



[Dossier: Pashukanis, insurgencies and praxis: 100 years of *General Theory of Law and Marxism* – Volume 2]

Does a transatlantic Pashukanis emerge? Dialogues with Robert Knox on dependency-imperialism, racialization, and insurgent law

Emerge um Pachukanis transatlântico? Diálogos com Robert Knox sobre dependência-imperialismo, racialização e direito insurgente

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Abstract

In Robert Knox's "International Law, race and Marxism: an outline of a commodity-form approach", we come across an arsenal of possible transatlantic interactions converging towards the emergence of another — because non-abstentionist — Marxist-Pashukanian critique of law. In this article, we seek to discover the possible theorists bonds around an insurgent law by establishing dialogues with Knox on the theory of value, the co-implication between dependency and imperialism, the processes of racialization and the possibility of tactical uses of law.

Keywords: Evgeni Pashukanis; Marxist critique of law; Insurgent law; Marxist dependency theory; Robert Knox.

Resumo

Em "Direito internacional, raça e marxismo: um esboço de abordagem da forma-mercadoria", de Robert Knox, deparamo-nos com um arsenal de possíveis interações transatlânticas convergentes no sentido da emergência de uma outra — na medida em que não abstencionista — crítica marxista-pachukaniana ao direito. Buscamos neste artigo descobrir elos teóricos possíveis em torno de um direito insurgente a partir do estabelecimento de diálogos com Knox sobre a teoria do valor, a coimplicação entre dependência e imperialismo, os processos de racialização e a possibilidade de usos táticos do direito.

Palavras-chave: Evguiéni Pachukanis; Crítica marxista ao direito; Direito insurgente; Teoria marxista da dependência; Robert Knox.



Emergent Introduction¹

The centennial celebration of *The General Theory of Law and Marxism* by Evgeny Pashukanis serves as a reflective milestone for critical legal theories in general and for the field of law and Marxism in particular. For the former, it represents an opportunity to reorient their praxis through theoretical self-critique: eclecticism and the abandonment of Marxism are profoundly questioned in light of the teachings of the 1924 book, with all its sophistication and research agenda. For the latter, the work is a warning sign: it is an introduction that needs to be deepened and that demands a coherent practical stance regarding what Marxist praxis points toward, including legal critique.

Nothing could be better, given this awareness, than to engage in a rich set of debates by mobilizing various interlocutions to advance this aim. The organization of two volumes of a dossier dedicated to “Pashukanis, Insurgencies, and Praxis: 100 Years of *The General Theory of Law and Marxism*” is within this scope, even more so mediated by the dialogues we have chosen to pursue. We privilege the notions of insurgency and praxis to realize this dialogicity, which has consequences in terms of which interpretations we intend to engage with. It is not a matter of disregarding previous and broader debates already conducted within the critical legal theories or the field of studies that connects law and Marxism but rather of pointing to the possibilities that a Marxist critique of law provides to insurgent legal praxis. Without concessions but without fatalism – this is an arduous task.

In the first volume of our dossier,² the dialogue we pursued “for an insurgent Pashukanis” (SOARES, 2024), combining Pashukanian implacable criticism of the legal form with the necessary political uses of law, brought to light both “Pashukanis’ Lenin” (PAZELLO, 2024c), which enhances the revolutionary struggle that characterizes Marxism, and the demand for conducting “research on insurgent legal practices” (UCHIMURA, 2024), focusing on the contradictions through which popular movements

¹ This article was originally written in Brazilian Portuguese, and this version can be found in this same issue of *Direito e Praxis*. Thanks to Filipe da Silva Pinheiro for the English translation of this article, and to Gabriel Ruffini Galvão for its kind review.

² The first of the volumes produced in coproduction with *Direito e Praxis* [Law and Praxis] was published in the journal *InSURgência: revista de Direitos e Movimentos Sociais* [InSURgency: Journal of Law and Social Movements] in July of this year. For an overview of its content, see Pazello, Uchimura, and Soares (2024).



are traversed. Consequently, the debates that emphasized a reading of Pashukanis from the “link between legal form and political strategy” (ROMERO ESCALANTE, 2024) and his “revolution against the legal form” (RIVERA-LUGO, 2024), or still, through “marginal notes” (CONDE GAXIOLA, 2024), critical but acquiescent assessments of the author’s work, converged toward the same goals we proposed as organizers of the dossier alongside Moisés Alves Soares. We cite the dialogues with Latin American authors outside Brazil present in the first volume dedicated to the centennial, but we could extend this to other interlocutions from Brazilian researchers whose evaluations are aligned with those.

The same scenario unfolds in this second volume of the dossier. In it, we present to the Brazilian audience Robert Knox’s text (2024), titled *International Law, race and Marxism: an outline of a commodity-form approach*. Like the other guests, Knox has a vast repertoire of critical foundations to analyze the law and a stimulating apprehension of Pashukanis’s work. However, upon reading his article, we thought it would be best to change the direction of the essay we would write for the dossier we are co-organizing: as we are interested in aspects of Marxist legal critique that reveal within it an insurgent praxis, Knox’s text proved to be significantly provocative. Unlike the usual controversies between texts written on the same theme, with differing approaches or positions, we decided to highlight more of our convergences than our distances, aiming to reflect on the possible alignment around an “insurgent law”.

Although we had previously been acquainted with the author’s work in the Brazilian field of law and Marxism – as seen in Pazello and Soares (2020), Ferreira (2023), and Pazello (2024c) – we considered it timely to give greater attention to the dialogue he himself permitted by sending us his text. During the “Horizons for Legal Critique” seminar, held to commemorate the 15th anniversary of the journal *Direito e Práxis [Law and Praxis]*, which took place in Rio de Janeiro from August 22 to 23, 2024, with the release of an issue of the journal to celebrate the date, we had a first strong indication of the convergence between Knox’s work and our reading of an insurgent law. During this event, João Telésforo (2024) presented a paper that highlighted this proximity, and from there, we decided to undertake the present dialogue.

There is something unusual about focusing on this interaction with Robert Knox, after all, he is a jurist – though critical and Marxist – who writes from the British context. Nevertheless, as highlighted in the last period (PAZELLO, 2024b), a Latin Americanized



reading of Marxism, as we are aiming to urge, whether within law or not, needs to engage with a Marxist analysis of anti/post/de/des-decolonialism. In this sense, the position expressed by Knox, a Black Marxist jurist – let us add –, reveals an incisively critical analytical capacity, addressing topics excluded from today’s theoretical landscape, even the most “progressive”, such as imperialism, neocolonialism, and the Marxist critique of racism.

Moreover, the retrieval of contributions from the Anglo-Saxon critical legal theory (not only British, therefore) to Brazilian Marxist legal critique has noteworthy precedents. And while it is true that this has primarily been a one-way street, this time, we are imbued with a reciprocal sense of interaction – hopefully, the Portuguese language will not be an insurmountable barrier, as English structurally is not for us.

To sum up briefly, let us recall that in the 1980s, Celso Soares (1984; republished in 1993) conducted his study on *Os Caminhos de Um Direito Insurgente* [*The Ways of an Insurgent Law*], an argument “inspired by the book *Law and the Rise of Capitalism*” by Michael Tigar and Madeleine Levy (1978), both Americans, who “created the term *insurgent jurisprudence*” (SOARES, 2015, p. 45). In the founding records of the Instituto Apoio Jurídico Popular [*Popular Legal Support Institute*], which took place in 1987, the volume’s title is exactly *Insurgent Law*, and in presenting the proposal, besides citing Pashukanis (and Gramsci), Miguel Pressburger (1988, p. 6-7), one of its founders, specifically cites Tigar and Levy’s book.

It is surprising to note that Celso Soares (1993, p. 93-94) also mentions the journal *Crítica do Direito* [*Criticism of Law*], edited by Márcio Naves and Aguiar Barros (1980), including this critique within the horizon of insurgent law. Undoubtedly, Naves is the most important scholar of Pashukanis’s work in Brazil and Latin America. He also, meanwhile, engaged with Anglophone jurists, as exemplified by his collected essays on *O Discreto Charme do Direito Burguês: Ensaio sobre Pashukanis* [*The Discreet Charm of Bourgeois Law: Essays on Pashukanis*] (NAVES, 2009). These are polemics about the British reading of Pashukanis by Steve Redhead (2009) and Roger Cotterrell (2009), both previously referenced in Naves’s thesis on Pashukanis (2008).

Finally, it is worth mentioning that Alysson Mascaro, another important proponent of Pashukanis’s work in Brazil, also fosters dialogues with British legal tradition jurists, the most evident case being China Miéville (2017), from whom he



includes an excerpt in the Brazilian edition of the hundred-year-old book, for whose technical revision he was responsible, alongside Pedro Davoglio.

These are all examples of this fruitful and tense interaction that, we believe, gains a likely new chapter with the opening of dialogues with Robert Knox. From our perspective, it is mainly of interest to find points of contact beyond a simple critical reading of law or even an approach to Marxism and Pashukanis interpretations but, above all, to discover possible theoretical links around insurgent law.

It has been over forty years since the original formulation of insurgent law in Brazil, in the versions of Celso Soares (1984; 1993; 2015), João Luiz Duboc Pinaud (1987), Miguel Pressburger (1988; 1990; 1993), Miguel Baldez (1989; 2010), or Dimas Salustiano da Silva (1994) – which, indeed, was diffusely received within Brazilian and Latin American critical legal theories. More than a decade has passed since the beginning of the recovery of this tradition by a group of young jurists with whom we identify, embedding insurgent law with the foundations of Pashukanian (and Stuchka's) Marxist legal critique, as in the research of Luiz Otávio Ribas (2009, 2015), Ricardo Prestes Pazello (2014; 2018; 2021; 2022; 2024a), Moisés Alves Soares (2017; 2024) – including joint productions by Pazello and Ribas (2014; 2015), as well as Pazello and Soares (2014) –, Ana Lia Almeida (2015; 2024), Guilherme Cavicchioli Uchimura (2022; 2023; 2024), Pedro Pompeo Pistelli Ferreira (2023, 2024), Naiara Andreoli Bittencourt (2023, 2024), Daniel Vitor de Castro (2024), among many others. After all this, we believe the proposal of insurgent law we aim to wield has reached a reasonably mature stage. And in this context, we want to embark on a dialogue that enriches its reading, precisely through the interpretation and revival of Pashukanis.

This intention guides us to engage, then, with Knox on his *International Law, race and Marxism: an outline of a commodity-form approach*. We will focus on this work, proposing a dialogue divided into two parts: the first will provide a brief overview of Pashukanis's presence in Knox's theoretical production, focusing on his contributions related to topics such as international law, imperialism, and race. The second part will unfold in comments on the text, addressing issues that converge with the research agenda proposed by insurgent law, particularly the relationship between value, dependency, and law, and, finally, the Marxist foundations for a tactical use of law. What seems to emerge from this interaction is precisely a transatlantic dialogue in which the Marxist critique of law unfolds from the critique of political economy, as both



lead to a Marxist critique of racism as well as dependency. This foundation supports the vessel of insurgent law, as intended here, that navigates, thus, by criticizing the juridification of modern racialization processes as well as the shaping of a dependent legal relationship.

1. Overview of Pashukanis's presence in Knox's production on law, imperialism, and race

Our dialogue with Robert Knox begins with a brief overview of his theoretical production to locate the paths through which he mobilizes the Pashukanian perspective in his critical interpretation of law from England. The first publication in which we read Knox addressing Pashukanis's work – at least among those known to us Brazilians – is the article titled *Marxism, International Law, and Political Strategy* from 2009. The North Atlantic Treaty Organization (NATO) bombing of Kosovo had occurred in 1999. The 2000s, subsequently, were marked by numerous international conflicts, including the invasions of Afghanistan and Iraq by the United States in the context of the imperialist military campaign called the “war on terror”. In the same year Knox's article was published, Israel carried out *Operation Cast Lead*, an ethnic massacre on Gaza Strip territories, which, as the British author highlighted, echoed the past in the present, resulting in “mass protests” against Israeli “war crimes” (KNOX, 2009, p. 414).

In terms of intellectual production under such a context, Knox found himself amid differing understandings of international law emerging in Europe. For certain jurists, for instance, it was an era of international law violations, while Negri and Hardt (2010) formulated the thesis of the state of exception. There was also the perspective of theorists identified with the movement *Third World Approaches to International Law* (TWAIL), which emphasized the connection between international law relations and imperialism. Among the Marxists who devoted themselves to investigating international law at the time from England were China Miéville, Bill Bowring, and Susan Marks.

In the face of this profusion of developing approaches on the characterization of international law, it was the then-recent work of Miéville titled *Between Equal Rights: A Marxist Theory of International Law* (2005) that, for Knox (2009, p. 414), stood out “for its systematicity and the trenchant nature of its critique”. From there, under the impact



of Miéville's work, Knox began to situate Pashukanis as a key author for developing a materialist critique of international law.

To this end, along with *The General Theory of Law and Marxism*, the entry "International Law", written by Pashukanis for the *Encyclopaedia of the State and Law*, organized by the Communist Academy between 1925 and 1927, is highlighted. Beyond these two references, Knox emphasized the importance of *Lenin and the Problems of Law*, a text published by Pashukanis in 1925.³

Knox lamented the absence of analysis of this text's dimensions in Miéville's formulations, especially considering "the most explicit treatment of the role of law in revolutionary strategy" and the importance of understanding the "positive role that legality can play in given concrete circumstances" supported by Pashukanis (KNOX, 2009, p. 429). Here, a particularly emblematic excerpt from the mentioned text by Pashukanis, cited by Knox, deserves attention:

For the petit bourgeois revolutionary the very denial of legality is turned into a kind of fetish, obedience to which supplants both the sober calculation of the forces and conditions of struggle and the ability to use and strengthen even the most inconsequential victories in preparing for the next assault. The revolutionary nature of Leninist tactics never degenerated into the fetishist denial of legality . . . On the contrary . . . he firmly appealed to use [*sic*] those "legal opportunities" which the enemy . . . was forced to provide." (PASHUKANIS, 1980, p. 138).

This assumption seems to have been central to Knox's (2009, p. 434) conclusion in his article, pointing out that international law can present a "progressive potential" as long as it is reduced to a "tactical" level. He attributed the term "*principled opportunism*" to this approach, which, in a rather free translation, could be rendered as "opportunism based on principles".

Also in 2009, Knox published a review of Alain Supiot's *Homo Juridicus* in the Marxist journal *Historical Materialism*, contrasting the idea of an "anthropological function of law" developed in the book – which he characterized as liberal – with the use of Pashukanis's materialist perspective. The following year, he published the essay *Strategy and Tactics*, once again articulating Pashukanian thought in defense of a "principled opportunism" that would allow "intervening in conjunctural legal debates, without losing sight of the strategic goal" (KNOX, 2010, p. 228).

³ This is a text translated from English to Portuguese by Pazello for the dossier "200 Years of Marx: Latin American Critical Perspectives", published by *Direito e Práxis [Law and Praxis]* (PASHUKANIS, 2018).



In 2011, in a debate with Bowring in the *Finnish Yearbook of International Law* on “what to do” – paraphrasing Lenin – with critical legal practices, Knox (2011, p. 34) emphasized that, without disregarding the connection between law and capitalism, Pashukanis “sought to intervene politically in the constitution of the Soviet state and its practices”. In the same text, he cited examples of “radical lawyering”, noting that Huey Newton, a member of the Black Panthers, defended the right of Black people to bear arms for self-defense based on the Second Amendment to the United States Constitution.

These arguments were developed more broadly and systematically in Knox’s doctoral thesis in philosophy, presented in 2014 to the Law Department of the London School of Economics. The work, titled *A Critical Examination of the Concept of Imperialism in Marxist and Third World Approaches to International Law*, was structured in four chapters: (i) the concept of imperialism; (ii) TWAIL perspectives on imperialism and international law; (iii) Marxist critiques of imperialism; and (iv) the proposition of a “stretched” Marxism for theoretical apprehension of the problems of imperialism and international law.

In the third of these chapters, we find a systematic presentation of Pashukanis’s thought on the form of international law (KNOX, 2014, p. 178-186). Without the space here to reintroduce the theoretical foundations in *The General Theory of Law and Marxism* referenced by Knox as “commodity-form theory”, the author argues in summary that the foundation of Pashukanian perspective’s contribution to understanding international law lies in the fact that “if, for Pashukanis, law is intimately connected with commodity exchange, then it is also connected intimately with imperialism, which is the form that this exchange takes on a global scale” (KNOX, 2014, p. 181).

Here, Knox refers more directly to the entry on *International Law*. In a way similar to what would later be developed by Pazello and Soares (2020) in *Pashukanis in Caracas: International Law between the Legal Form and the (Neo)Colonial War*⁴, Knox identifies that, for Pashukanis, “competitive violence was at the heart of international law” (KNOX, 2014, p. 182). The establishment of international relations, in turn, is not

⁴ The titles of works not translated into English and journal titles, as well as direct quotations from texts in Portuguese, will always appear in free translations provided by us.



based on harmony of interests but rather on common interests among the ruling classes of capitalist nations. The sovereignty that states counterpose to one another forms the basis for relations conducted in the same way that legal subjects establish relations among themselves.

Knox draws from Pashukanis's texts the premise that there is a structural connection between (international) law and imperialism. "International legal *form* is systematically generated by commodity exchange", he argues (KNOX, 2014, p. 184). States directly promote commodity exchanges as if they were private property owners of their territories. Thus, Pashukanis allows for dismissing the conception of international law as a type of neutral regulation; instead, he identifies it as "the legal form of the struggle of the capitalist states among themselves for domination over the rest of the world" (PASHUKANIS, 1980, p. 169).

Another important point regarding Knox's materialist characterization of international law is that, agreeing with an apprehension developed by Miéville in *Between Equal Rights*, the author emphasizes Pashukanis's notion that "it is the form of abstract equality that signals the presence of a legal relationship" and not state power. Adopting this premise is crucial to overcoming the dilemma sometimes raised by jurists regarding whether international law is "'really' law" or not (KNOX, 2014, p. 184). On the other hand, Knox also expressed agreement with Miéville's analysis that Pashukanis failed to recognize that "violence and commodity exchange are intimately interrelated, and, as a result, so too are violence and law" (KNOX, 2014, p. 185). On this point, however, it is important to note that Pashukanis (2017, p. 139) was quite explicit in understanding that "the legal relationship does not presuppose by its very 'nature' a state of peace", such that "law and arbitrariness – concepts that might seem opposite – are actually closely linked".⁵ In any case, this observation is particularly important in Knox's materialist characterization of international law since it situates coercion "in the very nature of commodity exchange and production" (MIÉVILLE, 2005, p. 127).

⁵ In this regard, in a study on the form of the violation of law, Uchimura (2017) conducted an analysis focused on the seventh chapter of *The General Theory of Law and Marxism*, identifying that the legal form is not opposed to violence. On the contrary, drawing on Pashukanis, he concluded that it is the form of the violation of law that enables the attribution of calculability to arbitrary actions with violent effects. We add that this seems valid not only for the materialist critique of relations between sovereign states, but also, for example, for the destructive actions carried out by large corporations in the management of technological risks and socio-environmental disasters, which are globally concentrated in peripheral nations such as those in Latin America.



In *A Critical Examination of the Concept of Imperialism...*, Knox began to approach the problem of the connection between the historical development of international law and the racialization process in light of Marxist critiques of imperialism. To this end, inspired by a formulation by Frantz Fanon⁶, he proposed the concept of a “stretched Marxism”:

International law has played a vital role in racialising the peripheries of capitalism, opening them up for the penetration of European capital, structuring their relationship to imperialism and providing rationales for military interventions in order to secure this. A ‘stretched Marxist’ account of international law is one which traces the way in which these racialised forms are generated by and structure the processes of capital accumulation (KNOX, 2014, p. 272).

Knox identifies that the historical development of racialized forms combined with the territorial expansion of capitalist accumulation processes from Europe assumes a central position in constituting imperialist relations and, consequently, in shaping global capitalism. Knox even points to a materialist-Fanonian theory of international law as a way of, by “stretching” Marxism, overcoming limitations of TWAIL perspectives on how ethnocultural differences operate under imperialism.

Knox defends that since imperialism has an intimate connection with international law, experiences of domination between cultures through racialization processes must be historicized, becoming understood as “structured by the logic of capitalist expansion and accumulation” and, consequently, developed within the legal form (KNOX, 2014, p. 260).

Knox’s effort to address the problem of imperialism by combining Pashukanian critique with Fanon’s conception of race as a social relationship culminates in the ontological conclusion that “even if law might be effective at fighting some of the effects of imperialism, it can only ever do so *within its material coordinates*”. Thus, “it can only stop some of its excesses, but ultimately will remain wedded to the fundamentals of imperialist social relations and their necessary effects” (KNOX, 2014, p. 261).

⁶ In *The Wretched of the Earth*, Fanon (1968, p. 29) articulated it as follows: “When you examine at close quarters the colonial context, it is evident that what parcels out the world is to begin with the fact of belonging to or not belonging to a given race, a given species. In the colonies the economic substructure is also a superstructure. The cause is the consequence; you are rich because you are white, you are white because you are rich. This is why Marxist analysis should always be slightly stretched every time we have to do with the colonial problem”.



However, this radical critique of the legal form does not lead Knox to a nihilistic abstention – an attitude he emphatically rejects – from contesting legal practices against imperialism or racism. Indeed, the final lines of *A Critical Examination of the Concept of Imperialism...* are as follows:

One cannot simply denounce imperialism as being “against” international law, and it is impossible to “ignore” international law. Rather, one must understand how to negotiate the international legal order in a tactical manner, whilst being aware of the strategic necessity of its overthrow. (KNOX, 2014, p. 288).

Here, we observe one of the main convergences with the perspectives of insurgent law that we are seeking to develop in Brazil, a topic to which we will return with more attention later.

What we want to highlight at this moment is that, between 2009 and 2014, the trajectory of Knox’s work shows an original materialist approach that connects imperialism, race, and law. Ten years later, as a continuation of this project, and on the occasion of the 100th anniversary of *The General Theory of Law and Marxism*, Knox publishes, in this dossier, a text in which he presents new insights into the connections linking these three orders of social relations in the global capitalist accumulation process. It is to this text that we will now devote our focused attention.

2. Comments on Robert Knox’s text regarding an insurgent law

Robert Knox’s text, entitled *International Law, race and Marxism: an outline of a commodity-form approach*, expands and updates a previous publication that appeared in the supplemental dossier “Race, Racism, and International Law” of the *American Journal of International Law* (AJIL), from the American Society of International Law (ASIL). At our invitation, the essay reappears translated in the second volume of the dossier dedicated to “Pashukanis, Insurgencies, and Praxis: 100 years of *The General Theory of Law and Marxism*”, organized by the Law and Marxism Thematic Group of the Instituto de Pesquisa, Direitos e Movimentos Sociais [Institute for Research, Law/Rights and Social Movements] (IPDMS) and published in *Direito e Práxis* [Law and Praxis] journal from the State University of Rio de Janeiro (UERJ), following the publication of



the first volume in *InSURgência: Revista de Direitos e Movimentos Sociais [InSURgency: Journal of Law and Social Movements]*, of the IPDMS.

Overall, Knox has stood out in the field of law and Marxism for his exploration of the global reality of capitalism, seeking to combine theoretical contributions on imperialism, racial relations (or racialization), and international law. As seen in the previous section, the theoretical production of Evgeny Pashukanis is one of the pivots of this project. In his writings, Knox has dedicated himself, at least since 2009, to finding in *The General Theory of Law and Marxism* and other writings by Pashukanis the foundations for questioning the theoretical and practical problems of the present. An important point here is that, after 15 years, it is in one of the sections of *International Law, Race, and Marxism* that Knox has deepened his formulations on the structural connections between capitalism, race, and law.

It is true that Knox himself (2024, p. 13) acknowledges that this is still a brief exposition, meaning that some of the connections he makes are situated on a “very basic level”. For us, however, the opportunity to open debates with Knox’s text – the first, incidentally, to be translated into Portuguese – is quite timely, as it enables the emergence of a different Pashukanis. In fact, there lies a genuine program of investigations stemming from the study of Pashukanis’s work, from which the possibility of theorizing an insurgent law becomes apparent. Making these South-North dialogues, centered on Marxist critique of law, demonstrates the potential for a transatlantic apprehension of Pashukanis, where, as we have stated, it is possible to envision a peripheral (or “decolonized”) Marxism as well as historically materializing the critique originating from these peripheries.

It is what we can analyze, in the text included in this dossier, from Knox –the author we invite to join our formulation landscape – for presenting a set of reflections that, despite being produced within discussions on international law, suggest interactions with the Latin American critical legal theory that we wish to emphasize. In relation to this debate, in which we emphasize our convergences, it is relevant to highlight that elaborations from Latin America can significantly contribute to his broader impact (cf. TELÉSFORO, 2024), with autonomous theorizing from the Global South yet with meaningful correspondences to a Marxist legal critique from a British Marxist whose focus includes imperialism, (neo)colonialism, and racism. In this sense, we seek to reverse the transatlantic dynamic that forged Latin America as extractivist, slaveholding,



and dependent to instead bring Marxists together in Pashukanian insurgencies that confront the juridified dynamics of global capitalism.

Considering all these issues, we now proceed to present in the following sections, through comments on Knox's text, a debate agenda, which can be found within his concerns. It is, in fact, a dialogue proposal that mobilizes our previous research whose conclusions (which, in some cases, are provisional) we revisit in order to mirror theories produced on each side of the Atlantic, between Latin America and Western Europe, which, even without prior correspondence, arrive at convergent results as they use an insurgent reading of the Marxist and Soviet legal debate, notably the Pashukanian legacy.

Below, we organize our dialogue into four segments, through which we aim to draw closer to the agenda we have been developing around insurgent law. For this reason, we structure it based on how, in Knox's treatment of imperialism and racialization issues, appear, even in very general terms, the Marxist theory of value; the problem of dependency; the relationship between value, dependency, and law; and, finally, the possibility of a tactical use of law. Let us begin, then, our insurgent dialogues.

2.1. "...A complex dialectic of capitalist social relations and their forms of appearance": the use of value theory

We indicated above that Knox directs his text to an analysis that connects three orders of problems: international law, capitalism, and race. However, his approach to achieving this goal assumes the form of a master key, without which the doors concealing the secrets of such complex social phenomena as (international) law, capital, and race do not open. The password Knox uses is Marxism, and the historical materiality of capitalist social relations becomes comprehensible, unfolding into legal and racialization relations.

Thus, the Marxist perspective presents itself as a guide that leads him to a reflective space, where the theory of value becomes his presupposition and inevitably directs him to take Pashukanis's contributions as a reference. Hence his objective of revealing the "relationship between international law, capitalism and race through the commodity-form theory" (KNOX, 2024, p. 03).



In the Anglo-Saxon tradition of interpretations of Pashukanis's work, this is characterized by the commodity-form theory from which the place of law is derived. Knox likewise adopts this starting point, making his approach to a theory of value something not explicit but underlying the commodity and legal forms theory he finds in Pashukanis. Even so, regardless of this presupposition, such theorization expresses itself in several moments of his approach, as we can verify by revisiting his doctoral thesis dedicated to the study of imperialism, in which "in attempting to understand international law, Marxists situate it within a totality of social relations" (KNOX, 2014, p. 177).

This "totality of social relations" raises the issue of value on a different level of abstraction than that from which the "social forms of capital" will emerge. In recent research, this position was defended by one of us (PAZELLO, 2024d) not as a deficit but as a complexification: it is the level of analysis where Stuchka is situated, more concrete than that of Pashukanis, and which may indicate a significant distinction between "social relations" (in this case, legal, as can be inferred from Stuchka) and "social form" (again, legal, emphasized by Pashukanis). Curiously, in Knox's approach, the conclusion revolves more around social relations than social form – even though we can find both in his elaboration. But this, in our view, has a reason.

In practice, Robert Knox appeals to a level of analysis that encompasses greater concreteness: we are referring to his debate on the category of "race." His starting argument is that race is a product of racism and not the other way around, as is often suggested in liberal discourse on this theme. To affirm this understanding, Knox grounds it in the Marxist approach to the issue. In this way, "'race' is a product of *racism*" (KNOX, 2024, p. 04) and, consequently, "processes of racialisation and racism are forms of appearance of capitalist social relations" (KNOX, 2024, p. 08).

The issue of forms of appearance of capital holds enormous relevance in our dialogue. In addition to suggesting the concreteness alluded to above (around social relations), they also point to the combined structuring between essence and appearance of capital's social forms (a level of analysis where greater abstraction is emphasized). For example, in volume 1 of *Direito Insurgente [Insurgent Law]*, Pazello (2021) presents an interpretation of the senses of law taken from Marx (2014), especially from how he framed them in *Capital*. From the senses of law found in Marx, all understood as social relations, we arrive at the moments of the legal form, as can be apprehended following



Pashukanis's exposition, especially in *The General Theory of Law and Marxism*. Among these moments, there is both the essence of the legal relationship/form and its various normative appearances (legislated, jurisprudential, or even in the private sphere).⁷ In our understanding, this whole problem resonates with what underpins Knox's analysis when it refers to forms of capital's appearance.

Thus, we can establish a common denominator between the non-negotiable foundation of insurgent law – that is, the Marxian and Marxist critique of the legal form – and Knox's approach, which, for the purposes of criticizing racism, draws on Marx and Pashukanis's theories. Here is how the issue is perceived in the British Marxist jurist's text: "on the one hand, racism is not a natural phenomenon but instead one systematically generated through capitalist social relations. On the other hand, capitalist social relations require forms of racialisation to exist" (KNOX, 2024, p. 08).

Capitalism, in generating racism, encounters specific forms of its own racialization. These are manifestations that compel us to understand that the "social form" is not merely a matter of formality – that is, mere molds opposed to contents, with the latter being the substance that fills them. On the contrary, the dialectic between form and content is much more complex and not arbitrarily composed. In reality, there is a process of (con)formation here, as Knox states – and we will return to this theme – that there exists "a structural connection between capitalism and race" as well as between "law and capitalism", and the criticism often directed at Pashukanis is inept, asserting that Pashukanis "paid insufficient attention to the content of law as against its form" (KNOX, 2024, p. 10). The mistake, as becomes evident, is to assume a separation between both dimensions, losing sight of the significance of legal formation and its conformation with other sectors of human activity.

To conclude this connection that aligns Knox's arguments with the horizon of insurgent legal critique developed in Latin America generally and Brazil in particular, let us highlight one more example from which, we believe, a certain use of Marx's theory of value is established. This concerns his critique of the "right to self-determination" and the "state-form".

It is more than evident that we are unable to delve deeply into this topic here; however, its mention is significant in itself. According to Knox, the right to self-

⁷ For a summary exposition of such arguments, cf. Pazello (2018).



determination has “captured” through the state-form (and the preservation of colonial borders) as part of the anti-imperialist resistance: “international law preserved those very colonial borders” and “self-determination had to take place within the state-form” (KNOX, 2024, p. 13). For Knox – and we find this entirely convincing – this situation arises from the fact that capitalist social relations demanded such a configuration, relying – albeit in a historically less uniform manner than portrayed by Knox – on the legal framework transitioning from the colonial period to the later, more firmly established one, aligning anti-colonial shifts with the new configurations of capitalism, including the racialization of the modern world.

These issues, presented in this way, reveal the potential of historical materialism for understanding the global capitalist system, which, as we know, was forged through colonialism. Hence, the debate on racialization takes on central importance for a Marxism that allows for dialogue between the Global South and North in a transatlantic perspective. In reality, without Marxism, analyses aiming to critique the coloniality of power and the racialization it engenders are insufficient. Therefore, the theory of value, derived from Marx, yields invaluable insights, notably in crafting keys that unlock hidden spaces inaccessible to those who merely wander around their periphery – or, in fact, remain trapped within them. Even so, on the other hand, comprehending the unique mechanism of each lock is crucial, as each has a latch that operates in a specific and ultimately insidious manner. This is precisely what we will explore next with the role of dependency in the critique of colonialism and imperialism (a matter of particular interest given the Latin American Marxist tradition with which we most closely engage), as well as the pairing of the social forms and relations of capital in their specificity.

2.2. “...In the form of colonialism and imperialism”: the place of (criticism of) dependency

By connecting international law with capitalism and the racism intertwined with it, we can understand that Robert Knox’s discussion aligns with ours, as it highlights, from his objective geopolitical position, the role of imperialism and the colonialism underlying it.

As Theotonio dos Santos stated within the context of Latin American Marxism, “the study of capitalism’s development in hegemonic centers gave rise to the theory of



colonialism and imperialism. The study of our countries development must give rise to the theory of dependency” (DOS SANTOS, 2006, p. 395). Although Knox does not directly reference this author, we can deduce that Knox is familiar with certain dimensions of the discussion surrounding critical dependency theories (also encompassing theories of underdevelopment or even the world-system), as he mentions, in his doctoral thesis, the works of André Gunder Frank, Paul Sweezy, Immanuel Wallerstein, and Harry Magdoff, as well as references to Fernando Cardoso and Enzo Faletto, Ernesto Laclau, Jorge Larraín, Helen Yaffe, Rameshwar Tandon, Ian Roxborough, Thomas Hodgkin, or Benjamin Cohen. Other authors mobilized in this regard include Samir Amin, Walter Rodney, and even Kwame Nkrumah (KNOX, 2014, p. 52).

Thus, the issue of dependency insinuates itself within the set of the British jurist’s concerns, even if it does not occupy an explicit space. Following Dos Santos’s argument as we cited it previously, we can argue that where there is reflection on colonialism and imperialism, dependency will also be an issue.

In fact, this inference gains even more strength from Knox’s references to Marx in his article for our dossier and to Lenin in his doctoral thesis. We recognize, then, a truly unprecedented dialogue when Knox revisits Volume 3 of *Capital* by Marx (2017), which appears in the following citation: “at the same time capitalist societies are competitive, with this pursuit of profit framed by the potential that rivals will make productive innovations and so undercut prices”. He concludes, “at the same time, capitalist societies are highly crisis-prone, with no crisis solving capitalism’s contradictions” (KNOX, 2024, p. 06).

At this point in the reflection, there is a potential dialogical approximation with Marxist criticism of dependency through the themes of competition and crisis, referring to the third volume of *Capital*. From Ruy Mauro Marini (2022) – with his argumentative chain that dependency societies exhibit a division in the capital cycle marked by the overexploitation of labor and value transfer — to Enrique Dussel (1988) — who situates dependency within the realm of competition — there emerges a whole research program that, within our spectrum of concerns, has led us to theorize a “dependent legal relationship” (PAZELLO, 2024d). We shall return to this notion shortly.

Furthermore, other latent dialogues could also be suggested. One pertains to how the civilizing process unfolded in the periphery of the modern capitalist world-system. Here, an interaction could be made with the anthropological work of Darcy



Ribeiro (1972), who characterizes Latin American development as marked by historical updating, i.e., a development subordinated to the advancement of peoples who underwent their autocentric evolutionary accelerations. Perhaps with this reference, we can better understand Knox's (2024, p. 06) statement: "Capitalism was born in Europe, and spread and consolidated its hold over the globe on the basis of European expansion in the form of colonialism and imperialism". For European expansionist capital, evolutionary acceleration takes control of its own development; for invaded and conquered territories, historical insertion into the European capitalist world occurs via colonialism and the remnants left by imperialism.

Moreover, another possible dialogue pertains to Knox's assessment of the capitalist expansion process – one that encompasses colonialism, imperialism, and, we would add, dependency – which was simultaneously a process of racialization. In previous studies, we evaluated the relationship between the original accumulation of capital, its persistent elements (in dialogue with contemporary theories of dispossession or dispossession-based accumulation), and law (PAZELLO, 2016a; PAZELLO; UCHIMURA; FERREIRA, 2021; UCHIMURA; FARIA; PAZELLO, 2023). Robert Knox presents a compelling interpretation on this matter:

In this way, the expansion of capitalism was accompanied by forms of violence and dispossession, through which territory could be accumulated and managed. Even after the firm establishment of capitalism, the uneven global division of labor and its attendant requirement to enable capitalist transformations, continue to require this. These processes appear as processes of racialisation' (KNOX, 2024, p. 07).

In our view, the Fanonian thesis of a 'stretched' Marx – as proposed by Knox – makes complete sense for the purposes of our dialogue. It is what we see operating with his denunciation of the capitalist process as one of racialization. From our perspective, we are increasingly convinced that, while it is necessary to decolonize Marxism on the one hand, it is equally important, on the other, to historicize the decolonial turn (cf. PAZELLO, 2024b). From this point of view, it is impossible to conceive of decolonial law and approach it in a decolonized way without perceiving it as a social form of capital that must be transcended, like all other forms of capitalist sociability. However, it is also impossible not to recognize that, under specific conditions, certain particular situations arise, which require a unique confrontation, including the tactical use of law. As Knox points out, the process of racialization typical of capitalism – and, in our view, marked by



the violence of original accumulation, which is continuously reinstated⁸ (cf. PAZELLO, 2016a; PAZELLO; UCHIMURA; FERREIRA, 2021; UCHIMURA; FARIA; PAZELLO, 2023) – requires a stretched Marx, a Marx pushed to his limits, as ‘it captures the fact that this is neither an attempt to apply pre-existing Marxist categories to the Third World, nor an abandonment of Marxism, but rather – in a materialist manner – an attempt to read the categories of Marxism through the experience of the Third World’ (KNOX, 2014, p. 269). Stretching Marx, in this case, means imbuing him with the Latin American (and ultimately peripheral) critique of capital, whose core is particularly centered on criticism of imperialism – as in Knox’s analysis – and dependency, as in ours. Let us now enter the central space where the previous crossroads converge.

2.3. “Insidious forms”: the intersection of value, dependency, and law

The foundation of our dialogue with Robert Knox rests decisively on the development of his thesis interweaving the racial issue with the theoretical contribution of Pashukanis: “race bears a remarkable similarity to the Bolshevik jurist Evgeny Pashukanis’ commodity-form theory of Law” (KNOX, 2024, p. 09).

This proposal expands on what had previously been established in *Marxism, International Law, and Political Strategy* (KNOX, 2009a). However, the deeper examination of this thesis in the section “Race and the Legal Form” highlights the centrality of Pashukanis’s theory, through which Knox embraces the Marxist problem of value as a social form and the social relations that emerge from it, while acknowledging an interface with the “dependency turn” (cf. CÁRDENAS CASTRO; SEABRA, 2021) brought about by one of the most powerful branches of Latin American Marxism. And the relative novelty⁹ that emerges on the horizon is precisely what allows for promoting the approximation between legal relations, dependency relations, and racialization processes, all grounded in the Marxist critique of value/capital.

From this perspective, we wish to highlight that we find in Knox an operation analogous to what we conceive as one of the most recent developments of the

⁸ We understand that the author’s reflections on Haiti align with the scope of our concerns. See, for example, Knox’s 2020 article *Haiti at the League of Nations: Racialisation, Accumulation and Representation*.

⁹ We say relative novelty because a path has already been paved focusing on this issue, as can be seen, among others, in the works of Souza (2020), Martins (2018), or Soares Neto (2021).



insurgent law perspective in Brazil: the study of the “dependent legal relationship”. In his postdoctoral research¹⁰, Pazello (2024d) proposes precisely to cross two already well-established reflections, creating a third layer of theoretical-categorical interaction that intertwines capital, law, and dependency. This blending of debates fundamentally stems from the same Pashukanian thesis that leads Knox to correlate capital, law, and race. In other words, on one side, we have the relationship between value and legal form – the presupposition derived from *The General Theory of Law and Marxism*, a hundred years after its first publication; on the other side, we have the problem of dependent capitalist relations (as deduced from the reading of Latin American Marxism that introduced the dependency turn) or the relations originating from racialization processes (a foundational insight of Black Marxism, without which capitalism cannot be fully understood).

It is true that Knox does not develop a new category for the set of problems intertwining capital, race, and law. Regardless, there is an explicit acknowledgment of a “tripartite structural connection between capitalism, racism, and international law” (KNOX, 2024, p. 11). Starting from the historical materialism of Marx (and, as we shall see later, of other Marxists, notably Lenin), Robert Knox interweaves his interpretation of legal form, as presented by Pashukanis, within the scope of a critical theory of international law. Given, in turn, the line of continuities and ruptures that shape colonialism and imperialism – subjects of his closer interest –, Knox lands on the problem of racism as a true social form of capital. Since, for the author, capitalism tends toward continuous and infinite transformation and expansion; but also toward an abstraction based on the social relationship of value (from which its form, exchange value, and all other economic-political elements criticized by Marx and his followers unfold); and since, for Knox, this occurs, racialization becomes an imperative of capital, as it dismantles “previous modes of human existence” and their unique hierarchies (KNOX, 2024, p. 07)."

Thus, the transformative and expansive nature of capital tends toward a continuous process of original accumulation that depends, unequivocally, on processes

¹⁰ This investigation, whose initial methodological notes can be found in Pazello (2014; 2016b), consolidates a cycle of approaches between Marxist critiques of law and dependency, which we believe resonates with research that engages in dialogue with it, even while offering their own contributions, such as those by Cozero (2021), Uchimura (2023), or Bittencourt (2023).



of racialization, renewed hierarchies without which the foundation of value's abstract character cannot be firmly established. In this way, "the expansion of capitalism was accompanied by forms of violence and dispossession, through which territory could be accumulated and managed" and ultimately, "these processes appear as processes of racialization" (KNOX, 2024, p. 07). Furthermore, let us reiterate, Knox draws his most interesting conclusions by bringing Marxism – from Marx, Engels, Lenin, Rosa Luxemburg, or Pashukanis — into dialogue with what we might call Black Marxism, with references, in the specific case of the text under our discussion, to Frantz Fanon, Kwame Nkrumah, Eric Williams, William Du Bois, and Walter Rodney.

The bridge we see possible to establish with the debate on insurgent law lies in the fact that the basis for conceiving such a legal critique is the notion of a dependent legal relationship, whose meaning arises from the interaction of Marx's theory of value, Pashukanis's theory of the legal form (but in non-conflictual dialogue with Stuchka), and the so-called Marxist theory of dependency, drawing primarily from Ruy Mauro Marini but also from Vânia Bambirra, Theotonio dos Santos, Jaime Osorio, or André Gunder Frank – the latter referenced by Knox. The category of the dependent legal relationship, which Pazello has been attempting to consolidate, finds its significance as a social relationship that guarantees commodity circulation between legal subjects, presupposing the demands of dependent capitalism: the transfer of value, overexploitation of labor, and division of the capital cycle (cf. MARINI, 2022a). To put it simply, the dependent legal relationship is that which ensures these processes of value transfer, overexploitation, and division. Therefore, it is a development of the Marxist reading of law and dependency. We believe, in this sense, that it is analogous, albeit not exclusively, to the process of racialization to which Knox devotes his attention.

That said, the operation is not solely analogous. Two reasons encourage us to view the situation as such: on one hand, the potential dialogue with Marini, through a direct citation of Pashukanis that Knox mobilizes; on the other hand, the sole instance in which Marini explicitly mentions the legal phenomenon in his classic essay *Dialectics of Dependency*.¹¹ Let us examine this further.

Utilizing the Pashukanian thesis, Knox (2024, p. 10) agrees that "commodity exchange, and with it the legal form, becomes universal". This universalization is a

¹¹ The text was recently translated into English, fifty years after its first edition (MARINI, 2022b).



hallmark of capitalism, which does not thrive without the legal relations that guarantee the commodification of social life. As a sort of derivation from this, Knox aligns with theoretical developments that find parallels in other aspects of social life. For instance, citing Pashukanis, “at the international level, ‘[s]overeign states co-exist and are counterposed to one another in exactly the same way as are individual property owners with equal rights’” (KNOX, 2024, p. 10). In reality, Knox provides a mediated reading of Pashukanis, influenced by Marxist critiques of international law, notably that of China Miéville. In our view, there is an undeniable possibility of dialogue with the starting point for the definition of dependency proposed by Marini, namely, “as a relation of subordination between formally independent nations, within which the relations of production of the subordinated nations are modified or recreated to ensure the extended reproduction of dependency” (MARINI, 2022, p. 171). Thus, the formal independence of nations, as Marini explains, parallels the state sovereignty described by Pashukanis, establishing a connection between subordinated production relations and the equivalence of individual private property holders. In the Pashukanian case, the individualized property logic replicates itself at the state level; in Marini’s case, there is an extended reproduction of dependency within the framework of economic relations between states. We believe this constitutes a basis for a dialogue between Pashukanis and Marini that becomes visible in Knox’s work, even if he is unaware of it, as the issues he addresses are the same.

Marini, for his part, reveals the condition of overexploitation of the working class under dependent capitalism, thus highlighting the legal problem in the context of the transition from enslaved to wage labor:

the creation of this [free labor] market, with the abolition of slavery in 1888, culminating a series of gradual measures in this direction (such as the guarantee of freedom for the children of slaves, etc.), constitutes one of the most interesting phenomena; on the one hand, it was defined as an extremely radical measure, one that liquidated the foundations of imperial society (the monarchy would survive the 1888 law by just over a year) and even denied any form of indemnity to former slave owners; on the other hand, it sought to mitigate the impact of its effect through measures aimed at tying the worker to the land (the inclusion of an article in the civil code binding debts to the person; the “barracão” [warehouse] system, a true monopoly on the trade of consumer goods exercised by the landowner within the farm, etc.) and by granting generous credits to the affected landowners’ (MARINI, 2022, p. 191-192 – emphasis added).



Therefore, the emergence of a specific form of dependent Latin American capitalism, beginning with the Brazilian case, entails understanding not only the formal rupture with slavery but also the continuity of the process of racialization. Thus, with robust foundations rooted in Marini's Marxist critique of dependency, Knox's diagnosis makes complete sense when he states that "racialisation is not simply connected to the legal form, but rather was crucial to its very formation beyond scattered exchange" (KNOX, 2024, p. 11).

In other words, we witness a genuine racialization of the legal phenomenon or, from another perspective, a juridification of racialization processes. Knox himself elucidates this interpenetration: "this process of racialisation was a thoroughly juridified one, made effective through international legal structures" (KNOX, 2024, p. 12). Thus, the establishment of a free labor market (or, equivalently in this case, the market of free labor) resulted in the abolition of slavery but also in the creation of a trend toward full legal subjectivity marked by the condition of overexploitation, which guaranteed both the emancipation of previously enslaved individuals and the compensation of former owners for their "losses" in terms of no longer being socially and legally unequal to the enslaved Brazilians. Therefore, the dependent legal relationship guarantees the free circulation of commodities through the transfer of values from the periphery to the center, between free and equal legal subjects, including the overexploited legal subject who is deemed equal to his (hyper)exploiter.

It is true that all these theoretical flashes demand further development. From our side, we claim the essay on the dependent legal relationship by Pazello (2024d) as an example at the theoretical-abstract level. Another attempt is Uchimura's doctoral thesis (2022; 2023), which aims to outline the shape, among other things, of a legal form of community dissolution based on a case involving the rupture of a tailings dam owned by transnational mining companies operating in Brazil. Also drawing on Pashukanian insights beyond revolutionary Russia in the early 20th century, Uchimura depicts the peculiar form of legal subjectivity within the mud that destroyed parts of the Gesteira community in 2015, projecting an understanding of insurgent practices by popular movements on one hand and, on the other, a critique of legal reparations that serve to ensure the fictitious convertibility of destroyed space into pecuniary values or credit titles.



From Knox's side, we read in his text the acknowledgment of the need to deepen Pashukanis's indication: "Pashukanis' account of the generalisation of the legal form was not simply about the mechanical extension of commodity exchange. Instead, he argued that capitalism represented a *qualitative* transformation" (KNOX, 2024, p. 11). Knox, who urges a more profound exploration, centers the issue on the role that international law plays in creating racialization processes. Given the alignment of racialization and juridification, an entire evaluation emerges of how "international law has played a vital role in racialising the peripheries of capitalism, opening them up for the penetration of European capital, structuring their relationship to imperialism and providing rationales for military interventions in order to secure this" (KNOX, 2014, p. 272), as he states in his doctoral thesis.

With these issues raised, we may say that, until now, the parallels observed between value/law (theory)/dependency relations and value/(international) law/racism have revealed the "insidious forms" of capital, following its original accumulation, formal and real subsumption of labor to capital, ongoing original accumulation, expanded capital reproduction... For Knox, the shift from colonialism to neocolonialism does not conclude the experience of racism and – we would add – the transition from subjugated territories to independent nations does not resolve the problem of dependency. On the contrary, we face new forms of violence, now re-con-formed.

One of the limitations of Knox's text is his failure to demonstrate more concretely how juridified racialization processes operate beyond the colonial period. The strength of the argument would undoubtedly benefit from a greater degree of historical specificity. Nevertheless, Knox's thesis remains convincing, to which we would add that, in the case of Latin America, the neocolonial and dependent *normalization* follows the same steps as the *juridification* of labor force exploitation – initially legalized through slavery and servitude, later evolving into a global coexistence between exploitation and overexploitation of the working class. Thus, we encounter what we consider another – and perhaps the most important – convergence between us: "such a situation [neocolonialism] was not one in which racism disappeared but rather changed into more insidious forms" (KNOX, 2024, p. 13). Just as the dependent legal relationship, juridified racialization relations are these insidious forms in response to which Knox mobilizes Kwame Nkrumah's (1973, p. 172) critique: "neocolonialism is the granting of political



independence minus economic independence, that is to say, independence that makes a State politically free but dependent upon the colonial power economically”.

As a result, Knox’s argument reveals at least one more theme – which, for us, will be the final one in the context of this dialogue – that unfolds from the intersection of value, law, dependency, and racialization. We refer here to Knox’s proposition of what to do, a strategy he defines around the expression *principled opportunism*. Let us, then, turn to the workshop that this construction conceals, a place where work is carried out and which our keys, in uncovering it, are able to unlock. As Telésforo (2024, p. 4) suggests, this is the primary element of connection to insurgent law in its distinction, within the Latin American context, from critical legal theories in general and the Marxist critique of law in particular – that is, the “tactical use of law”.

2.4. “Legal tactics need to be subordinated to the broader strategic goal of contesting capitalist social relations...”: the insurgent approach to a tactical use of law

Knox follows a fascinating path in his Pashukanian critique of law, leading him to assert the possibility of legal tactics within a broader theoretical framework that distinguishes them from more explicitly strategic dimensions in confronting capitalism. This approach, in fact, diverges from the more widespread recovery of Pashukanis within legal critique, as his overwhelming critique usually leaves little room for the use of law, according to his most widely recognized interpreters.

For Robert Knox, “Pashukanis – as a committed fairly orthodox Communist Party member – held to a Leninist understanding of imperialism”. Thus, a Leninist Pashukanis emerges from his reading as he refers to the practices of racialization within international law, which is situated within “imperialism as structured by a racialised international division of labour” (KNOX, 2024, p. 10). For our approach, this means it is sensible to recover Lenin’s presence in Pashukanis’s work, which, incidentally, appears in one of the essays published in the first volume of our dossier dedicated to the centenary of *The General Theory of Law and Marxism* (PAZELLO, 2024c).

Deploying the previously mentioned notions of strategy and tactics, Knox gestures toward the horizon of struggle that characterizes Marxists and that cannot be distant from Marxist jurists, even those following Pashukanis, given that their praxis comprises both critical theory and revolutionary practice in various mediations (within



which popular resistance and revolt are felt, among other transformative processes, beyond revolution as an apothecotic event, though it remains necessary).

The translation we propose of this concept completes the argumentative thread of our dialogic alignment with Knox: insurgent law arises from a structuring critique of law but also assumes its political uses, given the compulsory nature of the legal under capitalism. We understand that Knox's reflection on strategy and tactics leads us to the final outline of an insurgent legal critique.

It is interesting to note the treatment that the British jurist gives to this issue, creating a link between his earlier texts (KNOX, 2010; 2011; 2014) and the more recent one that is the focus of our interest. Although we are unable to delve deeply into his arguments here, it is intriguing to observe his critique of two recurring extremes within critical legal studies that relate to the problem of the relationship between strategy and law: on one side, liberal legalism, and on the other, legal nihilism. This critique is reaffirmed and, in one way or another, resolved through the understanding that strategy pertains to ultimate political goals, while tactics concern the flexibility of means to achieve them. Thus, applied to the problem of the relationship between capitalism, international law, and racism, "legal tactics need to [be] subordinated to the wider strategic goal of contesting the *capitalist social relations* that generate processes of racialisation" (KNOX, 2024, p. 15).

We emphasize that our effort toward elaborating on an insurgent law follows the same path (PAZELLO; FERREIRA, 2017) and has tended to be clarified, supported by some examples, essentially reinforcing the same argument (PAZELLO, 2022). In this case, we extend our dialogue by considering two of its concluding elements.

First, just as an uncompromising critique of the legal form is a constitutive dimension of insurgent law – in the most established interpretation of Pashukanis's legacy –, in Knox's work, this issue is underscored by the limits of law on a strategic level, particularly when applied to the anti-racist struggle. Hence, "anti-racist struggles, therefore, must be understood as part of a wider set of struggle[s]. In leveraging the law, we must focus not on law for its own sake, but rather on how it can aid and strengthen those social forces best able to contest capitalist social relations". The corollary of Knox's proposal is sufficiently incisive to justify reproducing his view: "crucially, this must be pursued as openly subordinated to the political struggle against



racism, since to appeal to the law on its own terms is ultimately to appeal to those very terms that produce racism in the first place” (KNOX, 2024, p. 16).

The second element concerns the tactical dimension, which, in line with our formulation of insurgent law, implies the unavoidable tactical use of law. Knox rightly conceives this issue as an explicit subordination of legal tactics to the strategic struggle against racism, one of the manifestations of capital, and encapsulates this understanding in the term “principled opportunism”. Quite interestingly, in prior debates – notably in a controversy with legal scholar Bill Bowring – Knox (2011, p. 38-39) defines the limits of this issue as follows: “there is a world of difference between taking advantage of legal opportunities that arise in the course of social struggles and framing those social struggles in terms of rights”. At the end of his response to his colleague, Knox summarizes the issue: “the more immediate ‘tactical’ issues of legal struggle are not determined by the logic of the legal field, but rather through collective political deliberation, framed by theoretical, strategic and political perspectives” (KNOX, 2011, p. 45).

Thus, the idea of “principled opportunism” is justified as an expression that allows us to avoid both analytical moralism and the logic of coherence in the use of law, a notion embedded in the legal worldview (STUTCHKA, 2023, p. 83), even undermining the most valorous critical jurists, such as popular legal advocates in their essential actions on the legal battlefronts, in an insurgent praxis (also theoretical). To avoid any ambiguities: coherence must be upheld, but, as Knox would say, it is not the legal field that defines it; rather, it is the political struggle of popular movements with which jurists align themselves.

What is thus revealed to us is that, as we navigate the closed structure – as it is presented to us – of the various social forms of capital, we discover that the keys capable of unlocking them are produced in an industry situated on the high seas. The frank dialogue with Robert Knox allowed us to board this industrial vessel, forging its tools along the route that crosses the Atlantic. The endeavor surrounding a tactical use of law also grants access to the ship’s engine room. And with this access, a true transatlantic Pashukanis emerges.



Transatlantic considerations

In this article, on the occasion of the 100th anniversary of *The General Theory of Law and Marxism*, we sought to open potential South-North dialogues on the interrelation between dependency and imperialism, racialization processes, and insurgent law in conversation with Robert Knox. We situated the text *International Law, Race, and Marxism: An Outline of the Commodity-Form Approach*, published in this second volume of the *Pashukanis, Insurgencies, and Praxis* dossier, within the panorama of the presence of Pashukanian formulations in Knox's theoretical work. In the text, we encounter an arsenal of possible transatlantic convergences toward the emergence of a Marxist-Pashukanian critique that is geopolitically grounded and non-nihilist or abstentionist regarding law and the tactical uses that can be made of it.

This approach allowed us to frame categorical developments within a set of dialogues, whose outcome can be translated into the notion of insurgent law, enriched by insights that have not yet been fully developed in this formulation. The final section of our exposition focused on the tactical uses of law, consistent with the path in which Marxism interacted with dependency and racialization processes and ultimately intertwined them with the legal form and relations. Clearly, Pashukanis served as the guiding mediator, supporting, in one way or another, the dialogical foundations we dared to construct with Knox's text.

The exercise conducted here results in the understanding that, a hundred years after the first edition of *The General Theory of Law and Marxism*, the Pashukanis emerging from these transatlantic dialogues is different from the purely theoretical figure we are accustomed to encountering. A dialogical Pashukanis, anti-imperialist, racialized, critical of dependency, and advocating a tactical-political use of law – whose historical and practical example is found in this study – joins the renowned advocate of value theory, the expositor of the highest abstraction of the legal form, and the revered proponent of revolutionary Marxism, who was sidelined by the Soviet deviations. A different Pashukanis, then, is one who – like us and Knox – converges urgently and emergently toward insurgent law.



Tradução

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