of the communist society on human society or socialized humanity. Although this aspect of justice represents the transcendent values of an ideal society, it laid the foundation of Marx's theory of justice.

Marx's understanding of justice went beyond the usual sense of justice, i.e., the concept of desert justice, and can only be explained in terms of broader theories. In ancient political philosophy, transcendent values could recruit support from belief in the transcendental, so they were not seen as unrealistic. On metaphysical or numinous grounds, there was no impassable gulf separating ideal values from pragmatic values. However, following the baptism of philosophy in the early modern period, people today no longer have the courage to seek the source of ultimate value. Therefore, unlike ancient political philosophy, the use of the justice concept in contemporary political philosophy is essentially restricted to actually existent and even currently operating social systems. Of course, the existing social system does rely on value assumptions, but it is designed according to shared Enlightenment values. Thus Enlightenment reason replaces metaphysics as the legislator. According to this value
formulation and institutional design, being self-interested is part of human nature and private ownership is the foundation of modern society, so we have no choice but to conceive of human society as a cooperative community in which people treat each other as tools and to believe that constitutional democracy is the only political system suitable for this community. In this understanding, the issue of the justice of the social system is only a matter of perfecting a constitutional democracy based on private ownership. Hence to imagine a society more perfect than constitutional democracy is a utopian dream, and to keep asking whether a just society exists on a higher level is a form of illicit knowledge.

With the fading away of religion and traditional metaphysics, making Enlightenment reason and the values it endorses into the ultimate grounds became a way of thinking that reflects the fact that people today despair of obtaining ultimate freedom. Faced with such despair, they can in the end only understand freedom as the realization of individual rights and justice as the implementation of relations of rights and duties within the existing political system; that is, self-interested individuals get what is due to them in accord with the premise of private ownership. If the concept of ultimate freedom is excluded from the concept of justice, the possibility of imagining justice outside the existing social order is removed. On this premise, not only are religious, utopian and anarchist social ideals excluded from any rational theory of justice, but Marx's ideal of justice disappears from the field of vision of justice theories.

Given this proposition, the question we need to consider is, "Is Marx’s concept of justice really not commensurable with the justice concepts of the political philosophers who were his contemporaries? If this is actually so, we will be unable to talk about Marx’s concept of justice and even unable to talk rationally about his critiques of other theories of justice, because criticism is a form of dialogue and a logical dialogue is unlikely to happen when two concepts are not commensurable.

III. The Two-Layer Structure of Marx’s Theory of Justice

Marx’s theory of justice takes its stand on “human society.” It differs from other modern theories of justice mainly in that it contains transcendent ideals. However, transcendent justice is relative to desert justice, and therefore the transcendent theory of justice inevitably embodies an understanding of desert justice, without which it cannot show what it has transcended. When Marx proposes communism as the ideal society and civil society as the object to be transcended, he assumes that the justice principle of civil society has limitations; it is valid within a specific sphere but will eventually be replaced by a higher-level justice principle which transcends those limitations. This means that as long as civil society is the basic form of social existence, people will still need the principle of desert justice in regulating social life. This provides a wedge point for us to understand the “common denominator” shared by Marx’s concept of justice and that of other modern political philosophers. This also means that Marx’s theory of justice has two layers: transcendent justice theory and desert
justice theory. Thus the question of how to explain the relationship between the two layers of theory by investigating their conceptual boundaries becomes the lynchpin but also the stumbling block in understanding Marx's theory of justice.

Marx adopts the methods of historicism to build his theory. Unlike approaches that regard things with different forms as separate entities, historicism considers them as the "discontinuities" and "sublations" of a single process. The unity or difference of different forms of things arises not just from their logical consistency or difference but, more importantly, from the fact that such consistency or difference is formed through real historical processes. So transcendence under historicist principles is completely different from the transcendence found in other doctrines. In non-historicist doctrines, transcendent things are "timeless," so can only be some form of abstraction. Such abstract forms have no real "bodily existence," but are only ahistorical things existing in the forms of logic. In ahistorical thinking, two different forms can only be "juxtaposed," so can only be "dualistic." In Marx's historicist understanding, what is transcendent has gone through historical forms and become what it is over the course of time in social life. Its transcendence implies that something in the immediate present has grown out of the past and will keep growing in the future, thereby presenting the possibility of reality. For example, what Marx means by right, justice, freedom, communism and other concepts can only be understood in terms of historicism. When these concepts are regarded as ideals, they are indeed transcendent. Nevertheless, this certainly does not imply that they are empty and abstract moral principles; rather, they are possible realities that transcend reality. According to the historicist understanding, though the principles of desert justice and communist justice do differ, their difference is historical rather than a logical dualistic juxtaposition.

According to Marx's historicist principles, communism is the sublation of civil society. As such, it not only contains all the fruits of the development of civil society but also acknowledges the rationality of both civil society itself and its principle of justice in its specific historical scope. For communism to reject civil society would be like rejecting its own childhood. Whether Marx was systematically defending civil society's justice principle or denouncing it from the standpoint of the communist justice principle, he always affirmed its rationality in regulating social life in a specific historical context. In his words, "This content is just whenever it corresponds, is appropriate, to the mode of production. It is unjust whenever it contradicts that mode." The fact that Marx's historicism endorses "this content" as the justice of a particular time does not mean that justice is endowed with invariant properties. It is associated with changing modes of production, so does not imply some intellectual abstraction with unchangeable logic. Similarly, Marx's materialism argues that the historical changes in justice and other conceptual matters are consistent with historical changes in material society. Though not identical, principles of justice under different social conditions are not absolutely isolated from or unrelated to one another, but are actually the

different historical forms taken by the same moral norm in the process of social evolution.

The view that considers different principles of justice as isolated and unrelated can only come from the speculative philosophy and ahistoricism that Marx denounces. Hegel would have expressed this by saying that the principle of justice should be understood not as the Kantian “abstract good” but as “objective morality.” He uses the principle of the unity of history and logic to explain the concept of the good, successfully avoiding the dualism of Kant’s standpoint, positioned between the principle of transcendence and real norms. Both Marx and Hegel understand the historicism of the principle of justice to be a historical and realistic norm with specific content, not an “abstract good.” Unlike Hegel, Marx does not think that an objective ethical principle of justice is “a free and self-regulating institution” but regards it as being limited by the mode of material production and the social life represented by this mode, which give its objectivity a solid foundation.

Indeed, Marx has very little favorable to say about the rights-based principle of desert justice, and still less does he provide it with a constructive theory applicable to conditions of civil society. Many people attribute Marx’s failure to discuss rights and justice to the high value he set on the law of necessity and to his devaluing of moral principles. In the author’s view, this is a one-sided understanding of Marx’s ideas. Once he had established historical materialism, Marx seldom resorted to moral positions in explaining issues, not because he saw them as inappropriate but because he believed that the historical task of defending the principle of desert justice under the conditions of civil society had basically been completed and the new theoretical task was to promote the justice ideal of equality and to illustrate the path to realizing a justice ideal that would transcend desert justice. This task would have to be completed in a new theoretical framework.9

Marx did once speak in defense of the desert justice principle. In *Critique of the Gotha Programme*, he discusses the principle of distribution in the first phase of communist society, saying that though the rights-based principle of “to each according to his work” had many drawbacks, its historical function should still be given full play in this first phase. He writes, “But these defects are inevitable in the first phase of communist society as it is when it has just emerged after prolonged birth pangs from capitalist society. Right can never be higher than the economic structure of society and its cultural development conditioned thereby.”10 For Marx, since socialist society had not yet actually appeared, designing and defending its principle of justice was not a direct and immediate theoretical task, and therefore did not need a systematic theoretical exposition. Today, socialist practice has proved that socialism as the first phase of communist society is destined to be a lengthy historical process. Chinese practice of the last thirty years has shown that the combination of socialism with a market

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9 For the unity of the principles of truth and value in Marx’s theory, as well as the related issue of the unity of historical materialism and justice theory, see Wang Xinsheng, “Historical Materialism and Political Philosophy”; and “How Does Marx Discuss Justice?”.

economy is the best mode of socialism under contemporary historical conditions. Today's socialist market economy still falls within the historical sphere of civil society, so it is not only possible but also imperative to construct a Marxist theory of desert justice in line with Marx's historicist thinking and methods. This is an indispensable layer of Marxist justice theory.

From the viewpoint of historicism, Marx's principle of justice is not singular but rather a two-layered, multi-level interrelated sequence. Only from the historical perspective can we really understand the differences and connections between the various layers and levels of this sequence and thence explain why Marx's theory of justice can accommodate the rights-based desert theory of justice.

Marx discussed different principles of justice: the principle of right, the principle of contribution and the principle of need, of which the first two fall under the reality principle of justice and the last under the transcendental principle. These go from lower- to higher-order principles, and their sequence, both logical and historical in nature, is actually the consistency and union of these two elements. On the one hand, when we take the achievement of freedom and equality as the benchmark, these principles constitute a logical sequence running from low to high; on the other hand, following the thread of the developmental forms of social history, they also correspond to the different historical stages of social life and constitute a series of historical forms of the justice principle. In dealing with the relationship between these principles, an important feature of Marx's justice theory is that he always uses a higher-order principle to explain and critique a lower-order one; for example, he uses the contribution principle to criticize the rights principle and uses the need principle to illustrate the limitations of the contribution principle. So Marx criticizes civil society's rights-based justice principle from the standpoint of human emancipation, and at the same time affirms it from the standpoint of political emancipation. There is no contradiction between the two.

The fundamental reason that some people do not understand this point lies in their inability to understand Marx's historical method. They see Marx's justice principle only as some kind of abstract principle, and so fail to understand either the realistic character of Marx's transcendent justice principle or the historical character of his realistic justice principle. What they they fail to recognize is that Marx's justice theory is two-layered and these layers are historically associated but entirely different.

When, starting from this two-layered structure, Marx criticizes political economy from the standpoint of human society, he is expressing his rejection of private ownership and civil society. At such times, he wishes to show that even if all the conclusions of political economy were correct, this would still not prove that capitalism was just, because private ownership and the civil society on which it is based are in themselves counter to human nature. However, there is another layer of content in Marx's critique. In calling on the desert principle of justice, he reveals the theoretical contradictions within political economy while using the desert principle as ammunition in the fight for equal rights for the proletariat. At this layer of justice theory, there are contradictions in political economy. Even if it takes its stand on civil
society's justice principle, it is still wrong, because it fails to give workers what they are owed under the desert principle. In these circumstances, Marx uses civil society's own principle of justice to critique political economy and the capitalist system. This means that he affirms the desert principle of justice from the perspective of historicism: as long as the historical conditions of civil society have not been transcended, the desert principle of justice should not only play its historic role but should also be continuously improved. In many situations, Marx does not advocate too much attention to distribution on the part of workers' movement, warning that it should not forget its fundamental goal in its concern for immediate goals. But he is not saying that the pursuit of distributive justice under present conditions is meaningless, still less that under capitalism, capitalists' exploitation of workers is just.

IV. Marx's Higher-Order Concept of Justice

Marx's moral theory is a complex system with strong tensions. It covers the values he cherishes, such as freedom and independence, and values such as rights, obligations and contributions, whose historical significance he is willing to admit. Among these values, justice is a special one that can link all the others. Through observing the special position of Marx's justice value, we can reveal the difference between his concept of justice and that of other political philosophers, and hence illustrate the uniqueness of his theory of justice.

For Plato, Aristotle and other ancient philosophers, justice was a value related to social and political institutions and also a virtue associated with individuals. But since the 18th century, the concept of justice has been basically located in political institutions, remote from personal virtues. For liberalism and other contemporary political philosophies, justice as a moral value has two aspects: first, it relates only to the relationship between rights and obligations; and second, it is associated only with the evaluation of basic social institutions. It is along these lines that Rawls defines "the theme of justice." According to this modern definition of justice, in the future communist society when the state has withered away and the relationship between rights and obligations no longer means anything, it will no longer be possible to evaluate social institutions and people's behavior as just or unjust. This is one reason many scholars insist that Marx opposed discussing issues from the standpoint of justice. However, this is an incorrect conclusion, reached by imposing on Marx the narrow sense of the concept of justice. As indicated above, Marx's concept of justice is not limited to the relationship between rights and obligations but represents a broader value, one that contains not only the transcendent content of the classical justice concept but also the specific right-obligation content of the modern concept of justice. Thus its transcendent aspect links it with the fundamental value of freedom and its rights-obligations aspect relates it to the realization of rights and the implementation of law. For Marx, justice links freedom above and rights below, with the realization of rights seen as the promotion of freedom and the realization of freedom.

as the sublation of rights.

It is wrong either to treat Marx's concept of justice as equivalent to the popular contemporary concept of justice, or to think that Marx has only a concept of freedom and no concept of justice. To take the popular contemporary idea of justice as the only one is to ignore the complexity of the concept of justice. This concept has undergone a complex evolution, and its interpretation has not been without controversy. In the course of these controversies, it has been endowed with multiple values and complex content which do not always center on desert. In Plato's *Republic*, which sets out the earliest systematic discussion of justice, justice is an institutional ethic and also a personal virtue. Plato's concept of justice can be understood in two senses: justice as an absolute good and justice as desert. His definition of justice covers the relationship between rights and obligations but is not entirely consistent with the modern understanding. When he speaks of rights-based desert, what he emphasizes is the conditions for the organic cooperation of different parts of a flawless social unity, rather than conditions for fair cooperation among individuals with conflicting interests. After Plato, Aristotle distinguished between distributive justice and corrective justice, both of which correspond to the second sense of Plato's concept of justice. Then in subsequent developments, desert became the main content of justice. Only from the 18th century, when individual rights became revered, did desert based on individual rights end up becoming core content of the foundations of fundamental justice.

Even when justice is understood as desert, interpretations still vary greatly. This suggests that relative to "what is deserved," desert itself is a higher-order concept whose specific connotations can be expressed only by establishing a corresponding lower-order concept. The specific connotations of the desert-based concept of justice are decided by the lower-order meaning of desert. If, for example, as Plato and others put it, desert is expressed as "people of different classes get what they deserve," then "people of different classes get what they deserve" is the meaning of desert and the corresponding institutional arrangement is just. If, as Locke and others put it, desert is expressed as "equal rights," then "equal rights" is the meaning of desert and the corresponding arrangement is just. Both "people of different classes get what they deserve" and "equal rights" are lower-order expressions of desert whose content defines what justice is. Against these specific meanings of the concept of justice, institutions and behaviors that contravene the lower-order values it endorses are labeled unjust.

From ancient Greece to the Middle Ages, "people of different classes get what they deserve" was considered natural justice. It was only with the Enlightenment that equality became the basis of desert, and institutions violating this principle of equality came to be regarded as unjust. In this concept, the principle of desert justice is subject to the principle of equality and desert is not allowed to conflict with equality. Marx and almost all other modern thinkers accept the concept of equality and define the concept of justice in this sense. However, people have different interpretations of equality, and equality also needs a lower-order value expression. While liberalism and other political philosophies accepted "equal
rights” as the basic content of equality, Marx refused to admit this lower-order value as the ultimate interpretation of equality but tried to look for its broader connotations. It is for this reason that his theory of justice is distinct from that of other modern political philosophies. Marx agrees with liberals and other philosophers on the higher-order meaning of equality but differs from them in terms of the concrete interpretation of equality. Liberalism and other modern political philosophies understand equal rights as the ultimate basis of equality, and accordingly consider other dimensions of equality as derivative, thereby reducing the content of equality. Marx searches for a more extensive value for equality, so his concept of equality breaks through the constraints placed on substantive equality by equal rights. He raises the ideal of equality from the level of political rights to the level of social cooperation and rests the hope of the final realization of equality on the social cooperation of free men, a cooperation that transcends the concept of rights. This mechanism of social cooperation (the association of free men) thus becomes the goal to be pursued. It can be seen that Marx’s concept of justice is commensurable with that of liberalism and other political philosophies because, for him, in order to realize the ideal justice of equality, the rights-based principle of desert justice need not be rejected, but should rather be regarded as a historical form of justice.

Seen in terms of conceptual form, Marx’s concept of justice and that of liberalism and other political philosophies are of different orders: the latter is a lower-order concept while the former is a higher-order concept with a broader meaning. A higher-order concept covers many lower-order concepts, whereas a lower-order concept is only one of the principles embodied in a higher-order concept. Since a higher-order concept of justice covers a much broader sphere, it cannot be explained by a lower-order concept of justice, but can provide a basis for the latter’s interpretation. Compared with Aristotle’s concept of justice as desert, Plato’s concept of justice is of a higher order: justice as an “absolute good” not only has its own meaning but also offers a basis for the concept of desert. Compared with the liberal concept of justice, Marx’s concept of justice is of a higher order: it starts from human society or socialized humanity, is based on the organic social cooperation of free men and depicts the highest principle of justice possible in human society. This principle is the result of the logical and historical sublation of all previous principles of justice in human history. Therefore, the desert justice principle is not only a part of its historical incarnation but also a link in its logical progress. In fact, it is precisely this concept of justice that can avoid the ensuing dilemmas of liberalism and other political philosophies: on the one hand, individual rights are taken as the ultimate foundation of desert; on the other hand, cooperation is taken as the sine qua non for the final realization of justice, thus rejecting the basis of desert.

If Marx’s concept of justice is understood as a high-order concept, then it should contain different layers of value that can be further distinguished. As “fruit” comprises “nuts,” “berries” and so on, this concept contains “rights-based justice,” “transcendent justice” and other conceptual levels and types. Why does Marx’s critique of political economy start with
private property and civil society? This is because their analysis is the gateway and the key to understanding "equal rights," the lower-order value of equality. Why does Marx oppose "verbal rubbish" about right and so on, and at the same time ask the working class to "vindicate the simple laws or morals and justice" in their struggle? This is because he opposes making the lower-order value of justice fundamental but does not oppose the lower-order value itself. Today, we are still in the historical circumstances of civil society. If we use the principles of historicism to interpret the Marxist individual rights-based theory of justice, this is not counter to Marx's intentions, but on the contrary reflects the rightful meaning of Marxist political philosophy.

Without doubt, liberalism has made a contribution to the development of the theory of justice by highlighting the importance of equal rights for all and elaborating desert on this basis. However, in real life, the huge contrast between the concept of equal rights and the reality of inequality shows the self-imposed limitations of the liberal pursuit of justice through equality. As a liberal with egalitarian tendencies, Rawls aims for substantive equality. In order to achieve this goal, he needs to restrict and amend the rights-based desert value of justice. His attempt at such a theory is embodied in his two famous principles of justice, the first of which reflects the political rights of citizens and the second their social and economic interests. To correct the bias of desert justice, Rawls can no longer seek a single standard of justice, as did utilitarianism and the doctrine of the highest good; he has to use the second principle to supplement and amend the first principle, sacrificing the logical consistency of liberalism. Rawls's theory of justice has been successful in the contemporary world, but he embroils his own theoretical arguments in many difficulties because his program compromises with intuitionism and even risk relativism. He has no choice but to use a series of complementary arguments to compensate for the theoretical problems incurred by his deviation from the principle of rights. His second principle is to ensure "the greatest benefit to the least-advantaged," but here again he has to revert to insisting on "right has priority over good" to set limits for this principle. This "retreat" reflects not only his liberal insistence on right and the desert principle of justice but also his methodological difficulties.

Breaking through the barriers set up by liberalism for itself, Marx resets the foundation of justice from the standpoint of human society, therefore building up a totally new framework of argument for the theory of justice. In this framework, the principle of right itself is not ultimate and eternal; it needs to be modified and regulated by higher-order standards of justice. Only in this framework can the principle of justice go beyond the self-imposed limits of the principle of right and avoid the methodological dilemma of intuitionism or relativism.

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