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Version: Accepted Version

Article:

Ypi, Lea (2020) Democratic dictatorship: political legitimacy in Marxist perspective. *European Journal of Philosophy*, 28 (2). 277 - 291. ISSN 0966-8373

<https://doi.org/10.1111/ejop.12500>

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Democratic Dictatorship: Political Legitimacy in Marxist Perspective

Forthcoming in *European Journal of Philosophy*

This article aims to contextualise, explain and defend the relevance of Marx’s analysis of the dictatorship of the proletariat for contemporary debates on political legitimacy. I call my reconstruction of the Marxist contribution to this debate: the limited legitimacy theory of political authority. Such a theory, I contend, offers a plausible alternative to existing liberal and anarchist accounts and has important implications for a number of key debates in political theory, including the normative significance of the state, the relationship between authority and freedom, the role of democracy, and the meaning and relevance of communist utopia.

1. Introduction

Of all the ideas central to socialist philosophy and practice, few have been scorned, misunderstood, celebrated or feared more than the idea of the dictatorship of the proletariat: the post-revolutionary transitional authority that stands between the capitalist state ridden by class-struggle and the communist abolition of class rule. Considered by some earlier interpreters as “the very essence of Marx’s teaching” and by others a mere “expression that Marx dropped once in a letter”¹, the dictatorship of the proletariat has been mostly ignored by authors writing in the analytical Marxist

tradition. This article aims to contextualise, explain and defend the relevance of Marx's analysis of dictatorship for contemporary debates on political legitimacy. I call my reconstruction of the Marxist contribution to this debate: the limited legitimacy theory of political authority. Such a theory, I contend, offers a plausible alternative to existing liberal and anarchist accounts and has important implications for a number of key debates in political theory, including the normative significance of the state, the relationship between authority and freedom, the role of democracy, and the meaning and relevance of communist utopia.

In one way, this article shares the methodological ambitions of earlier analytical Marxists, departing at various junctures from Marx's writings, discarding details that are inessential to the argument, and correcting implausible premises or adding to incomplete ones. In another way, the attempt follows an entirely different direction. I start where the existing analytical Marxist agenda leaves a gap: with Marx's account of politics and his related critique of the state. While a number of ground-breaking studies have illustrated the ongoing relevance of Marx's critique of capitalist exploitation and its relation to liberal egalitarianism (Reiman 1973; Husami 1978; Warren 1997; Edmundson 2017) or neo-republicanism (Vrousalis 2013; Roberts 2017), virtually no analytical Marxist has tried to reconstruct the theory of legitimacy that underpins the Marxist analysis of the state and the role of his argument on the dictatorship of the proletariat.² In this article, I begin to fill this gap. Before explaining how, a few clarifications are in order.

Firstly, in the following pages I bracket the problem of exploitation under capitalism. In other words, I make no effort to show that there are such things as capitalist relations of production, and that this set of relations reveals a specific form of injustice affecting the agents and classes whose positions reflect and replicate that injustice, among others, capitalists and workers (for an excellent review of the literature on Marx and justice, see Geras 1984).

Secondly, I steer clear of the debate on the exact reasons for why capitalism is unjust, if at all. I assume that Marx does have a theory of justice, but I don't explain it here, and I put to one side the question of whether the labour theory of value is essential to that theory as in the traditional reading (Reiman 1982) or whether it is

sufficient to focus on property relations as with more revisionist accounts (Cohen 1979; Roemer 1982).

Thirdly, I refrain from addressing the question of whether exploitation is a form of domination, or whether Marx's theory of justice is in fact significantly different from liberal egalitarian accounts of justice as fairness. As long as my readers agree that capitalism is unjust, the political question of what to replace it with, and how to conceptualise the transition remains a pertinent one (regardless of any internal disagreements of why exactly capitalism should be abolished).³ Conversely, those who disagree with the core of Marx's theory, who think that talking about capitalism is like talking about witches and unicorns, or who maintain that there is in fact no superior (more just) alternative to capitalist relations, will find very little of interest in the following pages.

Last, but not least, a note on my use of the term legitimacy. I take the Marxist ideal of legitimacy to be part of a radical tradition of thinking about freedom to which authors as diverse as Machiavelli, Rousseau, Kant and Hegel belong, although to different degrees. On that tradition, there is a difference between apparent and authentic freedom: I am authentically free not to the extent that I can choose between different options (freedom of choice) but to the extent that my decisions are made in a way that is free from fear, need, bias, prejudice, manipulation, and so on (freedom of agency).⁴ A political authority exercises power in a fully legitimate way only if people establish, maintain and develop collective institutions that realise their authentic freedom, understood as freedom of agency. There are of course important differences between how Machiavelli, Rousseau, Kant, and Hegel, on the one hand, and Marx on the other, conceived of authority in relation to democracy and the state (see my discussion in Ypi 2014 and Ypi 2017). My point is that the same demanding ideal of freedom that animates their analysis is also at the heart of the Marxian theory of legitimacy.

2. Dictatorship and republican freedom

When we think of dictatorship, we think of Hitler and Stalin, of Mao and Saddam. We associate the notion of dictatorial rule to of the arbitrary power of individuals who rely

on oppression, fear, and the exercise of violence (whether physical or psychological) to achieve desired political goals. One of the unfortunate implications of this contemporary use of the term is that it equates dictatorship with despotism and tyranny, which have a rather different genealogy and use in the history of political thought.⁵

The idea of dictatorship that I want to explore in this article is another. My account retrieves a use of the term in the writings of Marx and Engels that is inspired by two distinct but related intellectual traditions: the Roman republican concept of dictatorship, and its modification and adaptation to circumstances of revolutionary transition around the time of the French Revolution. In this alternative, non-derogatory, use, dictatorship refers to a form of rule that is collective rather than individual, and authorized by the people rather than despotic. It is connected to a distinctive mode of political activity, typical in circumstances of crisis and transition, that aims to realise, freedom, and that grounds what I shall call a limited legitimacy view of political authority. On the limited legitimacy view of political authority, a dictatorial institution secures justice in a divided society, whilst acknowledging that the political authority, that paves the way to the realisation of authentic freedom, is both provisional and transitional. It is provisional because it is limited in time: it lasts only for as long as divisive political conflict threatens to undermine justice. And it is transitional because it is limited in modality: political power is exercised coercively through institutions that, as I shall show in what follows, do not fully realise freedom of agency.

Before proceeding, an important clarification is in order. Marx and Engels used the term “dictatorship” in a much more scattered way than one might gather from my remarks above and also from its incredible influence in the subsequent Marxist tradition. The term occurs in total eleven times over thousands of pages of Marxist writing (Hunt 1975: 285). Alternative references to the term “dictatorship of the proletariat”, include formulations like “rule (*Herrschaft*) of the working class”, ‘the political rule of the proletariat’ or even “social republic” (Draper 1986: 175-325). But in what follows I shall stick to the more familiar (and more controversial) label “dictatorship” because that is the one featured in the text that most clearly links the state to the issue of freedom and to the problem of legitimacy in circumstances of revolutionary transition: *The Critique of the Gotha Programme*. Here, the idea of

dictatorship is introduced shortly after defining the meaning of freedom in relation to the institution of the state. Freedom, it is argued, consists in “converting the state from an organ superimposed upon society into one completely subordinate to it” (Marx: 1891: 94).

This apparently obscure sentence contains the key to reconstructing a Marxist account of political legitimacy. There are at least three normative assumptions at work here and that I hope to unpack in the following pages. The first is that an important component of the realisation of freedom lies in the process through which one makes oneself free, a process that must be self-directed rather than guided by others. Call this freedom as self-liberation. The second is that the process of making oneself free requires a transformation in the way one’s will to be free is expressed jointly with others in social and political institutions making collective binding decisions. Call this freedom as just rule. The third is that the institution of the state does not fully express free agency, therefore freedom is *not* fully realised when an oppressed majority turns an unjust state into a just one. The realisation of freedom of agency in fact demands the subordination of an institution like the state to an alternative set of practices of free-will formation, here simply labelled ‘society’. Call this freedom as public willing.

To explain the relationship between state and society, we need to understand what is meant by each term and how freedom is implicated in the relation between the two. Marx’s analysis of the state is aligned to the modern philosophical and juridical tradition: the state is a public institution that claims sovereignty over a particular territory, has a monopoly over the use of force and has the authority to coercively regulate relations between people. States are divided by boundaries and have importantly different histories, cultures, and social practices which shape and constrain the exercise of their administrative, executive or judicial powers. But, as Marx and many others before him also emphasised, states share some core features. The most important, for purposes of our analysis, is the economic basis of the political relations they instantiate, whose character is historically contingent. States produce, exchange and trade in a global environment whose conventions and rules place important constraints on their political systems, notwithstanding their historical and sociological differences. Marx calls this set of constraining practices, as they apply to modern historical conditions, the capitalist system of production, while also granting

that this system can be in different stages of development depending on the historical circumstances of each particular state (Marx: 1891: 94).

As indicated, I shall bracket the part of the argument that explains how capitalism historically comes about, what is wrong with it, and why we ought to replace it with a different set of social relations. Suppose there is something wrong with the capitalist system of production and suppose that communism is a justified ideal. The question is: what legitimacy does the state have in the transition from one to the other? Can the oppressed exercise power over their oppressors in a way that realises the ideal of freedom understood along the three dimensions set out above? What kind of practices of will-formation are needed to prevent the emergence of a new class of oppressors and the obstruction of authentic freedom?

This is where the dictatorship of the proletariat makes its entrance. Marx introduces it to answer the question of the role of the state and the necessity of a transitional form of authority that stands between the overthrow of capitalist relations and communist society. As he argues, between the two “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: 1891: 94).

To understand why dictatorship represents a provisional and transitional form of political authority that stands between the capitalist state and communist society, a brief illustration of where the concept comes from is in order. Marx and Engels inherited it from the revolutionaries of 1848, who had inherited it from the revolutionaries of 1789, whom in turn, as Marx knew, modelled themselves after the Roman republic and “performed the task of their time [...] in Roman costume and with Roman phrases” (Marx 1852: 104). In the constitution of the classical Roman republic, the office of the dictator was conceived as a supreme office of magistracy required to guide the republic under exceptional circumstances of crisis (war or civic unrest) (Lintott 1999: 109-110). The complex system of checks and balances of the Roman constitution prescribed that in cases of severe threat to the republic, speedy emergency measures were required to restore order and stability. To avoid delays, and after deliberation in the senate, the consuls nominated a dictator, although a popular vote was also in principle possible. Once nominated, the dictator became the

chief executive and supreme commander of the Roman army both within the city and outside. His powers were virtually unlimited and superior to those of any other Roman magistrate but the terms of office were supposed to be as brief as possible. Once the emergency was over, dictators would abdicate as quickly as they could (typically within six-months) and authority would be restored to the senate and people of Rome.

The office of the dictator had several features that made it an attractive solution in cases of civic crisis and profound conflict dividing the political community. Firstly, it was a freedom-supporting institution. The dictator was authorised by the people and senate of Rome and the powers it held were intended to protect the free citizens of the republic from severe threat coming from outside, or from destructive conflicts erupting within. Secondly, the institution was supposed to be provisional and transitional. It was provisional since the exercise of power was confined to the duration of the conflict, and came to an end once the crisis was over. And it was transitional because although the executive powers of the dictator were virtually unchecked, its legislative capacity was extremely limited. A dictator could only abrogate old laws but not make new ones; the office itself could only be held for a short term. Overall, the dictator was *for* the people but not *by* the people, and the office had legitimacy only for as long as it enabled alternative institutions to channel the public will.

The freedom-supporting nature of the office of the dictator, as well as the provisional, and transitional nature of the legitimacy it enjoyed help explain why it became such a celebrated republican institution throughout history and the history of political thought (Nippel and Bruschi 1996), from Machiavelli to Rousseau and from Marat to Babeuf (to mention but those figures that were most influential in shaping Marx and Engels's analysis). For Machiavelli, the idea of popular authorisation in the service of freedom was crucial since, as he argued, "while the dictator was appointed according to public orders, and not by his own authority, he always did good to the city" (Machiavelli 1517: 74, see also the discussion in Geuna 2015). Likewise, Rousseau praised the role of the dictator in defence of public freedom and emphasised its compatibility with the idea of just rule since "if the laws as an instrumentality are an obstacle to guarding against it (the greatest danger to the city)", then "a supreme chief is named" who "suspends the Sovereign authority". In these cases, he continued, "the general will is not in doubt, it is obvious that the people's foremost intention is that the

State not perish” (Rousseau 1762: 138). But it is important to emphasise that such a supreme magistracy could only perform its role if it is kept to a limited time, since “the pressing need once passed, the Dictatorship becomes either tyrannical or vain” (ibid).

In the philosophical tradition inspired by Roman republicanism, dictatorship was considered a freedom-supporting institution provided that executive discretion was constrained by existing legal provisions. That analysis changed, however, with the early communist debates between Babeuf, Darthé and Debon during the meetings of the Conspiracy of the Equals in the winter of Year IV (1796) of the first Republic. Here the backward looking, restorative function of dictatorship was replaced with a forward-looking, constitutive one. The purpose of dictatorship was to assist an oppressed majority of people fight the injustice of the Ancien Règime while establishing new practices able to realise authentic freedom. According to Buonarroti’s description of the French revolutionary events, the history and experience of the French Revolution had made it clear to the conspirators that “a people so strangely elongated from the order of things, was but poorly qualified to make a useful choice, and had need of extraordinary means to replace it in a condition in which it would be possible for it to exercise effectually and not in mere fiction, the plenitude of its sovereignty” (Buonarroti 1836: 101). The conspirators invoked the example of ancient states and the magistracy of the dictatorship to explain the need to fill the power vacuum left by the Ancient Régime and to avoid slipping into a condition of anarchy where effective decision-making would be impossible.

It was the first time that the Roman term was invoked not in function of preserving old laws but within a forward-looking plan to radically transform the constituted order. As Buonarroti describes it, the aim of the dictatorship was that of proposing to the people a “plan of legislation simple and suited to ensure to it equality and the real exercise of its sovereignty and to dictate provisionally the preparatory measures necessary to dispose the nation to receive it” (Buonarroti 1836: 105). When the question of the possible abuse of powers by the magistrate was raised, those who spoke in its favour (Debon and Darthé) argued, in Rousseauian fashion, that the danger could be averted “by the clear and legal exposition of the end to be attained by it – and by imposing limits beforehand to its duration” (ibid). Hence the French revolutionary adaptation of the Roman concept amounted to the justification of rule by

a small group of enlightened revolutionaries in the service of a truly free future republic. The process of authorisation relied not on the existing constitutional structure but in the measures brought forward by the revolutionary political class.

3. The republican model of dictatorship in the Marxist reflection on political authority

While endorsing the forward-looking aspect of the French republican reflection on dictatorship, Marx and Engels strongly opposed its despotic tendencies. The new appeal to the necessity of dictatorship by the French revolutionaries, risked betraying the ideal of freedom as self-liberation, and undermining freedom as just rule. Marx and Engels, of course, conceded that dictatorship is an institution necessary to realise freedom of agency and they agreed with republicans that freedom requires distinctive practices (and institutions) of collective will-formation. They also agreed with the analysis of dictatorship as a provisional and transitional institution necessary to tame conflict and establish just relations between conflicting parts of society. Differently from the Roman republican tradition where the office of the dictator was essentially a conservative institution whose duration and powers were limited by the existing constitutional setup, here the task of realising freedom was constitutive rather than restorative. But differently also from the French revolutionary case, where the task of bringing about a more just political order is entrusted to a group of revolutionary leaders who may suspend legal norms and abolish existing freedoms so as to rule over a mass of uncultivated people, the dictatorship of the proletariat embodies the democratic rule of the oppressed majority of people. Their institutions were not supposed to abolish existing freedoms (for example the freedom to associate, to vote, to speak freely, and to make decisions in a democratic assembly) but had to give them a more radical form (Hunt 1975: 296). Let me explain.

Marx's and Engels's conception of dictatorship has a profound democratic character, in line with the radical interpretation of freedom as both self-liberation and as just rule, and aspiring to realise an ideal of freedom as public willing. The distinction between dictatorship over the proletariat and dictatorship of the proletariat is essential

to underscore this point (see on this also Ehrenberg 1992). In the case of the French republicans, the dictatorship of a revolutionary leadership is essential to compensate for the corrupting effects of inequality on the capacity of the oppressed to understand their oppression. For Marxists, this amounts to a violation of freedom as self-liberation and hinders freedom as just rule. Instead of driving the people from “one folly to another”, the first step of a working-class revolution was, as Engels put it, to “win the battle of democracy” (Engels 1874).

Winning the battle of democracy demands that the oppressed control the conditions of their own emancipation. The contribution of political education to self-liberation consists in the learning process that democratic political activism makes available, not in reliance on the alleged competence of those who claim to know better. The contribution of political agency to just rule consists in establishing authoritative processes of impartial decision-making that ensure that one’s will joins that of others in institutions that give everyone a say over how coercive power is exercised. There is no *before* and *after* the revolution when it comes to expressing the political agency of the oppressed in the construction and maintenance of a democratic constitution. Therefore, contrary to what the early communists advocated (as well as to many later interpretations) there is no way to sidestep or neglect the consent, endorsement and full involvement of the oppressed themselves in overcoming their own oppression.

By promoting freedom as self-liberation and freedom as just rule, the Marxist analysis of dictatorship emerges in its profoundly anti-paternalist and anti-authoritarian character. Both traits are reflected in the measures advocated during the period of revolutionary transition, as shown by Marx’s analysis of the Paris Commune (the closest approximation to his ideal of legitimate rule that is available to us). Marx applauds many of the decisions adopted by the communards as channelling a democratic will: the progressive dissolution of state bureaucracy, the attempt to reduce the domination of experts (or what we would nowadays call technocrats) in making political decisions, the abolition of the professional army and its substitution by a citizen militia, the revocability of administrative and judicial roles and positions, and the more general progressive transformation of representative democracy into direct popular rule (Marx 1871). During this transformation, the dictatorship of the proletariat places the coercive power of the state in the service of freedom of agency, but it also

seeks to undermine that power from within (see also Miliband 1965). Indeed, this very work of internal erosion and the attempt to bring traditional executive, judicial and legislative institutions under direct popular control is one of the reasons for which Marx praised the Paris Commune for being “a thoroughly expansive political form”, “the political form at last discovered under which to work out the emancipation of labour” (Marx 1871: 334). That political form expresses the involvement and concrete political activity of the majority of the oppressed taking back control over the conditions of their social life. It articulates a process of self-liberation which does not rely on an elite of professional politicians, technocratic institutions or bureaucratic managers to achieve its desired political objectives (see also Miliband 1965). It signals that authentic freedom is progressively vindicated in the process of making oneself free and in the practices and institutions of collective will-formation established to express that freedom.

Marx’s praise for the workings of the Paris Commune and the way in which it supersedes “the unproductive and mischievous work of the state parasites” (Marx 1871: 491) reinforces the initial interpretation that the dictatorship of the proletariat is a democratic institution, whose democratic character is affirmed by people as they exercise their political will through real political participation rather than relying on their leaders to perform existing administrative, judicial and legislative roles. But in emphasising the democratic character of the dictatorship of the proletariat, both Marx and successive Marxists insisted on its provisional and transitional character. Recall how in the *Critique of the Gotha Programme*, Marx equated the authority of the new state with that of a provisional and transitional institution that stood between capitalist rule and communist society. The political form taken by the process of self-liberation was never conflated with its ultimate aspiration, just like the forms of direct political participation that it promoted could not succeed in fully eliminating political conflict but merely afforded “the rational medium in which that class struggle can run through its different phases in the most rational and humane way” (Marx 1871: 491).

Marx’s notes on Bakunin’s *Statism and Anarchy* are helpful to explain this point further. “[A]s long as other classes, above all the capitalist class, still exist”, he argues, “and as long as the proletariat is still fighting against it [...] it must use forcible means, that is to say, governmental means” to maintain its authority (Marx 1874: 517). The

fact that the dictatorship of the proletariat is democratic renders the latter *more* legitimate compared to previous practices of will formation. Yet it still does not confer it full legitimacy. Engels made the same point by comparing the legitimacy of the democratic state with that of the Ancien R gime. “[P]eople think they have taken quite a bold step forward when they have rid themselves of belief in hereditary monarchy and swear by the democratic republic”, he wrote. But in reality, “the state is nothing but a machine for the oppression of one class by another, and indeed in the democratic republic no less than in the monarchy; and at best an evil inherited by the proletariat after its victorious struggle for class supremacy” (Engels 1891: 439-40).

But how can a democratic state still be oppressive? Why is it at best a necessary evil? To understand this point, we need to consider the relationship between justice and legitimacy in a democratic state and in a communist society. While the dictatorship of the proletariat only realises freedom as self-liberation and freedom as just rule, only a communist society, I contend, realises freedom of agency along all three dimensions specified earlier: freedom as self-liberation, freedom as just rule, and freedom as public willing. The analysis of the limited legitimacy view of political authority in the next section explains why.

4. The limited legitimacy view of political authority

Recall the basic tenets of Marx’s theory of the state under capitalist conditions. Let us assume that (some version of) Marx’s critique of how capitalism hinders freedom is plausible. The general problem can be presented in the following terms. Imagine a state where the fundamental structures that enable social cooperation are affected by persistent and pervasive economic inequalities due to the mechanism through which wealth is produced and distributed. Legal arrangements, property and inheritance rules, formal and informal networks of cooperation, the dominant societal culture, tend to inherit these inequalities and reproduce them. Far from being fair and open to all, political opportunities and people’s access to offices and positions are corrupted by deep asymmetries in the degree of social and political power controlled by members of different classes. As a result, the views and interests of certain groups tend to be

systematically promoted in the public sphere at the expense of others. There are winners (a small minority) and losers (a vast majority). There are also some that neither win nor lose, call them bystanders. The winners tend to win and the losers tend to lose, albeit with some individual exceptions (Cohen 1983). Those who benefit from the system contribute (whether intentionally or inadvertently) to consolidating methods of compliance, values and incentives that help to stabilize the social structure and entrench its inequalities even further. These inequalities also have important epistemic implications for many people's ability to observe the deficiencies of the system, their ascriptions of responsibility for the injustices it produces, and their willingness to do things differently. They amount to a form of epistemic injustice, they shape the way many people see themselves and others in a social structure, and inform the courses of action that they perceive as open or closed to them. One manifestation of this injustice is that the resulting institutions hinder freedom of agency even where they allow some freedom of choice. So, for example, under capitalist conditions, a worker has the freedom to choose whether or not to offer his labour for sale to a capitalist. But he does not have free agency, since his social position determines the options available to him and significantly constrains his ability to respond to social adversity – this is why self-liberation is a collective process rather than an individual one.

Described in this way, the capitalist state fails to satisfy the criteria for legitimacy laid out when explaining Marx's view in the *Critique of the Gotha Programme*. Firstly, it hinders freedom as self-liberation: it is only when workers organise collectively to overcome capitalism and change the rules of fundamental social cooperation that they begin the process of making themselves free. Secondly, it hinders freedom as just rule: the capitalist state does not embody a fair system of cooperation where benefits and burdens are distributed in a reciprocal way. Thirdly: it hinders freedom as public willing. Capitalist markets entrench relations of oppression which reproduce juridical and social structures that mean losers are merely coerced by the law. To be merely coerced by the law means to have little authentic voice in how laws come about, take shape, affect you, and are subsequently interpreted and transformed. It means, at least under the radical democratic conception of free agency that is also shared by Marx, to be unfree.

Let me say a few more words on the particular ideal of legitimacy that is at work here. Although Marx does not discuss legitimacy explicitly anywhere in his works, what he says about freedom and democracy suggests no major departure from the radical democratic tradition of thinking about the relation between individual and social freedom mentioned earlier on. On that radical democratic conception, a political order can be considered legitimate, when it realises authentic freedom along all three dimensions of will-formation specified above: self-liberation, just rule and public willing. The citizens' duty to obey and the state's claim to enforce the laws and punish those who transgress or violate them are both derivative of this legislative authority grounded on freedom. A legitimate political order is one that enables those subjected to its power to interact through institutions that are created by them, that realise justice, and that speak in the name of all. Only in doing so can the exercise of power instantiate practices of will formation in which, as Rousseau says, each associate "uniting with all, nevertheless obeys only himself" (Rousseau 1762: 49-50) or, as Kant puts it, where "all decide about all hence each only about himself" (Marx 1793: 295).

However, the Marxist contribution to this radical democratic tradition is to emphasise that when a political order is pervasively corrupted in the way a capitalist state seems to be, the state fails to promote free agency. This is where his assessment differs from that of his philosophical predecessors, from Rousseau to Kant, culminating in Hegel. Under capitalism, the law does not reflect or adequately express the will of those who tend to persistently lose from the system. Since losers are merely coerced by the law, they may have reason to want to change it. Suppose they rebel and seek to modify the rules governing the economic and social structure. A period of political revolution ensues. Losers re-write the constitution, profoundly modify property arrangements, change inheritance rules, abolish economic privileges and use the coercive power of the state to prepare the transition to a society in which authentic freedom is realised.

Marx calls the truly free society a communist society. But he is famous for saying very little on how exactly a communist society ought to look like (I shall return to this point later). Much more energy is devoted, instead, to discussing the transitional and intermediate phase, a society between the collapse of capitalism and free communist relations. This is the dictatorship of the proletariat, a set of democratic

practices and forms of rule that embodies the exercise of coercive power by the state. The dictatorship of the proletariat is not the final goal of the revolution, it is a historically contingent institution that exercises political authority on a transitional and provisional basis. It is a set of freedom-supporting measures, it does not embody freedom itself. Moreover, being tied to the coercive exercise of power, the legitimacy it enjoys is of a limited kind. Why is the legitimacy that the dictatorship of the proletariat enjoys a limited form of legitimacy? And why is it legitimacy at all?

The answer, I believe, lies in an argument that Marx does not make about the epistemic impact of structural advantage and disadvantage on people's views of justice and injustice. If the claim about the ideological effects of capitalist social relations is correct, then it is implausible to expect literally everyone in a society rigged by capitalist injustice to endorse the revolutionary project. While, the oppressed themselves will, in the course of political struggle, acquire an epistemic insight into the scale of injustice confronted by that society, we can anticipate that their insight will not be shared by everyone. People might object to radical change for all sorts of reasons: their motives might be selfish, ignorant, immoral or a combination of all of these. But whatever the reasons are, epistemic bias might prevent members of certain groups in society (such as those who have vested interests in the preservation of the previous order, or administrative, and political elites who are not directly oppressed and are therefore ideologically blind to the scale of injustice), from identifying with new institutions. Every institution emerging from deep political conflict faces serious obstacles in terms of the epistemic burdens associated to people's recognition of new political roles and positions, and to a new system of economic production and distribution. Thus, every institutional configuration, no matter how just in its inception, will be purely coercive for some.

Some may find puzzling the claim that a political institution that coerces those who unreasonably dissent from the (just) normative goals it promotes, can only claim a limited form of legitimacy. But think about the analogy with a benign colonial administration. Imagine a form of political authority that promotes justice in a particular territory (or indeed one that delivers justice for the first time). The colonised people may still find objectionable the way in which their will is incorporated in an association from which they feel alienated even where the mode of colonisation is not necessarily

annexation or violent occupation. If we think that full legitimacy has something to do with the way in which an agent's will is incorporated in political decision-making and the degree to which institutions speak in the name of those whom they politically enfranchise, we have reason to worry about the degree of legitimacy enjoyed by a benign colonial administration (Ypi 2013). That colonial administration may well realise freedom as just rule, but it does not yet realise freedom as public willing. It has some legitimacy but only to a limited degree.

Likewise, if a dissenting minority systematically fails to recognise itself in the way institutions' express the collective will of the people, there are good reasons to argue that the institution falls short of full legitimacy. In cases of epistemic bias affecting people's free endorsement of political authority, the revolutionary institutions cannot speak in the name of everyone since not everyone endorses the social project they promote. When that is the case, when the revolutionary institutions go on to apply the coercive rule they inherit to those who fail to recognise themselves in the normative purpose promoted by the new legal order, the political authority established might act justly but is only partially legitimate. Again here, as in the colonial case, these new institutions express freedom as just rule but not freedom as public willing.

The failure of new institutions to articulate the will of everyone is a problem even if a revolutionary political order comes to power peacefully and exercises that power without suppressing existing freedoms (e.g. the freedom to vote, to associate or to express one's opinions) as Marx and Engels emphasised. What is relevant here is that this is a *revolutionary* transition, in the sense of a fundamental break with the previous constitutional order which leads to the establishment of a new set of basic laws radically changing the organisation of social cooperation. In a divided society where a new political order is established as a result of the revolutionary activity of an oppressed majority, there will still be a problem of reconciliation with the new public will on the part of those reluctant to see the old system go.⁶ The reason Marx and Engels insist on calling this state of affairs a dictatorship is to remind us of the provisional and transitional nature of coercive authority or, to put it differently, to remind us of the limited legitimacy of the new political order compared to the full legitimacy that a more desirable alternative might enjoy. As Engels puts it "since the state is merely a transitional institution of which use is made in the struggle, in the

revolution, to keep down one's enemies by force, it is utter nonsense to speak of a free people's state". Indeed, Engels continues, "so long as the proletariat still *makes use* of the state, it makes use of it" and "as soon as there can be any question of freedom, the state as such ceases to exist" (Engels 1875).

The emphasis on how only a model of social cooperation that supersedes the state fully realises freedom of agency is very important. To understand why, notice, first, how the problem for Marxists, unlike for French republicans, is not how to protect dictatorship from degenerating into despotism. If the purpose of dictatorship is to promote radical democracy, the reforms undertaken in the period of transition will try to disperse power rather than concentrate it further, and the risk of despotism is already minimised as a result. The more serious risk is one of complacency, of confusing the means for the end and forgetting about the coercive character of the state, even when it assumes a democratic form. The limited legitimacy theory of political authority reminds us that it is not enough to make laws that seek to abolish class conflict when the epistemic effects of class division survive the constraints posed by new legal and political structures. Bias and resentment risk undermining citizens' capacity to endorse the new political authority and the related distribution of social and political roles. For these effects to disappear, generational change may be required and this is why, as Engels says, we may have to wait "until such time as a generation reared in new, free social conditions is able to throw the entire lumber of the state on the scrap heap" (Engels 1891: 191).

The reference to the need for a new generation to shape political institutions that speak in the name of all who are subjected to them explains what gives the dictatorship of the proletariat its provisional and transitional character. The contrast with the Roman and French republican case is revealing. While in the Roman republic, the terms of office of the dictator were constitutionally restricted to about six months, in the Marxist case limits are set by the time required for the new political authority to make rules that reflect the will of all those who are subjected to them. Since the change is constrained by the progressive reshaping of political roles and a radical reform of the existing system of representation, it helps to think about this as a generational transition that brings the new institutions closer to the ideal of freedom as public willing. While in the French republican case, the provisional character of dictatorship is

associated to the necessity of a revolutionary elite to concentrate power until the masses are fully educated, in the Marxist one a revolution is only warranted *when* it reflects the full agency of the oppressed. The provisional and transitional character of dictatorship is therefore best explained with reference to what Marx and Engels called a “revolutionary provisional condition” in circumstances of political fragmentation, where a new constituent power needs to rely on the coercive capacity of the old legal authority to govern in a rule-bounded manner.

The legitimacy of dictatorship is an expression of this limited legitimacy view of political authority. The dictatorship of the proletariat, as we saw, is necessary given the conflict-ridden nature of revolutionary circumstances and the need to exercise coercion to ensure compliance by all. But to fully deliver on its freedom-supporting promise, the authority of the state must remain provisional and transitional. This explains why Marx and Engels equate with dictatorship even the democratic state. When the transitional period is over, when generational change takes care of the epistemic effects of class conflict, people are truly free agents and a different political order begins to take shape. People do the right thing spontaneously and without need for a coercive political authority to enforce compliant behaviour. This is why, Engels emphasises, as soon as there can be any question of freedom, the need for coercion disappears and “the state as such withers away”, or as the literal German translation suggests, it dies out (*stirbt ab*).

5. Marxist legitimacy and its alternatives

I shall return to the argument about the withering away of the state and the relation between democracy and authentic freedom in the next section. For now, let me emphasise how the Marxist limited legitimacy theory of political authority compares to other theories we are familiar with. As already emphasized, the label dictatorship of the proletariat is helpful to refer to the state as an institution that acts justly but does not speak in the name of everyone, one that realises freedom as self-liberation and just rule, but not freedom as public willing. An institution that acts justly but does not speak in the name of everyone, exercises political authority in a way that has limited

legitimacy. This is different from many liberal theories of political obligation which claim that when certain criteria of justice are satisfied, the state's coercive power is fully legitimate. But it is also different from anarchist theories because political authority is not completely illegitimate when it falls short of the endorsement of everyone. Those who deploy the coercive power of the state for just purposes act with some *legitimate* authority even if they do so *provisionally*, and on a *transitional* basis.

The distinctiveness of Marx's position on the relation between self-liberation, just rule and public willing emerges more clearly if we contrast it with two familiar accounts of political legitimacy, consent-based theories and fairness-based ones. Generally speaking, there is a significant amount of overlap between Marxist theories of legitimacy and consent-based ones. For both of them, legitimacy is different from justification. While justification explains the power of a particular political institution in terms of the values it is supposed to promote (e.g. peace, stability, order, justice), legitimacy refers to the authority of that institution to impose obligations on those subjected to the exercise of that power (Simmons 2001: 122-145). In short, legitimacy is about a claim to rule, justification is about the reasons underpinning that claim. The question often raised by consent-based theories is what gives a particular state the authority to rule, compared to a number of other possible institutions that might realise the same values. On this analysis, the state is, at best, a necessary evil, and the question of whether it has a claim to rule over those subjected to its power is, at best, an empirical question, one that admits of a response that comes in degrees: the more a state approximates the voluntarist ideal, the more it is legitimate (Simmons 2001: 156).

Marxists would share some of the commitment to political voluntarism that underpins consent theories of legitimacy, especially where consent is understood hypothetically, as an expression of free agency rather than free choice (along the lines of the robust theory of freedom outlined earlier). They would probably also share the conclusion that the state is at best a necessary evil, and that the question of what gives particular states a claim to rule cannot be answered only with reference to the generic values that a state-like authority is supposed to promote. But in the Marxist account of the state, history, conventions, the capacity to command obedience, the legal authority that is recognised to states, their embodiment of public power, and the

fact that they provide a target against which efforts to democratise institutions are directed, all contribute a *distinctive* answer to the question of why *this* particular authority has legitimacy rather than any other imagined alternative. Thus, the Marxist limited legitimacy theory reorients the question of alternatives to the state from one that looks back to the history and origin of the state (as with existing consent-based theories) to one that looks forward to its potential transformation and eventually transcendence.

This last point is important to clarify how the Marxist theory differs from another theory of legitimacy that we are familiar with in contemporary debates, the fairness-based theory often associated with John Rawls. In many ways, the society that removes the structural effects of economic and social inequalities triggered by capitalist market relations is a well-ordered society in the Rawlsian sense of the term (see also Edmundson 2017). Marx's idea that even in a well-ordered society there will be those who object to the normative project that society serves echoes Rawls's view that in a well-ordered society there will be those for whom the affirmation of a sense of justice is not a good. Or to put it in the terms of *Political Liberalism*, Rawls, like Marx, assumes that even in a well-ordered society there will be "many unreasonable views" or "doctrines that reject one or more democratic freedoms" (Rawls 1993: 64). The question, Rawls raises is whether "those who do affirm their sense of justice are treating these persons unjustly in requiring them to comply with just institutions" (Rawls 1999: 211-212). In *A Theory of Justice* the answer rests with the justifiability of a theory of punishment and the presumption that a coercive system is necessary to guarantee the stability of social cooperation (Rawls 1999: 211-213). In *Political Liberalism*, Rawls argues that those who undermine the system by affirming unreasonable views provide us with "the practical task of containing them – like war and disease – so that they do not overturn political justice" (Rawls 1993: 64). In other words, for Rawls, the system of punishment is essential to guarantee that everyone does their share in a scheme of social cooperation, whilst knowing that others are also required and compelled to do so. The solution to the assurance problem is an authorised public system of interpretation of rules, backed up by coercive sanctions. The need for such an authority to contain those who undermine it and to maintain political justice, is "a permanent fact of life, or seems so" (Rawls 1993: 64).

From a Marxist perspective, we would take issue with the reification of human nature on which Rawls's claim appears to rely. For Marxists, the public coercive authority that provides people with the assurance Rawls requires, has only limited legitimacy; there is nothing permanent about its justification. The state is part of a provisional and transitional set-up in which the sense of justice is still in the process of developing, not one in which it has firmly established itself. In a truly well-ordered society that fully realises freedom, people's attitudes, psychological dispositions and mutual sentiments of trust and solidarity might develop in directions that we cannot anticipate. But if a well-ordered society truly does do away with inequality, envy, the corrupting effects of hierarchies of social rank, and so on, why should we assume that people will still mistrust one another and continue to look over each other's shoulders to ensure that everyone acts as they should? Why do we need to continuously rely on an external authority that guarantees that everyone is doing their share, that deploys coercive sanctions to guarantee people's compliance, and that resorts to a public penal system to punish those who fail to conform? There is something perverse in assuming that although people create a civil condition so as to abandon the anti-social dispositions that characterise them in the state of nature (see Rawls's reference to the Hobbesian thesis), they actually never succeed in doing so. More plausibly, what seems to us like "a permanent fact of life", to use Rawls's expression, might have to do with the kinds of institutions in which social attitudes develop, and the disposition to one another that they encourage or stifle.

Marx's view of human nature is not a Hobbesian one, but one that insists on the inherent force of moral norms once the corrupting influence of particular unjust and unequal social institutions have been fully removed.⁷ This is why, Marx argues, that "under human conditions", i.e. once the unsocial sources of crime are removed, punishment takes a very different form, it is "nothing but the sentence passed by the culprit on himself. No one will want to convince him that violence from without, done to him by others, is violence which he had done to himself. On the contrary, he will see in other men his natural saviours from the punishment which he has imposed on himself" (Marx 1845: 179). Of course, Marx does not fully abandon the idea that even under humane conditions there might be something to punish, that people might err, commit wrongs, or hurt each other in various ways (whether intentionally or

inadvertently) (see also Geras 1990: 13). But the trade-off which requires the acceptance of a public coercive authority for the sake of protecting people's freedom is nothing more than a necessary evil, which can only be justified in a provisional and transitional political authority. Authentic freedom is only fully realised when the need for such coercive political authority has been superseded and society has transformed itself to a sufficient degree that that coercion is no longer needed. That is what it means to say that the state progressively withers away.

6. Towards a utopia of freedom

An implication of the limited theory of legitimacy that I have outlined is that a state can be fully legitimate only when laws render people fully free. But this is also slightly paradoxical. If laws were to render us fully free, they would also emancipate us from the need for a coercive authority that enforces laws. And if people really have no need to be coerced by the laws, if there are no longer structurally-rooted conflicts between them and everyone does what is right without need for sanctions and punishment, the state, at least in the form we know it, would lose its rationale. It would be converted from "an organ superimposed upon society into one completely subordinate to it" (Marx 1891). The state, whose function is equated with the coercive exercise of political power for the sake of maintaining justice, would spontaneously wither away. This is why the state as such is not destroyed, or smashed, or swept away and why the question of how much revolutionary violence will be required to complete this transition reflects a misguided take on the problem (see on this also Colletti 1972: 221). Instead of being smashed or destroyed, the state becomes a tool to promote freedom of agency (understood as self-liberation, as just rule and as public willing). But the more that cause is effective, the more the sense of justice establishes itself through new social institutions, the more the state begins to fade and leaves in its place society with its spontaneous forms of social organization, with voluntary cooperation between people, and an associative and non-coercive structure for channelling the public will.

The dictatorship of the proletariat embodies the democratic exercise of coercive rule by the majority of the oppressed. But the true realm of freedom marks the end of

social conflict and with it of the very distinction between oppressors and oppressed. The period of revolutionary transition indicates the transfer of power from one class to another, but the revolution is only really successful when the coercive basis on which power is exercised withers away. It is not when those who govern are truly representative of the governed but when the difference between the governors and the governed withers away.

For Marx, authentic freedom is fully realised in a society in which people do the right thing or relate to each other in the right way because they are motivated by what is right and not by fear of sanctions or desire of rewards. When society is transformed so that human beings are liberated by material needs or by the competition for power and recognition, the structural roots of conflict progressively disappear and justice in its relation to coercion is no longer needed. The need for coordination is of course still there, and so are disagreements among human beings, but society takes on these challenges and discharges them differently from the state as we know it. Marx's positive account of the conditions that need to be in place for capitalism to be superseded by a truly free society is contained in his theory of the dictatorship of the proletariat and not in his vision of communism. The former (the dictatorship of the proletariat) is, as I tried to suggest, a theory of (limited) legitimacy in its connection to the need for justice, and also a theory of the transition from non-ideal circumstances to an ideal of freedom. The latter (communist society) expresses authentic freedom by realising a society where political conflict, understood as conflict rooted in certain material conditions and in the existence of social classes, come to an end.

In conclusion, it is important to emphasise how the realisation of authentic freedom in a communist society does not mean that individual differences disappear and disagreements come to an end once and for all. Rather, disagreements can finally take a reasonable form. Marxists are committed to the idea that a communist society is not one that represses individualism but where individual differences flourish and are brought to their maximal development. "It goes without saying", Engels argues, "that society cannot free itself unless *every individual* is freed" (Engels 1878: 279). Emancipation is reached only "by offering each individual the opportunity to develop all his faculties, physical and mental, in all directions and exercise them to the full"

(Engels 1878: 280). But if human beings remain different from each other, with their own distinctive characteristics, temperaments and skills, it is also plausible to assume that misfortunes and disagreements will persist and that human beings will still hurt, offend or be angry with each other. The point to emphasise is that once the social basis of transgression is removed and the need for coercive authority withers away, society finds ways of solving these disagreements through a combination of toleration, deliberation and common efforts to find solutions that do not involve coercive sanctions. Therefore, for Marx, democracy as a decision-making mechanism remains crucial even after the state has withered away (see also Hunt 1975: 252). Where disagreements are reasonable, democracy can finally take a more deliberative and less antagonistic form. Democracy is a form of collective rule that no longer needs the state's coercive power. It reflects the wisdom of the people championed by Aristotle and Rousseau, but in a context in which the material and power-related objections to that ideal that Plato or Hobbes highlighted no longer apply. The personal and the communal interest of the individual support each other rather than pulling apart, and the social nature of human beings prevails over the unsociable. This is the essence of the Marxist ideal of the truly free society that underpins the limited legitimacy theory of political authority. It is an ideal that invites us always to think with the state, but always also against it.

ACKNOWLEDGMENTS

I am grateful to Sophie Smith for the invitation to an Oxford conference on utopia which prompted me to write this article. I am also grateful to audiences in London, Berkeley, Bayreuth, Durham, Kent, Mexico City, Milan, and Prague, where I presented various earlier drafts. I would like to thank especially Chuck Beitz, Alex Callinicos, Josh Cohen, Rainer Forst, Pablo Gilabert, Alex Gourevitch, Pablo Kalmanovitz, Tim Kerckhoff, Kinch Hoekstra, Chris Kutz, Iain McDaniel, Martin Loughlin, Claudio Lopez-Guerra, Bruno Leipold, David Leopold, Suzi Love, Avia Pasternak, Lucia Pradella, Lucia Rubinelli, Jonathan White and several anonymous reviewers for reading suggestions and constructive criticisms that helped me improve the article.

ENDNOTES

¹ The first interpretation is Lenin's, the second is Kautsky's. For a discussion, see Hunt 1975: 284. See also the pioneering work of Hal Draper, *Karl Marx's Theory of Revolution, Volume 3: The "Dictatorship of the Proletariat"* (Draper 1986). In general, while I agree with Hunt's analysis that the essence of Marx's teaching was the idea of "political rule of the proletariat" it seems to me that the dismissal of the "dictatorship of the proletariat" as "little more than factional politics" fails to do justice to Hunt's own rich account of the origin and use of the concept.

² One exception is Jon Elster's *Making Sense of Marx*, whose (short) analysis is mostly indebted to Draper and Hunt, see Elster 1985: 447-9.

³ I have developed some of these thoughts in relation to the demands of Rawls's theory of justice in Ypi 2018.

⁴ Philip Pettit has also used the term "freedom of agency" to contrast it with what he calls "option freedom", see Pettit 2003. There are some affinities between the radical democratic and the republican conceptions of freedom of agency, but the first cannot be reduced to the second. For my critique of Pettit's account, see Ypi 2014.

⁵ For an analysis of the genealogy of the concept of dictatorship which distinguishes between a positive use of the term, going back to the Roman republican tradition, and a negative use, which emerged after the appropriation of the concept during the French revolution, see Nippel 2012.

⁶ The contemporary world offers plenty of examples of tensions between justice and public willing in divided societies: think about the social implications of the velvet revolutions of Eastern Europe after 1989 or debates around constitutional reconciliation in former apartheid states like South Africa. See for an important discussion of the relation between justice and (what I call) the development of a public will in contemporary politics, Lu 2017.

⁷ There are important analogies between Marx and Kant here, but Marx has a social theory to account for the problem of radical evil that Kant explores in his writings on religion. For an analysis of the relationship between Marx and Kant's theory of human nature and their affinities on the idea of an ethical commonwealth see Ypi 2017.

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