

IN DEFENCE OF PASHUKANISM

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SUMMARY

This essay presents an extended defence of the general theory of law formulated by the Bolshevik jurist, Evgeny Pashukanis, and published in his *Law and Marxism: A General Theory* in 1924. The general theory is a theory of the legal form. Although Pashukanis did not name his theory, it has become known as the commodity form theory of law because of its theorising the legal form as a homologue of the commodity form. However, despite having weighty Marxist and revolutionary Bolshevik credentials, the general theory has been subjected to sustained attack, especially from new left and neo-Marxist circles. This essay identifies and explicates six major objections to Pashukanism from its left critics. These are that the general theory is too abstract to comprehend the reality of legal relations; that it is infused with economic reductionism; that it derives the legal form wrongly from commodity exchange; that it classifies the legal form incorrectly as an attribute of capitalism only; that it lacks the generality required of a general theory of law; and that it is imbricated in the growth of anarchism and Stalinism.

Following a brief exegetical exercise, the bulk of the essay is devoted to demonstrating in detail that each of the six objections to the general theory is without merit, and that none makes any serious incursion into its integrity as a theory of the legal form. The central submission of the essay is that the Pashukanist general theory of law is rooted in the first principles of classical Marxism and hence may lay claim legitimately to being *the* Marxist theory of law.

KEYWORDS: Capitalism; Commodity form; Homologue; Legal form; Legal subject; Marxism; Mode of production; Principle of equivalence; Relations of exchange and Relations of production

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