

Dictatorship of the proletariat and bourgeois legal forms: From Marx (1875) to the Cultural Revolution in China (1975)

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Abstract

Karl Marx's 1875 *Critique of the Gotha Programme* is a major contribution to his theory of socialist tactics, socialist revolution and the strategy towards a classless communist society. In this text, Marx addresses the issue of capitalist legal forms that inevitably persist during the initial phase of a socialist regime, which he conceptualises as a dictatorship of the proletariat over the capitalist class. Although class conflict between the working class and bourgeoisie during the dictatorship of the proletariat was a key issue in V.I. Lenin's texts after the October 1917 Revolution, and the issue of the withering away of (bourgeois) right was a key topic of discussion among Soviet jurists in the 1920s, these questions were disregarded from the 1930s onwards, and did not resurface until the Chinese Cultural Revolution after 1966. This paper emphasises the importance of addressing the issue of capitalist legal forms in a socialist society as a prerequisite for examining class conflicts and socioeconomic transformations in socialist countries.

Key words: Karl Marx; Gotha Programme; V.I. Lenin; dictatorship of the proletariat; bourgeois right; Cultural Revolution.

1. Introduction

In 1875, the Congress of the Socialist Workers' Party of Germany (Sozialistische Arbeiterpartei Deutschlands - SAP) took place in the city of Gotha, Thuringia, in the then newly established German Empire. Karl Marx wrote a text of critical remarks to the positions of the Congress ('Marginal Notes on the Programme of the German Workers' Party'), which he addressed to party officials. The text was published by Engels in 1891 along with a Foreword and Marx's May 5, 1875, letter to W. Bracke, under the title *Critique of the Gotha Programme* (Marx 1989). In this text, Marx criticises both the tactics and strategy of the SAP. In this context he refers to the dictatorship of the proletariat, the class power of the working class after the overthrow of capitalism

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(the dictatorship of capital) and points to the bourgeois forms of right that will necessarily survive during the first phase of the new social power.

After the Russian October Revolution, Lenin described the dictatorship of the proletariat as the democracy of the broader masses, which is ‘a *million times* more democratic than any bourgeois democracy’ (November 1918, *The Proletarian Revolution and the Renegade Kautsky*) and at the same time as the ‘most relentless war of the new class against a *more powerful enemy*, against the bourgeoisie’ (May 1920: *‘Left-Wing’ Communism: an Infantile Disorder*).

During the 1920s, the issue of law and right became a matter of dispute among jurists in the newly established Soviet Republic. Evgeny Pashukanis’s book *The General Theory of Law and Marxism*, originally published in 1924, set the theoretical stage. In it, Pashukanis argued that law and the state are forms of bourgeois society that reflect the value and commodity forms. Therefore, they are bound to wither away during the transition to communism.

The withering away of the categories (but not the injunctions) of bourgeois law does not signify their replacement by new categories of proletarian law. Similarly, the withering away of the categories of value, capital, profit etc. during the transition to socialism, will not mean the appearance of new proletarian categories of value, capital, rent etc. (Pashukanis 1980: 46).

However, Pashukanis’s theory was politically defeated in the 1930s when the new Soviet orthodoxy declared the need for a ‘socialist right’ to consolidate the working class’s power. Pashukanis himself was defamed and eliminated.

A hundred years after Marx’s critique of the Gotha Programme, the questions about capitalist legal forms (bourgeois right) in socialism were again in the foreground with the Chinese Cultural Revolution, which focused on the capitalistsocial forms and practices that survive under socialism, and constitute the ground for the formation of a new type of bourgeoisie, fighting for the overthrow of socialism, and for the restoration of the dictatorship of the bourgeoisie.

2. The Constitution of the German Empire in 1875

In 1875, when the ‘Socialist Congress’ was convened, which unified the two major German socialist groups of the time into the SAP, the German Empire was only in its fifth year of existence. It was founded on January 18, 1871, in the Hall of Mirrors of the Palace of Versailles, after the Franco-Prussian War of 1870-71. This was preceded by the Second Schleswig War of 1864 (during which Prussia seized the duchies of Schleswig and Holstein from Denmark) and the Austro-Prussian War

of 1866, which had paved the way for the eventual unification of the German states (except Austria) under Prussia.

The status of the Empire can be described as a federal semi-constitutional monarchy. The main institutions were the Emperor, the Chancellor and two legislative bodies, the Reichstag (Imperial Parliament) and the Bundesrat (Federal Council).

The Constitution of 1871, in the drafting of which the first Chancellor, Otto von Bismarck, played a decisive role, granted the Emperor authorities over executive power and foreign policy. The emperor could also appoint the Chancellor without parliamentary approval. The constitution also established the emperor as the 'supreme head of the armed forces'.

The Chancellor (in this case Bismarck) derived his power from the Emperor's favour. As head of government, he conducted foreign policy and introduced laws that shaped social and economic policy.

The Reichstag, elected by universal adult male suffrage, had limited legislative power. Although it could approve or reject draft laws and budgets, it could not dismiss the Chancellor or directly control the executive. It could not propose draft laws or call the government to account through votes of no confidence. Ministers, like the Chancellor, were accountable only to the Emperor, not to parliament.

The Bundesrat represented the 25 German states and had veto power over legislation. Prussia, of which Bismarck was also Chancellor, dominated this body, holding 17 of the 58 seats in the Council, while only 14 negative votes were enough to reject any proposal for constitutional reform.

3. The immediate and strategic objectives of the Gotha Programme:

An unachievable and hypocritical programme to reform the existing political and social order

The SAP Programme adopted a contradictory and theoretically flimsy discourse, reflecting both a rather outdated bourgeois reformism, already obsolete at the time it was formulated, and a confused conception of socialism and revolutionary strategy. On both levels, i.e., on that of tactics or immediate reform claims, as well as on that of strategy, with regard to the establishment of a socialist regime, Marx's critique was relentless.

In terms of immediate demands and tactics, the Gotha Programme called for universal suffrage and the transfer of some of the emperor's powers to parliament, such as the right to appoint the Chancellor and the establishment of universal public education. As Marx notes:

Its political demands contain nothing beyond the old democratic litany familiar to all: universal suffrage, direct legislation, popular rights, a people's militia, etc. [...]. They are all demands which, insofar as they are not exaggerated in fantastic presentation, have already been implemented. Only the state to which they belong does not lie within the borders of the German Empire, but in Switzerland, the United States, etc. This sort of 'state of the future' is a present-day state, although existing outside the 'framework' of the German Empire (Marx 1989: 95).

The crucial point here is that in order to claim these political goals, the prerequisite was the abolition of the authoritarian semi-absolutist monarchical regime of the German Empire, and its replacement with a democratic republic! Marx writes:

But one thing has been forgotten. Since the German workers' party expressly declares that it acts within 'the present-day national state', hence within its own state, the Prusso-German Empire [...] it should not have forgotten the chief thing, namely that all those pretty little gewgaws rest on the recognition of what is called sovereignty of the people and hence are appropriate only in a democratic republic. Since one has not the courage [...] to demand the democratic republic, as the French workers' programmes under Louis Philippe and under Louis Napoleon did, one should not have resorted to the subterfuge, neither 'honest' nor decent, of demanding things which have meaning only in a democratic republic from a state which is nothing but a police-guarded military despotism, embellished with parliamentary forms [...] (ibid.: 95-96).

The programme of reforms adopted by the SAP was therefore hypocritical, Marx argues, since it did not adopt the objective of constitutional and parliamentary changes, which would have aimed at the imposition of a republican parliamentary regime on the model of the USA or Switzerland of the time, or at least of a reigning parliamentary democracy based on the principle of declared confidence of Parliament, e.g., on the model of that established in Greece in 1875, at the same time as the Gotha Programme.

But also at the level of the strategy for the transition to socialism-communism, the positions of the Gotha Programme are characterised by a corresponding theoretical confusion in the context of an inexpensive alleged reformism. The strategy of social transformation was described as a 'solution to the social question', while the means for this 'solution' was the 'state aid' in order that 'producers' co-operative societies [...] be called into being for industry and agriculture on such a scale that the socialist organisation of the total labour will arise from them' (quoted in Marx 1989: 93).

Marx's critique of the Gotha Program provides an analysis of the necessity of overthrowing the capitalist state in order to establish socialism. It also discusses the path to communism and the contradictions it contains. Marx's analysis begins with the idea that class struggle is paramount, a concept absent from the Gotha Programme.

In place of the existing class struggle appears a newspaper scribbler's phrase: 'the social question', for the 'solution' of which one 'paves the way'. Instead of arising from the revolutionary process of the transformation of society, the 'socialist organisation of the total labour' 'arises' from the 'state aid' that the state gives to the producers' co-operative societies which the state not the worker, 'calls into being'. [...] That the workers desire to establish the conditions for co-operative production on a social scale, and first of all on a national scale, in their own country, only means that they are working to transform the present conditions of production, and it has nothing in common with the foundation of co-operative societies with state aid! (Marx 1989: 93-94).

Socialism can only emerge from the revolutionary struggle of the working class itself to overthrow capitalist power. Marx recalls the position of the *Manifesto*, which was supposedly accepted by the German socialists of the time:

the proletariat is revolutionary in relation to the bourgeoisie because, having itself grown up on the basis of large-scale industry, it strives to strip off from production the capitalist character that the bourgeoisie seeks to perpetuate. But the Manifesto adds that the 'middle estates' are becoming revolutionary 'in view of their impending transfer into the proletariat' (ibid.: 89).

As Marx points out, this means that, although 'the "working people" in Germany consist in their majority of peasants, and not of proletarians' (ibid.: 93), the proletariat has the potential to lead a revolutionary process that will rally the majority of the working classes to overthrow capitalism.

4. The bourgeois state as instrument of the dictatorship of the bourgeoisie

Despite the differences between the constitutional forms prevailing in the different capitalist countries, the bourgeois state is in all cases the political embodiment of capitalist domination, a structural element of capitalist power relations. Writes Marx in his *Critique of the Gotha Programme*:

‘Present-day society’ is capitalist society, which exists in all civilised countries, more or less free from medieval admixture, more or less modified by the particular historical development of each country, more or less developed. [...] Nevertheless, the different states of the different civilised countries, in spite of their motley diversity of form, all have this in common that they are based on modern bourgeois society, more or less capitalistically developed. They have, therefore, also certain essential characteristics in common. In this sense it is possible to speak of the ‘present-day state’, in contrast with the future, in which its present root, bourgeois society, will have died off (ibid.: 94-95).

As early as the 1850s, Marx had coined the notion of the dictatorship of the proletariat² and explained: the working class cannot occupy the capitalist state for its own purposes. To overthrow the power of capital and the class dictatorship of the bourgeoisie, the working class must crush the bourgeois state and transform it into a transitional state-non-state: a state of workers’ political and class power. This state facilitates the dictatorship of the proletariat, whose strategic goal is communism – the abolition of all class power and, therefore, the state itself. In December 1872, Marx wrote, ironising Proudhon:

If the political struggle of the working class assumes violent forms and if the workers replace the dictatorship of the bourgeois class with their own revolutionary dictatorship, then they are guilty of the terrible crime of *lèse-principe*; for, in order to satisfy their miserable profane daily needs and to crush the resistance of the bourgeois class, they, instead of laying down their arms and abolishing the state, give to the state a revolutionary and transitory form (Marx 1873).

Marx makes a similar point in the *Critique of the Gotha Programme* when he stresses the transitional character of the revolutionary proletarian state during the dictatorship of the proletariat:

Between capitalist and communist society lies the period of the revolutionary transformation of the one into the other. Corresponding to this is also a political transition period in which the state can be nothing but the revolutionary dictatorship of the proletariat (Marx 1989: 95).

A socialist revolution will replace the dictatorship of the bourgeoisie with the dictatorship of the proletariat. The former constitutes the class power of capital, regardless of the bourgeois state’s democratic or autocratic form, or the legal forms of ownership of individual capitalist enterprises, the size of the public sector, or the scope of ‘social policies’, etc. As Louis Althusser pointed out,

² In a letter to Joseph Weydemeyer dated March 5, 1852, Marx wrote: ‘this dictatorship itself only constitutes the transition to the abolition of all classes and to a classless society’ (Marx 2010: 65).

The distinction between the public and the private is a distinction internal to bourgeois law, and valid in the (subordinate) domains in which bourgeoisie law exercises its 'authority' [...]: the State, which is the State of the ruling class, is neither 'public' nor 'private'; on the contrary, it is the precondition for any distinction between public and private (Althusser 1984: 84).

Althusser practically follows Marx's reasoning, who wrote in the *Critique of the Gotha Programme*, that 'any distribution whatever of the means of consumption is only a consequence of the distribution of the conditions of production themselves [...] a feature of the mode of production itself' (Marx 1989: 87), so too 'right can never be higher than the economic structure of society and its cultural development which this determines' (ibid.). Socialism is not an expansion of the public sector; it is a new class power: the dictatorship of the proletariat. Similarly, capitalism – the dictatorship of the bourgeoisie – does not contain a 'socialist' (public) sector; the state is always the state of the ruling class.

5. The survival of bourgeois principles in the dictatorship of the proletariat and class conflict

As is obvious, Marx's concept of the 'dictatorship of the proletariat' does not primarily refer to political or constitutional forms. In other words, it does not refer to political dictatorship as an alternative to bourgeois or proletarian democracy. Rather, it addresses the issue of class domination and the violence that a ruling class inflicts on the dominated classes in a given mode of production. As Louis Althusser pointed out in 1976, Marx

took a word from the language of politics: *dictatorship*. He took a word from the language of socialism: *proletariat*. And he forced them to co-exist in an explosive formulation (dictatorship of the proletariat) in order to express with an unprecedented concept the necessity of an unprecedented reality. [...] Marx – we must recognise – broke open the word 'dictatorship'. He changed its meaning, but in order to make use of his meaning for it (Althusser 2015: 160).

However, in relation to his earlier writings, Marx poses an additional question in the *Critique of the Gotha Programme*: During the period of the dictatorship of the proletariat 'what social functions will remain in existence there that are analogous to present state functions?' (Marx 1989: 95). The answer is that, since the socialist society of the dictatorship of the proletariat emerges from capitalist society, the principles of exchange of equivalents and equal rights – from which discrimination and inequalities stem – are preserved:

the individual producer receives back from society [...] exactly what he gives to it. [...] Content and form are changed, because under the altered circumstances no one can give anything except his labour, and because, on the other hand, nothing can pass to the ownership of individuals except individual means of consumption. But, as far as the distribution of the latter among the individual producers is concerned, the same principle prevails as in the exchange of commodity-equivalents [...]. Hence, equal right here is still in principle bourgeois right [...]. In spite of this advance, this equal right is still constantly encumbered by a bourgeois limitation (Marx 1989: 86).

Marx attributes the inequalities reproduced by bourgeois right to the different capacities of individuals in socialist society:

But one man is superior to another physically or mentally and so supplies more labour in the same time [...]. This equal right is an unequal right for unequal labour. [...]. Besides, one worker is married, another not; one has more children than another, etc., etc. [...]. To avoid all these defects, right would have to be unequal rather than equal (ibid.: 88-89).

He then asserts that

In a higher phase of communist society, after the enslaving subordination of the individual to the division of labour, and thereby also the antithesis between mental and physical labour, has vanished; [...] only then can the narrow horizon of bourgeois right be crossed in its entirety and society inscribe on its banners: From each according to his abilities, to each according to his needs! (ibid.: 87).

However, since the differences to which Marx refers are physical, mental, familial, and so on, and therefore have no class content, the question arises, against whom does the working class exercise its *dictatorship*? Which *class relations* are being gradually eliminated on the way to a classless communist society, along with the abolition of the antithesis between mental and manual labour, etc.?

Marx does not provide any answer to this question. We find the continuation of the thread in Lenin's work, based on the experiences of the Russian socialist revolution and the early years of the dictatorship of the proletariat in Soviet Russia. In 1920, in '*Left-Wing*' *Communism: an Infantile Disorder*, Lenin wrote:

The dictatorship of the proletariat means a most determined and most ruthless war waged by the new class against a more powerful enemy, the bourgeoisie, whose resistance is increased tenfold by their overthrow (even if only in a single country), and whose power lies, not only in the strength of international capital, the strength and durability of their international connections, but also in the force of habit, in the strength of small-scale production. Unfortunately, small-scale production is still widespread in the world, and small-scale production engenders capitalism and the bourgeoisie continuously, daily, hourly, spontaneously, and on a mass scale. All these reasons make the dictatorship of the proletariat necessary, and victory over the bourgeoisie is impossible without a long, stubborn and desperate life-and-death struggle which calls for tenacity, discipline, and a single and inflexible will (Lenin 1966: 23-24).

Lenin thus argues that even after the socialist revolution the main class conflict is still between the bourgeoisie and the proletariat, a conflict that takes new, different, forms after the revolution, as the proletariat is now in power. But it is a conflict of life and death, as the resistance of the bourgeoisie ‘*increases tenfold*’ after the overthrow of capitalist rule. In another work of the same year (1920) Lenin points out the following:

Dictatorship is a big, harsh and bloody word, one which expresses a relentless life-and-death struggle between two classes, two worlds, two historical epochs. Such words must not be uttered frivolously (Lenin 1965: 355).

Lenin locates the existence and resistance of the bourgeoisie on two levels: on the one hand, in the small-scale production that has not been brought under the control of the revolutionary state of the dictatorship of the proletariat, and on the other hand, on the level of ideology and the superstructure in general, where the conflict of two worlds or two epochs of world history is expressed.

We could ask whether small-scale production and ideological clashes with the ideas and practices of the ‘old world’ support the idea that the dictatorship of the proletariat is a ‘relentless life-and-death struggle between two classes’. In any case, a few years after Lenin formulated these views, the Soviet leadership argued that class exploitation had disappeared from the USSR. Therefore, there was no class struggle for power and no possibility of a return to a bourgeois dictatorship.

Characteristically, in November 1936, in his introduction to the new Draft Constitution of the USSR, J.V. Stalin argued:

The landlord class, as you know, had already been eliminated as a result of the victorious conclusion of the civil war. As for the other exploiting classes, they have shared the fate of the landlord class. The capitalist class in the sphere of industry has ceased to exist. The kulak class in the sphere of agriculture has ceased to exist. And the merchants and profiteers in the sphere of trade have ceased to exist. Thus all the exploiting classes have been eliminated. There remains the working class. There remains the peasant class. There remains the intelligentsia. [...] Consequently, our working class, far from being bereft of the instruments and means of production, on the contrary, possess them jointly with the whole people. [...] As you see, the working class of the U.S.S.R. is an entirely new working class, a working class emancipated from exploitation, the like of which the history of mankind has never known before (Stalin 1952: 106-108).

The discussion of class conflict during the dictatorship of the proletariat resurfaced with the outbreak of the Cultural Revolution in China in the mid-1960s. The Great Proletarian Cultural Revolution, as it was called, was characterised by the popular masses' broad and direct intervention in politics to combat the new forms in which the bourgeoisie appears and fights for the conquest of power during the period of the dictatorship of the proletariat. The basic idea is that the bourgeoisie reappears in the fundamental structures of the state and economy during the dictatorship of the proletariat, such as in the Communist Party, enterprises, and ministries, in order to gain ownership of the means of production despite the existence of state legal forms of 'ownership by the people'. The dictatorship of the proletariat was interpreted as a struggle between two paths: communism and capitalism. The Cultural Revolution divided the Chinese Communist Party and Chinese society as a whole. It was finally defeated in 1976, shortly after Mao Zedong's death.

In 1975, a hundred years after Marx wrote his *Critique of the Gotha Program*, Yao Wenyan (1931-2005), who was then a member of the Political Bureau of the Central Committee of the Communist Party of China, picked up the thread again from Marx's thesis on the survival of bourgeois right under the dictatorship of the proletariat in a pamphlet entitled *On the Social Basis of the Lin Biao Anti-Party Clique*. He wrote:

The analyses made by Lenin and Chairman Mao tell us that bourgeois right which inevitably exists as regards distribution and exchange under the socialist system should be restricted under the dictatorship of the proletariat, so that in the long course of the socialist revolution the three major differences between workers and peasants, between town and country and between manual and mental labour will gradually be narrowed [...]. If we do not follow this course, but call instead for the consolidation, extension and strengthening of bourgeois right and that part of inequality it entails, the inevitable result will be polarization, i.e., a small number of people will in the course of distribution acquire increasing

amounts of commodities and money through certain legal channels and numerous illegal ones; capitalist ideas of amassing fortunes and craving for personal fame and gain, stimulated by such ‘material incentives’, will spread unchecked; such phenomena as turning public property into private property, speculation, graft and corruption, theft and bribery will rise; the capitalist principle of the exchange of commodities will make its way into political life and even into Party life, undermine the socialist planned economy and give rise to such acts of capitalist exploitation as the conversion of commodities and money into capital and labour power into a commodity; and there will be a change in the nature of the system of ownership in certain departments and units which follow the revisionist line; and instances of oppression and exploitation of the labouring people will once again occur. As a result, a small number of new bourgeois elements and upstarts who have totally betrayed the proletariat and the labouring people will emerge from among Party members, workers, well-to-do peasants and personnel in state organs. [...] When the economic strength of the bourgeoisie grows to a certain extent, its agents will ask for political rule, try to overthrow the dictatorship of the proletariat and the socialist system, completely change the socialist ownership, and openly restore and develop the capitalist system. Once in power, the new bourgeoisie will first of all carry out a bloody suppression of the people and restore capitalism in the superstructure, including all spheres of ideology and culture; then they will conduct distribution in proportion to the amount of capital and power each has, and the principle ‘to each according to his work’ will be nothing but an empty shell, and a handful of new bourgeois elements monopolizing the means of production will at the same time monopolize the power of distributing consumer goods and other products. Such is the process of restoration that has already taken place in the Soviet Union (Yao Wenyan 1975).

Fifty years after the publication of Yao’s text, the analysis contained in the above passage seems prophetic, not only with regard to the Soviet Union but also to China. And it leads to the conclusion that the strategic dilemma: ‘dictatorship of the bourgeoisie or dictatorship of the proletariat?’ remains active and inexorable both under the dictatorship of the bourgeoisie and under the dictatorship of the proletariat.³

³At this point, the following note is necessary: In the absence of a capital market in the USSR – a structural element of the capitalist mode of production – it remains unclear whether the Soviet regime, prior to the collapse of ‘actually existing socialism’, constituted a new exploitative mode of production or a ‘new form of capitalism’, as claimed by the Chinese leadership under Mao Zedong. See in detail Milios (2019).

Bibliography

- Althusser, Louis (1984), 'Reply to John Lewis', in *Essays on Ideology*, London, Verso: 61-139.
- Althusser, Louis (2015), 'Some Questions Concerning the Crisis of Marxist Theory and of the International Communist Movement', *Historical Materialism*, # 23.1: 152-178.
- Lenin, V.I. (1965), 'A Publicist's Notes', in *Lenin Collected Works [LCW]*, Vol. 30: 352-362.
- Lenin, V.I. (1966), '*Left-Wing*' Communism: an Infantile Disorder, in *LCW*, Moscow, Progress Publishers, Vol. 31: 17-118.
- Marx, Karl (1873), 'Political Indifferentism',
<https://www.marxists.org/archive/marx/works/1873/01/indifferentism.htm>
- Marx, Karl (1989), *Critique of the Gotha Programme*, in *Marx & Engels Collected Works [MECW]*, London, Lawrence & Wishart, Vol. 24: 75-99.
- Marx, Karl (2010), 'Marx to Joseph Weydemeyer. 5 March', in *MECW*, London, Lawrence & Wishart, Vol. 39: 60-66.
- Milios, John (2019), "'Socialist Planning" and Enterprise in the USSR, 1929–1989', lecture at the International Conference, 'Russian Revolution: Theoretical Approaches and Open Questions', University of Athens Law School, April 12-14: http://users.ntua.gr/jmilios/Milios_USSR-planning-enterprise.pdf
- Pashukanis, Evgeni (1980), *Selected Writings on Marxism and Law*, London, Academic Press.
- Stalin, J.V. (1952), 'On the Draft Constitution of the USSR, (25 November 1936)' in J.V. Stalin, *Works*, Vol. 14, Moscow, Foreign Languages Publishing House: 97-158.
- Yao Wen yuan (1975), *On the Social Basis of the Lin Piao Anti-Party Clique*,
<https://www.marxists.org/archive/yao-wen yuan/1975/0001.htm>