

# The Legacies of the Russian Revolution: Power, Equality, Right

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**Abstract:** The experience of the Russian Revolution between February and October 1917 compelled Lenin to confront the concept of power, not simply state power, but power understood as a set of power relation both internal and external to political and legal institutions. In the course of debates concerning revolutionary strategy, he identified a set of what he called “constitutional illusions:” that a parliamentary majority could decisively shift the balance of forces in society through legislative action, that the extension of legal right would insure that rights could be exercised in fact, that declarations of equal rights create real, effective equality even in the context of profoundly unequal extra-legal social and economic conditions. These debates led Lenin finally to draw a distinction between bourgeois and proletarian democracy and bourgeois and proletarian dictatorship, above all in his response to Karl Kautsky’s critique of the Russian Revolution and the soviet form as the direct democracy of the producers. Lenin’s materialist critique of constitutional illusions brings him very close to Spinoza’s discussions of right and power, particularly the notion that right is coextensive with power, that we only have the right to do what we have the ability to do. Regardless of the legal right of the sovereign, his right extends only as far as his power and his power, in any but a juridical sense, lies not in his person but in the multitude, without whose support or acquiescence he cannot rule. It is the multitude, rather than the presence or absence of any law, whose action determines whether his power increases or diminishes.

**Keywords:** democracy, dictatorship, equality, right, power

To identify the legacies of the October Revolution is not an easy task. What has survived the singularization required of what Lenin, repudiating the “empty abstractions” of none other than Georg Lukacs, called “the soul of Marxism:” the concrete analysis of the concrete situation?<sup>1</sup> Given what Lenin called the uniqueness and originality of the revolution, the immense accumulation of disparate factors whose encounter brought it into existence, what general truths and guiding principles could it have left to posterity? To make matters even more complicated, we must acknowledge the fact that the revolution ended in failure decades before the fall of the Soviet Union. But we can understand both its successes and failures (like its legacies, in the plural) only if we reject the teleological view according to which the consolidation of a bureaucracy that arose in opposition to the direct democracy of the producers was the

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<sup>1</sup> Lenin 1977d, p. 165.

inevitable and necessary outcome of the revolution, as if the success (and the specific form) of the counterrevolution was not as overdetermined as the revolution itself.

And perhaps it is here that the determination of its legacy must begin. For the idea that it was the revolution's destiny to give way (or birth) to a bureaucratic dictatorship is simply the inversion of Marx's equally teleological assertion "that Mankind thus inevitably sets itself only such tasks as it is able to solve, since closer examination will always show that the problem itself arises only when the material conditions for its solution are already present or at least in the course of formation."<sup>2</sup> Both the idea of the inevitability of socialist transformation and the notion of its impossibility work to deter us from the task of untangling the causal sequences whose concatenation determined both the event of the revolution and the event of the counterrevolution that brought the revolutionary process to an end. The accomplishment of this task alone, however, will reveal the theoretical and practical inheritance that the revolution has bequeathed to us.

In assessing precisely this history, Althusser asked us to "remember Lenin, who (be it said for all Popperian lovers of 'falsification') allotted to error a privileged role in the process of the rectification of knowledge, to the point where he conferred on it, with respect to scientific experiment and political practice, a kind of heuristic primacy over 'truth': how many times did he repeat that it is worse to blind yourself and keep silent about a defeat than to suffer it, that it is worse to close your eyes to an error than to commit it."<sup>3</sup> To follow Althusser and grant error a privileged place in the production of knowledge is to admit that the legacy of the Russian Revolution consists above all of the errors identified in the course of its struggle. The fact that some of these errors were, in whole or in part, corrected by Bolshevik leadership diminishes neither their importance nor the need to arrive at a comprehensive understanding of their causes and effects. Indeed, there are few, if any, of these errors that have not been repeated, including by those who could recite from memory the passages in Marx or Lenin in which the same error is denounced in phrases dripping with sarcasm. Among the most important of these, both for the success of the revolution, and for a series of disasters over the course of the century that followed, is a cluster of closely related errors to which Lenin gave the name "Constitutional Illusions" in a text published approximately midway between the February and October revolutions.<sup>4</sup>

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2 Marx 1976, p.4.

3 Althusser 1977, pp.8-9.

4 Lenin 1977d, p. 196.

The illusions that Lenin identified not only survived his critique, but flourished in its wake, as has been demonstrated in spectacular ways since 1917, from Germany in 1933 to Chile in 1973, and even, if in a less catastrophic way, Greece in 2015. But more importantly, this cluster of errors persists in and through the very modes of subjection that have so far sufficed to prevent, or in a few cases hasten the destruction of the revolutions outside of Russia that the emerging Communist movement in 1917-1918 believed were both imminent and absolutely necessary to the survival of soviet or popular power in Russia itself.

Lenin wrote "Constitutional Illusions" two weeks after the July Days (July 3-7, 1917) when, at the initiative of party rank and file and after some debate, the Bolsheviks participated in an armed demonstration of some half a million people in St. Petersburg, raising the slogan "all power to the soviets." The result was severe repression and the disarming of the city's working class. The temporary defeat led Lenin in the immediate aftermath of the events to produce a series of articles that, in certain respects, appear to be, and are, conjunctural interventions designed to correct, or help avoid, errors (e.g., his discussion of the need to specify the conditions under which it is appropriate to call for the transfer of governmental power to the soviets). These articles, however, also represent reflections on the ambiguities of the very notion of power and underscore the distinction between having and exercising power: as such, they have an enduring theoretical and political significance. In his pamphlet "On Slogans" (written approximately one week after the July Days), Lenin argues that the conflicts, both armed and unarmed, that erupted during the July Days represented a key moment in the revolutionary process that began in February, insofar as they revealed "where actual power lies," something normally, that is, in the everyday, normal operation of class societies, obscured by the systematic blurring of the distinction "between formal and real power."<sup>5</sup> Lenin called this systematic blurring or confusion, "Constitutional Illusions." He defined it as the political error that derives from a belief "in the existence of a normal, juridical, orderly and legalized—in short, "constitutional"—system, although it does not really exist."<sup>6</sup> Note that Lenin does not refer here to a belief in the persistence of the constitutional system after it has ceased to exist, which would imply that sometimes, even most of the time, such a system exists, although there may be times of crisis when it collapses or is destroyed. In such a case, the illusions would be temporary, a failure to see that the normal order has been temporarily

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5 Lenin 1977a, p.188.

6 Lenin 1977b, p. 196.

disrupted or “suspended” and for a time is no longer in operation (unless, that is, the state of exception, declared or undeclared, becomes the “normal” state of affairs). What Lenin says is quite different: the idea of a constitutional order in which law and power coincide, or rather in which law determines the exercise of power, not in theory—de jure-- but in fact, is in and of itself an illusion or set of illusions that prevents us from grasping the “divergence between formal and real power.”<sup>7</sup> Indeed, the fact that the Provisional Government had not yet drafted a constitution meant that constitutional illusions were so deeply embedded within the capitalist order that they could flourish even in the absence of an actual constitution.

Lenin derived a set of distinctions from this fundamental distinction: formal and real right, formal and real equality, formal and real (bourgeois and proletarian) democracy. He refuses the dilemma Kautsky later attempted to impose on him: either democracy, understood as the form of which the modern parliamentary systems of England, France and postwar Germany were variants, or dictatorship, the lawless, arbitrary rule of one man. Instead, he insists on drawing a line of demarcation within the categories of democracy and dictatorship to mark the distinction between their formal and real (or actual) modes of historical existence. This distinction has proven remarkably hard to grasp: even on the left, the fall of the Soviet Union and its satellites was widely seen as a confirmation of the virtues of liberalism and constitutionalism, a view that depended on rendering Lenin’s distinction invisible. It was obscured by the notion that Lenin simply rejected the notions of right and equality as impediments to revolution and the construction of a socialist society. Both critics and supporters of the October Revolution have often failed to grasp the fact that Lenin, on the basis of the experience of the soviet form in the six months after the February revolution, formulated a conception of right and equality not limited to law but based on the conceptual difference between formal and actual power, right and equality.

This helps us specify the meaning of constitutional illusions: this set of illusions is based on the fundamental ambiguity of the concept of power, above all in political discourse, both theoretical and practical. What Lenin refers to as formal power (just as he will later refer to formal right and formal equality) is the power granted by and existing in law: the power or authority, as the formula goes, “vested in” an individual or institution. As Lih has shown, Lenin’s term refers to the sovereign power that alone has the ultimate right or power of decision- making—in theory, legally, de jure. The February Revolution, however, showed with absolute

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7 Lenin 1977a, p. 189.

clarity that the power or right granted or attributed to the sovereign power (in this case, the Provisional Government of Russia) by law was merely formal or symbolic unless it rested on power understood as the actual physical ability or force to realize, impose or enforce its decisions and make its laws effective rather than verbal commands without force. The specific illusion to which Lenin refers is widely held belief that “the will of the majority of the people in general cannot be ignored and even less violated in republican, revolutionary and democratic and revolutionary Russia”<sup>8</sup> and that the sovereign power is determined by the letter of the law to do even what it does not want to do, independently of the relationship of forces in society as a whole. For Lenin, one of the key tasks in preparing for revolution was to shatter any illusion that formal, juridical power is the same as, or the guarantee of, the power or capacity to change reality.

At the same time, there is something more at work here than simply an assessment of the political situation in Russia in July 1917, or even a hurried overview of the limitations of parliamentary democracy. In fact, these apparently “militant” texts mark the beginning of a sustained reflection on the concept of power, as well as right and equality, that will take him beyond the Marx of either “the Jewish Question” or the *Critique of the Gotha Program*, beyond the programmatic declarations of *Les Enragés* (who understood the absurdity of declaring the equality of the exploiter and the exploited), to the materialism of Spinoza in relation to which alone we can see the philosophical and theoretical significance of Lenin’s discussion of power, right and equality.

Spinoza’s political objective in chapters 16-17 of the *Tractatus Theologico-Politicus* and in the *Tractatus Politicus* as a whole is similar to that of Lenin: to warn both the sovereign power and the multitude (*multitudo*, the proper translation of which would be “the masses”) of the dangers of constitutional or juridical illusions. But the recognition of these illusions as illusions requires an examination of the relation between right and power. In chapter 16 of the TTP, “Of the Foundation of the Republic, the Natural and Civil Right of the Individual and the Right of the Sovereign Power,”<sup>9</sup> Spinoza begins with a discussion of natural right which has, since Hobbes, been considered the right of the individual prior to and independent of the civil rights conferred by society. Spinoza, in contrast, seeks to define the right not of originally separated individuals, but of nature, human and non-human, animate and inanimate, as a whole: the right of big fish to eat little fish, as well as the right of a

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8 Lenin 1977b, p. 196.

9 Spinoza 2002a, p. 526.

stone to fall downward. His opening, of course, is a provocation: how is it possible to apply the concept of right (*jus*) to such actors and actions, let alone to nature as a whole? How can the concept of right be applied to necessary, invariant actions and motions? His answer: “nature’s right (*jus*) is coextensive with its power (*potentia*).”<sup>10</sup> Further, “since the universal power of Nature as a whole is nothing but the power of all individual things taken together, it follows that each individual thing has the sovereign right to do all that it can do; i.e. the right of the individual is coextensive with its determinate power.”<sup>11</sup> It is important to note that when Spinoza uses the term “individual” (*individuum*), he does not refer to human individuals, but to individual, particular or singular things, both animate and inanimate. From the point of view of natural right or power, Spinoza does “not acknowledge any distinction between men and other individuals of Nature.”<sup>12</sup> All that individuals do by virtue of existing, they do by right: “Nature’s right and its established order [*Jus et Institutum naturae*], under which all men are born and for the most part live, forbids [*prohibere*] only those things that no one desires and no one can do.”<sup>13</sup> Spinoza takes the apparent anthropomorphism even further, referring to nature as an *institutum*, a juridical order based on decrees and decisions. In place of the logical and physical notion of the impossible, uses the term “prohibere,” another legal term, that denotes the act of forbidding what by definition an individual is capable of doing, but should not do. The effect of this substitution, however, is finally not to anthropomorphize nature, but to naturalize the human world. In this way, we may begin to understand that legal prohibitions are effective only in the sense that they express the fact that what is prohibited is what most people either do not want to do or are not capable of doing. To think otherwise, is to fall prey to constitutional illusions.

What about the transition from the natural state to the social state, founded on the consent of the governed and the conditional transfer of right to the Sovereign power? Spinoza differentiates himself from Hobbes by arguing that natural right (or power) “is preserved in its entirety” in the social state: “I hold that the sovereign power in a State has right over a subject only in proportion to the excess of its power over that of a subject.”<sup>14</sup> The validity of the social pact, covenant or contract

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 10 Spinoza 2002a, p. 527.

11 Spinoza 2002a, p. 527.

12 Spinoza 2002a p. 527.

13 Spinoza 2002a, p.528.

14 Spinoza 2002c, p.891.

“rests on its utility, without which the agreement automatically becomes null and void. It is therefore folly to demand from another that he should keep his word for ever, if at the same time one does not try to ensure that, if he breaks his word, he will meet with more harm than good.”<sup>15</sup> As in the case of Lenin (as well as Machiavelli, to whom there is not a single reference in Lenin’s *Collected Works*), Spinoza’s observation applies not just to the sovereign in his attempt to govern, but perhaps even more to the people and their expectation that the sovereign will observe the constitutional limits on his authority no matter what the circumstances. The fact that “men have never transferred their right and surrendered their power to another so completely that they were not feared by those very persons who received their right and power, and that the government has not been in greater danger from its citizens, though deprived of their right, than from its external enemies”<sup>16</sup> is the real as opposed to formal check on the power of the state. If the revolution triumphs, as Lenin knows, it cannot survive in the face of enormous and violent opposition through coercive power alone. Governing bodies, such as the *All-Russia Central Executive Committee of Soviets of Workers’, Soldiers’, Peasants’ and Cossacks’ Deputies*, must constantly mobilize the masses by increasing their participation in governance, and by advocating concrete measures that meet their needs, because the active support of the masses, and not simply their acquiescence, is the only guarantee that the revolution will endure.

Spinoza uses the example, well-known to readers of Lenin’s discussion of compromises: “suppose that a robber forces me to promise to give him my goods at his pleasure. Now since, as I have already shown, my natural right is determined by power alone, it is quite clear that if I can free myself from this robber by deceit, promising him whatever he wants, I have the natural right to do so, that is, to pretend to agree to whatever he wants.” Here Spinoza responds to Hobbes’s rather surprising argument to the contrary: “The fool hath said in his heart, there is no such thing as justice, and sometimes also with his tongue, seriously alleging that every man’s conservation and contentment being committed to his own care, there could be no reason why every man might not do what he thought conduced thereunto: and therefore also to make, or not make; keep, or not keep, covenants was not against reason when it conduced to one’s benefit.”<sup>17</sup> For Hobbes, the man who breaks contracts has no place in the civil state: “He, therefore, that breaketh his covenant,

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 15 Spinoza 2002a, p. 529.

16 Spinoza 2002a, p.536.

17 Hobbes 1994, p. 89.

and consequently declareth that he thinks he may with reason do so, cannot be received into any society that unite themselves for peace and defence.”<sup>18</sup> Hobbes is compelled to construct a foundation more durable and effective than that of the natural hierarchy and authority associated with Aristotle and the Scholastic tradition. The authority that originates in the individual’s voluntary transfer of the right of self-government, undertaken in the interest of self-preservation, cannot truly be opposed to the individual and whoever rebels against this authority is not only a breaker of contracts, “he is author of his own punishment, as being, by the institution, author of all his sovereign shall do.”<sup>19</sup>

Spinoza in contrast seeks to turn us away from the fictitious and futile guarantees offered by theories of natural hierarchy or of the consent of free individual. Right, strictly speaking, has no other foundation than the always temporary power that endows it with reality: “the right of the state or of the sovereign is nothing more than the right of Nature itself and is determined by the power not of each individual but of the multitude which is guided as if by one mind. That is to say, just as each individual in the natural state has as much right as the power he possesses, the same is true of the body and mind of the entire state.”<sup>20</sup> From what does the power of the sovereign derive? “The king’s will has the force of law for so long as he holds the sword of the commonwealth, for the right to rule is determined by power alone.”<sup>21</sup> We understand that the right of the sovereign power exists only as long as its power to rule, that is, its sword. “Sword,” however, does not refer to the sovereign power’s ability to use force to inspire fear in its subjects. On the contrary, “the king’s sword or right (*gladius, sive jus*) is in reality the will of the multitude or of its stronger part.”<sup>22</sup> Thus, actions by the sovereign “which arouse general indignation are not likely to fall within the right of the commonwealth. It is without doubt a natural thing for men to conspire together either by reason of a common fear or through desire to avenge a common injury. And since the right of the commonwealth is defined by the common power of the multitude, undoubtedly the power of the commonwealth and its right is to that extent diminished,”<sup>23</sup> as it affords reasons for many citizens to join in a conspiracy. Spinoza thus, in a sense,

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18 Hobbes 1994, p. 90.

19 Hobbes 1994, p. 107.

20 Spinoza 2002b, p. 690.

21 Spinoza 2002b, p. 718.

22 Spinoza 2002b, p. 719.

23 Spinoza 2002b, p. 693.

reverses Hobbes’s maxim. Now, it is the sovereign who is the author of all the multitude shall do; if by his actions, the multitude mobilizes and overthrows him, he is the author of his own destruction.

At no point does Lenin come closer to Spinoza than in *The Proletarian Revolution and the Renegade Kautsky* (1918), a work whose theoretical content has been obscured by a polemic so violent that it not infrequently lapses into insults and denunciations. How are we to understand what is not simply defensible, but new and valuable in Lenin’s text? Written just over a year after the October Revolution, as a response to Kautsky’s *The Dictatorship of the Proletariat*, Lenin defends the strategy and tactics of the Bolsheviks and those who supported them, not from the point of view of doctrine or the juridical/moral rules that were becoming increasingly inviolable for Kautsky, but from the point of view of necessity. It is useful to recall Althusser’s association of Lenin (rather than, for example, Gramsci, author of *The Modern Prince*) with Machiavelli, particularly the Machiavelli of *The Prince*. The following passage from chapter fifteen of *The Prince* captures perfectly what links Lenin to Machiavelli and serves as a helpful introduction to *The Renegade Kautsky*:

“Because I intend to write something useful for those who apprehend it, it appears more appropriate to me to proceed straight to the effectual truth of the thing rather than to the ways it has been imagined. For many have imagined republics and principalities which have never been seen or known to exist in truth. But because there is such a discrepancy between the way people live and the way they should live, he who neglects what is done for what should be done, will bring about his ruin rather than his preservation; for a man who wants to do everything according to the goodness he professes, will come to ruin among the many who are not good. It is therefore necessary for the prince who seeks to preserve himself to learn to be able to do what is not good and to use it or not use it according to necessity.”<sup>24</sup>

“*Secondo la necessità*,” according to necessity: let us keep Machiavelli’s phrase, echoed in the opening of Spinoza’s *Tractatus Politicus* and discernible in Lenin’s critique of Kautsky, in mind. The way the Romans thought about about politics in relation to necessity was captured in a well-known aphorism: *Necessitas non habet legem* (necessity has no law). Invoked initially to justify holding religious ceremonies on unconsecrated grounds during times of travel, the phrase became

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24 Machiavelli 1964, p. 127.

associated in our own time with the idea of the state of exception and the use of force unrestrained by any law precisely to create the conditions in which the rule of law could exist. While Lenin, at certain times, appears to endorse such a position (“dictatorship is rule based directly upon force and unrestricted by any laws”), a dictatorship that consists of the direct rule of the proletariat and landless peasants, the vast majority of Russian society, does not correspond in any way to the rule of a single leader or a junta. Once approved by vote within the soviets, that is, the organs of popular power, and carried out through mass action, the revolution found itself at war with a host of enemies national and international, with a domestic elite with significant resources and powerful support among all the imperial powers. The Bolsheviks used force “according to necessity,” so as not to come to ruin among the powers that, having plunged the world into a devastating war, have proven themselves to be “those who are not good.” But necessity, the necessity of having the active support of the majority of workers, soldiers and poor peasants, has also forced the Bolsheviks and all the supporters of the Revolution to develop every possible means of involving the masses directly in the administration of power. This stands in stark contrast to the system in which representatives are elected to a parliament for more or less long periods of time, separated from those who elected them and subject to pressures that are often antithetical to the desires and interests of their constituents. Further, in such “bourgeois democracies,” the parliamentary sphere of activity is limited by the existence of areas in which legislative “interference” is subject to severe constraints (as Kant argued, the most important legal limits are those that the law imposes on itself), areas defined in particular by their private as opposed to public character: private property and private enterprise in particular.

By attacking the notion of the dictatorship of the proletariat, Kautsky implicitly denies the existence of the class dictatorship of the bourgeoisie to which both law and the limits of the law are essential. What is perhaps most revealing in Kautsky’s critique is not his declaration that the Russian proletariat, together with the landless peasantry, had not risen to the cultural level necessary to socialism. Nor is it his argument that a large section of the capitalist class will most likely not resist the will of the parliamentary majority that proposes to socialize the means of production and thus that the use of force in defense of the revolution is the sign of the failure of its proponents to win the support of the majority (whether of parliament or the nation is irrelevant, given that the former is an always adequate expression of the latter under the conditions of universal suffrage). Instead, it is his assertion that, while there can never be socialism without democracy,

“Democracy is quite possible without Socialism.”<sup>25</sup> The latter argument derives from the belief that the ideal of democratic decision-making will be fulfilled as long as there exists universal suffrage which, by giving one vote, and no more or less, to each individual, millionaire and pauper alike, renders them, their voice and opinions, equal. Thus, every individual in Kautsky’s democracy enjoys the same freedoms and the same human and civil rights. The fact that Kautsky had come to regard the parliamentary form as the essential and final form of democracy, which required nothing more than a change of content to oversee and administer the peaceful transition to socialism, meant that the idea of the direct democracy of the soviet or council form could only appear as a potential threat to the necessary progress of history. The fact that he, the leading intellectual of the Social Democratic movement after Marx and Engels, together with the Socialist Revolutionaries and the Mensheviks at home, opposed the slogan “all power to the soviets,” compelled Lenin to theorize and articulate a set of distinctions internal to the notions of democracy, right and equality. Lenin was quick to point out the “loophole” on which Carl Schmitt built an entire theory of the constitution a few years later in *Political Theology*.

“There is not a single state, however democratic, which has no loopholes or reservations in its constitution guaranteeing the bourgeoisie the possibility of dispatching troops against the workers, of proclaiming martial law, and so forth, in case of a “violation of public order,” and actually in case the exploited class “violates” its position of slavery and tries to behave in a non-slavish manner. Kautsky shamelessly embellishes bourgeois democracy and omits to mention, for instance, how the most democratic and republican bourgeoisie in America or Switzerland deal with workers on strike.”<sup>26</sup>

The most democratic constitutions must contain a provision for their own suspension in the eventuality that the constitution itself is under threat, as was the case with Article 48 of the 1919 Weimar Constitution, signed into law by Friedrich Ebert, president of the Reichstag and SPD member. But the notion, so central to Schmitt’s political theology, that the constitutional order rested on the unconditioned decision on the part of the sovereign not to declare the state of exception and thus remained suspended over an abyss, was from Lenin’s perspective simply the inversion of Kautsky’s constitutional illusions: the sovereign’s decision is

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25 Kautsky 1919, p.7

26 Lenin 1977c, p. 244.

no less formal than the rights he suspends. To put it in Spinoza's terms, the sovereign's right extends only as far as his power and his power is the power of the multitude. The right or power of the multitude is, in turn, transferred to the sovereign for as long as he enjoys their support; if they oppose him, his right or power is diminished accordingly, irrespective of what the constitution (or its suspension) permits or prohibits.

Kautsky clearly failed to acknowledge that the rule of law that served as the foundation and guarantee of representative parliamentary democracy invariably provided for the exceptional situation in which the regime of legal rights and prohibitions, if allowed to operate, would bring about its own demise. For Lenin, however, far more important than the exception was the normal operation of what he argued could no longer be called "democracy," but a form of democracy proper to capitalism and the class rule essential to it, that is, "bourgeois democracy." Following Kautsky's claims, universal suffrage, which by guaranteeing each person's right to vote and thus, if supported by the rights and freedoms of speech, assembly, etc., the right to participate in sovereign decision making, if only indirectly, guarantees the equality of individuals. If there are truly free and fair elections under conditions of universal suffrage, the capitalist had no more right and no more voice than the worker to determine the political direction of the nation. Parliamentary democracy is not only not hindered by social inequality, but is the means by which it will be eliminated and in the most durable and efficient way possible.

"The more democratic the State is, the more dependent are the forces exerted by the Executive, even the military ones, on public opinion. These forces may become, even in a democracy, a means of holding down the proletarian movement, if the proletariat is still weak in numbers, as in an agrarian State, or if it is politically weak, because unorganised, and lacking self-consciousness. But if the proletariat in a democratic State grows until it is numerous and strong enough to conquer political power by making use of the liberties which exist, then it would be a task of great difficulty for the capitalist dictatorship to manipulate the force necessary for the suppression of democracy."<sup>27</sup>

It is critical to note that, for Kautsky, power is at every step a question of who holds the parliamentary majority and is able through the parliamentary process to pass legislation in the interests, and at the behest, of "the public." To "conquer political power" means to gain a majority of the seats in a parliamentary body and thereby be able by

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27 Kautsky 1919, p. 9.

means of the law to stop any threat to democracy. At that point, the majority of the population will elect representatives who will pass laws easing inequality and in the process succeed in convincing a large section of the bourgeoisie of the legitimacy of the workers' cause. In this way, the socialization of the means of production will not take the form of an expropriation, but of a legal and voluntary transfer of property. As Trotsky remarked, Kautsky had come to adopt the very positions he denounced as revisionism when proclaimed by Bernstein but, unlike Bernstein, his teleology subordinated economic progress to the progress guaranteed by the parliamentary form of democracy.

Kautsky's account of "democracy" prompted Lenin to return to that corollary of the dictatorship of the proletariat, the dictatorship of the bourgeoisie as proposed by Marx and Engels. The dictatorship of the bourgeoisie did not take the form of a suspension of law and the operation of legal institutions but, on the contrary, operated through them in their most democratic forms. Juridical rights and freedoms both presupposed and worked to guarantee the principle of the equality of persons, but these ideals, Lenin argued, were, in the context of capitalist relations of production and property, not only emptied of any substance, but functioned to secure the subjection of the laboring masses and prevent their full participation in political life. Thus, the relations of subjection were reproduced and maintained, not by nullifying or simply suspending the constitution, but by means of it, not the absolute rule of a guardian of the constitution who must temporarily set aside the constitution to save it, but through a parliamentary regime with a plurality of parties and regular elections. The term dictatorship coupled not with a sovereign, individual or not, but with a class, amounts to dictatorship without a dictator, that is, extra-legal practices of coercion, the ritual organization of bodies, movements and spaces: the "weaponization" of need and deprivation through the impersonal and unpredictable mechanisms of the market, and thus strategy without a calculating subject.

"Even in the most democratic bourgeois state the oppressed people at every step encounter the crying contradiction between the *formal* equality proclaimed by the "democracy" of the capitalists and the thousands of *real* limitations and subterfuges which turn the proletarians into *wage-slaves*."<sup>28</sup>

Lenin's language here serves to remind us that just as the guarantee of

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28 Lenin 1977c, 246.

civil rights that the law provides obtains in law alone, without any further guarantee that any individual is able to speak and act as the law allows, so the legal limitations and prohibitions aimed at certain forms of speech and action may not prevent persons, groups or the state itself from carrying them out in reality. In particular, the equality of persons under the law exists only at the level of law; the reality is one of ever-increasing inequality in the ability to speak and act. The exercise of formal or legal rights is prevented, not by other laws, but by “thousands of *real*,” that is, extra-legal and in many cases unintended “limitations and subterfuges.” Further, “under bourgeois democracy the capitalists, by thousands of tricks—which are the more artful and effective the more ‘pure’ democracy is developed—*push* the masses *away* from administrative work, from freedom of the press, freedom of assembly, etc. . . . The working people are *barred* from participation in bourgeois parliaments (they *never decide* important questions under bourgeois democracy, which are decided by the stock exchange and the banks) by thousands of obstacles, and the workers know and feel, see and realise perfectly well that the bourgeois parliaments are institutions *alien* to them, *instruments for the oppression* of the workers by the bourgeoisie, institutions of a hostile class, of the exploiting minority.”<sup>29</sup>

Lenin’s terminology, however, is frustratingly vague precisely at the moment that requires the greatest precision: he speaks of thousands of limitations, subterfuges, tricks, obstacles and practices he describes as pushing away and barring. While we can say that this terminology works against any notion that the obstacles to the exercise of equal rights are primarily legal in nature. Lenin asks us to examine the means of subjection that operate independently of law and cannot be legislated away. In fact, the most effective of the tricks and subterfuges to which Lenin refers are precisely grounded in law. The juridical notion of equal right, far from challenging actual forms of inequality, declares them legitimate, insofar as they are grounded in the voluntary act by which originally free and equal individuals bring about their own subjection. The law’s trick is to impute to the legal person, after the fact, a paradoxical freedom that endows the individual with the status of agent or subject so that he may be declared to have consented to his own subjection. From Lenin’s perspective, the point is not to determine whether the subjection of labor to capital is legal and legitimate but to grasp its incompatibility with any effective notion of democracy. The law’s subterfuges do not consist in an attempt to conceal the realities of the physical subjection

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29 Lenin 1977c, 247.

of the laboring masses; on the contrary, the law acknowledges and embellishes these realities, redefining them so that consenting to one’s own subjection becomes the most salient demonstration of one’s freedom and equality. These tricks and subterfuges are not the means by which the dictatorship of the bourgeoisie is achieved or maintained, but they are coextensive with the physical submission that guarantees the real and not just formal power of the ruling class.

As strange as it may seem, it was Michel Foucault who provided a more expanded version of Lenin’s argument concerning the necessary relation between formal and real power: “Historically, the process by which the bourgeoisie became in the course of the eighteenth century the politically dominant class was masked by the establishment of an explicit, coded and formally egalitarian juridical framework, made possible by the organization of a parliamentary’ representative regime. But the development and generalization of disciplinary mechanisms constituted the other, dark side of these processes. The general juridical form that guaranteed a system of rights that were egalitarian in principle was supported by these tiny, everyday, physical mechanisms, by all those systems of micro-power that are essentially non-egalitarian and asymmetrical that we call the disciplines. And although, in a formal way’ the representative regime makes it possible, directly or indirectly, with or without relays, for the will of all to form the fundamental authority of sovereignty, the disciplines provide, at the base, a guarantee of the submission of forces and bodies. The real, corporal disciplines constituted the foundation of the formal, juridical liberties.”<sup>30</sup>

Foucault’s extraordinary analysis suggests not only that class rule is “masked” by a system of rights that are egalitarian in principle, but that the continued extension of the “formal juridical liberties” cannot be understood except in relation to the increasing level of extra-legal control over the bodies, movements, and actions of the laboring masses. Rather than ask what formal rights, rights that are possessed in theory and law even as they cannot be exercised in practice, have been established in a given society, or whether there exists equality before the law between

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30 Foucault 1977, p. 222

the exploiter and the exploited when extra-legal and very material inequalities deprive legal equality of any but a verbal reality, we might inquire into the practices of which everyday life is constituted and the extent to which they limit and constrain bodily action, submit the body to ritualized and repetitive movements and exercise subtle forms of coercion. It is these and not the spectacular, exceptional uses of violence that bring about the subjection that the dictatorship of the bourgeoisie requires.

Is it surprising that the underlying principle of, or immanent in, Lenin's analysis of the forces (or disciplines) that work to insure the subjection constitutive of the dictatorship of the bourgeoisie appears in Spinoza's *Ethics*? Whatsoever increases or diminishes, assists or limits, the power of activity of our body, the idea of the said thing increases or diminishes, assists or checks the power of thought of our mind (III, P11). To arrive at an adequate knowledge of equality and right, and to understand the distinctions internal to democracy and dictatorship we must shift our inquiry from law to the irreducible materiality of bodies and forces, and from possession of right to the exercise of power. As Lenin noted, practice precedes theory: revolt is not the consequence of knowledge; on the contrary it is revolt alone that makes possible a knowledge of the disposition of forces in a given conjuncture, rendering it in the assault visible and intelligible. It is revolt alone that allows us to see the extent and forms of subjection and to measure the distance that separates formal from real power.

A century after the October Revolution, the errors of the revolutionaries seem less like errors than adventures lived and suffered by a race of giants. I am not referring to the leaders of the revolution, Lenin and Trotsky, who were giants in their own right, but to the very masses whose anonymous words and gestures, whose revolt and the knowledge it produced, they did no more than interpret for the world and for posterity.

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