

CONSTITUENT REPUBLIC

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I. "TO EACH GENERATION ITS OWN CONSTITUTION"

When Condorcet suggests that each generation might produce its own political constitution, on the one hand he is referring to the position of constitutional law in Pennsylvania (where constitutional law is on the same footing as ordinary law, providing one single method for creating both constitutional principles and new law), and on the other he is anticipating the French revolutionary constitution of 1793: "Un peuple a toujours le droit de revoir, de reformer et de changer sa Constitution. Une génération ne peut assujettir à ses lois les générations futures." (A people always has the right to revise, reform and change its constitution. One generation may not subject future generations to its own laws.) [Article XXVIII]

Standing at the threshold of present-day developments in state and society, as they were to be brought about by revolution, science and capitalism, Condorcet understood that any preconstituted blockage of the dynamic of production and any restraint of liberty that goes beyond the requirements of the present, necessarily lead to despotism. To put it another way, Condorcet understands that, once the constituent moment is past, constitutional fixity becomes a reactionary fact in a society that is founded on the development of freedoms and the development of the economy. Thus a constitution should not be granted legitimacy on the basis of custom and practice, or the ways of our ancestors, or classical ideas of order. On the contrary, only life in a constant process of renewal can form a constitution — in other words, can continually be putting it to the test, evaluating it and driving it towards the necessary modifications. From this point of view, Condorcet's recommendation that "each generation should have its own constitution" can be put alongside that of Machiavelli, who

proposed that each generation (in order to escape the corruption of power and the "routine" of Administration) "should return to the principles of the State" — a "return" which is a process of building, an ensemble of principles — not an inheritance from the past but something newly rooted.

Should our own generation be constructing a new Constitution? When we look back at the reasons which the earlier creators of constitutions gave for why constitutional renewal was so urgent, we find them entirely present in our own situation today. Rarely has the corruption of political and administrative life been so deeply corrosive; rarely has there been such a crisis of representation; rarely has disillusionment with democracy been so radical. When people talk of "a crisis of politics," they are effectively saying that the democratic State no longer functions — and that in fact it has become irreversibly corrupt in all its principles and organs: the division of powers, the principles of guarantee, the single individual powers, the rules of representation, the unitarian dynamic of powers, and the functions of legality, efficiency and administrative legitimacy. There has been talk of an "end of history," and if such a thing exists we might certainly identify it in the end of the constitutional dialectic to which liberalism and the mature capitalist state had tied us. To be specific, as from the 1930s, in the countries of the capitalist West there began to develop a constitutional system which we would call the "Fordist" constitution, or the labourist welfare-state constitution; this model has now gone into crisis. The reasons for the crisis are clear when one takes a look at the changes in the subjects which had forged the original agreement around the principles of this Constitution: on the one hand the national bourgeoisie, and on the other hand the industrial working class organised within both the trade unions and the socialist and communist parties. Thus the liberal-democratic system functioned in such a way as to match the needs of industrial development and of the sharing-out of global income between these classes. Constitutions may have differed more or less in their forms, but the "material constitution" — the basic convention covering the sharing out of powers and counter-powers, of work and of income, of rights and freedoms — was substantially homogeneous. The national bourgeoisies renounced fascism and guaranteed their powers of exploitation within a system of sharing-out of national income which — reckoning on a context of continuous growth — made possible the construction of a welfare system for the national working class. For its part, the working class renounced revolution.

Now, at the point when the crisis of the 1960s concludes in the emblematic events of 1968, the state built on the Fordist constitution goes into crisis: the subjects of the original constitutional accord in effect undergo a change. On the one hand, the various bourgeoisies become internationalised, basing their power on the financial transformation of capital, and turning themselves into abstract rep-

resentations of power; on the other, the industrial working class (in the wake of radical transformations in the mode of production — victory for the automation of industrial labour and the computerisation of social labour) transforms its own cultural, social and political identity. A multinational and finance-based bourgeoisie (which sees no reason why it should bear the burden of a national welfare system) is matched by a socialised, intellectual proletariat — which, on the one hand, has a wealth of new needs, and on the other is incapable of maintaining a continuity with the articulations of the Fordist compromise. With the exhaustion of "real socialism" and the etching of its disaster into world history at the end of 1989, even the symbols — already largely a dead letter — of a proletarian independence within socialism were definitively destroyed.

The juridico-constitutional system based on the Fordist compromise, strengthened by the constituent agreement between the national bourgeoisie and the industrial working class, and overdetermined by the conflict between the Soviet and American super-powers (symbolic representations of the two conflicting parties on the stage of each individual nation) has thus run out its time. There is no longer a long-term war between two power-blocs at the international level, within which the civil war between classes might be cooled down by means of immersion in the Fordist constitution and/or in the organisations of the Welfare State; there no longer exist, within individual countries, the subjects who could constitute that Constitution and who might legitimate its expressions and its symbols. The whole scenario is now radically changed.

So what is the new Constitution which our generation is going to have to construct?

2. "ARMS AND MONEY"

Machiavelli said that in order to construct the State, the Prince needed "arms and money." So what arms, and what money, are going to be required for a new Constitution? For Machiavelli, the arms are represented by the people (*il popolo*), in other words the productive citizenry who, within the democracy of the commune, become a people in arms. The question is, what *popolo* or people could be counted on today for the creation of a new Constitution? Do we have a generation opening itself to a new institutional compromise that will go beyond the Welfare State? And in what terms would it be disposed to organise itself, to "arm" itself, to this end? And what about the "money" side of things? Is the multinational finance bourgeoisie willing to consider a new constitutional and productive compromise that will go beyond the Fordist compromise — and if so, then on what terms?

Within the social system of post-Fordism, the concept of “the people” can and must be redefined. And not only the concept of “the people,” but also the concept of “the people in arms” — in other words, that fraction of the citizenry which by its work produces wealth and thus makes possible the reproduction of society as a whole. It can claim that its own hegemony over social labour be registered in constitutional terms.

The political task of arriving at a definition of the post-Fordist proletariat is by now well advanced. This proletariat embodies a substantial section of the working class that has been restructured within processes of production that are automated, and computer-controlled processes which are centrally managed by an ever-expanding intellectual proletariat, which is increasingly directly engaged in labour that is computer-related, communicative and in broad terms educative/formative. The post-Fordist proletariat, the *popolo* or “people” represented by the “social” worker (*l'operaio sociale*), is imbued with and constituted by a continuous interplay between technico-scientific activity and the hard work of producing commodities; by the entrepreneuriality of the networks within which this interaction is organised; by the increasingly close combination and recomposition of labour time and life-time. There, simply by way of introduction, we have some possible elements of the new definition of the proletariat, and what becomes clear is that, in all the sections in which this class is being composed, it is essentially *mass intellectuality*. Plus — and this is crucial — another element: within the scientific subsumption of productive labour, within the growing abstraction and socialisation of production, the post-Fordist labour form is becoming increasingly cooperative, independent and autonomous. This combination of autonomy and cooperation means that *the entrepreneurial potentiality (potenza imprenditoriale) of productive labour is henceforth completely in the hands of the post-Fordist proletariat*. The very development of productivity is what constitutes this enormous independence of the proletariat, as an intellectual and cooperative base, as economic entrepreneuriality. The question is, does it also constitute it as political entrepreneuriality, as political autonomy?

We can only attempt an answer to this question once we have asked ourselves what exactly we mean by “money” within this historic development. In other words, in today’s world, what happens to the bourgeoisie as a class, and to the productive functions of the industrial bourgeoisie? Well, if what we have said about the new definition of a post-Fordist proletariat is true, it follows that the international bourgeoisie has now lost its productive functions, that it is becoming increasingly parasitic — a kind of Roman church of capital. It now expresses itself only through financial command, in other words a command which is completely liberated from the exigencies of production — “money” in the post-classical and post-Marxian sense, “money” as an alienated and hostile

universe, “money” as general panacea — the opposite of labour, of intelligence, of the immanence of life and desire. “Money” no longer functions as mediation between labour and commodity; it is no longer a numeric rationalisation of the relationship between wealth and power; it is no longer a quantified expression of the nation’s wealth. In the face of the entrepreneurial autonomy of a proletariat which has materially embraced within itself also the intellectual forces of production, “money” becomes the artificial reality of a command which is despotic, external, empty, capricious and cruel.

It is here that the new fascism reveals itself — a postmodern fascism, which has little to do with Mussolinian alliances, with the illogical schemas of Nazism, or the cowardly arrogance of Petainism. *Post-modern fascism* seeks to match itself to the realities of post-Fordist labour cooperation, and seeks at the same time to express some of its essence in a form that is turned on its head. In the same way that the old fascism mimicked the mass organisational forms of socialism and attempted to transfer the proletariat’s impulse towards collectivity into nationalism (national socialism or the Fordist constitution), so post-modern fascism seeks to discover the communist needs of the post-Fordist masses and to transform them, gradually, into a cult of differences, of the pursuit of individualism and the search for identity — all within a project of creating over-riding despotic hierarchies aimed at constantly, relentlessly, pitting differences, singularities, identities and individualities one against the other. Whereas communism is respect for and synthesis of singularities, and as such is desired by all those who love peace, the new fascism (as an expression of the financial command of international capital) produces a war of everyone against everyone, produces religiosity and wars of religion, nationalism and wars of nations, corporative egos and economic wars...

So, let us return to the question of “the arms of the people.” We are asking: what is this Constitution that our new generation is going to have to build? This is another way of asking what are the balances of power, the compromises, which the new post-modern proletariat and the new multinational employing class are going to have to institute, in material terms, in order to organise the next productive cycle of the class struggle. But if what we have said so far is true, does this question still make sense? What possibility exists now, for constitutional compromise, in a situation where a huge degree of proletarian cooperation stands at the opposite pole to a huge degree of external and parasitical command imposed by multinational capital? A situation in which money stands in opposition to production.

Does it still make sense to ask ourselves how rights and duties might be reciprocally calibrated, given that the dialectic of production no longer has workers and capital mixing in the management of the productive relationship?

We would probably all agree that the question makes no sense. The "arms" and the "moneys" are no longer such that they can be put together in order to construct the State. Probably the Welfare State represents the final episode of this history of accords between those who command and those who obey (a history which — if we are to believe Machiavelli — was born with the "dualism of power" which the Roman tribunes installed in relation to the Republic).

Today everything is changing in the fields of political science and constitutional doctrine: if it is the case that those who once were the "subjects" are now more intelligent and more "armed" than kings and employing classes, why should they go looking for a mediation with them?

3. STATE FORMS: THAT WHICH IS NOT "CONSTITUENT POWER"

From Plato to Aristotle and, with some modifications, through to the present day, the theory of "state forms" has come down to us as a theory which is unavoidably dialectical. Monarchy and tyranny, aristocracy and oligarchy, democracy and anarchy, handing over from one to the other, are thus the only alternatives within which the cycle of power develops. At a certain point in the development of the theory, Polybius, with undoubted good sense, proposed that these forms should be considered not as alternatives, but rather as complementary. (Here he referred to the constitution of the Roman Empire, to show that there were instances in which different state forms not only did not counterpose each other, but could also function together: could be functions of government.) The theorists of the American Constitution, along with those of the popular-democratic Constitutions of Stalinism, thus all contentedly recognised themselves as Polybians! Classical and contemporary constitutionalism, wherein all the prostitutes of the State of Right happily wallow, is nothing other than Polybian! Monarchy, aristocracy and democracy, put together, form the best of republics!

Except that the alleged scientific value of this dialectic of state forms does not go much beyond the familiar classical apologetics of Menenius Agrippus, whose position was as reactionary as any other, given that it implied a conception of power that was organic, unmoving and animal (inasmuch as it required the various social classes to work together to construct an animal functionality). Should we write it off as being of no value, then? Perhaps. But at the same time there is a value in recognising these theories for what they are, because the way they have survived over the centuries, the effects they have had on history, and the daily effect of inertia that they exert, provide a useful reminder of the power of mystification.

The ideology of revolutionary Marxism too, albeit overturning the theory of state forms, nonetheless ends up affirming its validity. The "abolition of the

state," *pace* Lenin, assumes the concept of state as it exists within bourgeois theory, and poses itself as a practice of extreme confrontation with that reality. What I am saying is that all these concepts — "transition" as much as "abolition," the "peaceful road" as much as "people's democracy," the "dictatorship of the proletariat" as much as the "cultural revolution" — all these are bastard concepts, because they are impregnated with a conception of the state, of sovereignty and its domination — because they consider themselves as necessary means and unavoidable processes to be pursued in the seizure of power and the transformation of society. The mystificatory dialectic of the theory of state forms turns into the negative dialectic of the abolition of the state: but the theoretical nucleus remains, in the absolute and reactionary way in which the power of the state is affirmed. "All the same old shit," as Marx put it.

It is time to emerge from this crystallisation of absurd positions — which are given a value of truth solely by their extremism. It is time to ask ourselves whether there does not exist, from a theoretical and practical point of view, a position which avoids absorption within the opaque and terrible essence of the State. In other words, whether there does not exist a viewpoint which, renouncing the perspective of those who would construct the constitution of the State mechanistically, is able to maintain the thread of genealogy, the force of constituent praxis, in its extensivity and intensity. This point of view exists. It is the viewpoint of defiance, of insurrection, of continual resistance, of constituent power. It is a breaking-without refusal, it is imagination, all as the basis of political science. It is the recognition of the impossibility, nowadays, of mediating between "arms" and "money," between "people in arms" and the multinational bourgeoisie, production and finance. As we begin to leave Machiavellianism behind us, we are firmly of the opinion that Machiavelli would have been on our side. We are beginning to arrive at a situation where we are no longer condemned to think of politics in terms of domination. In other words, what is under discussion here is the very form of the dialectic, mediation as a content of domination in its various different forms. For us, it is definitively in crisis. We have to find ways of thinking politically beyond the theory of "state forms." To pose the problem in Machiavellian terms, we have to ask: is it possible to imagine constructing a republic on the basis of the arms of the people, and without the money of the Prince? Is it possible to entrust the future of the state solely to popular "virtue," and not at the same time to "fortune?"

4. CONSTRUCTING THE SOVIETS OF MASS INTELLECTUALITY

In the period which we have now entered, in which immaterial labour is tending to become hegemonic, and which is characterised by the antagonism produced by the new relationship between the organisation of the forces of pr

duction and multinational capitalist command, the form in which the problem of the Constitution presents itself, from the viewpoint of mass intellectuality, is that of establishing how it might be possible to build its Soviets.

In order to define the problem, let us begin by recalling some of the conditions which we have assumed thus far.

The first of these conditions derives from the tendential hegemony of immaterial labour and thus from the increasingly profound reappropriation of technico-scientific knowledge by the proletariat. [On this basis, technico-scientific knowledge can no longer be posed as a mystified function of command, separated from the body of mass intellectuality.]

The second condition derives from what I referred to above as the end of all distinction between working life and social life, between social life and individual life, between production and life-form. In this situation, the political and the economic become two sides of the same coin. All the wretched old bureaucratic distinctions between trade union and party, between vanguard and mass, and so on, seem definitively to disappear. Politics, science and life function together: it is within this framework that the real (*il reale*) produces subjectivity.

The third point to consider arises from what has been said above: on this terrain the alternative to existing power is constructed positively, through the expression of potentiality (*potenza*). [The destruction of the State can be envisaged only via a concept of the reappropriation of administration.] In other words, a reappropriation of the social essence of production, of the instruments of comprehension of social and productive cooperation. Administration is wealth, consolidated and put at the service of command. It is fundamental for us to reappropriate this, reappropriating it by means of the exercise of individual labour posed within a perspective of solidarity, within cooperation, in order to administer social labour, in order to ensure an ever-richer reproduction of accumulated immaterial labour.

Here, therefore, is where the Soviets of mass intellectuality are born. And it is interesting to note how the objective conditions of their emergence chime perfectly with the historical conditions of the antagonistic class relationship. In this latter terrain, as I suggested above, there is no longer any possibility of constitutional compromise. The Soviets will therefore be defined by the fact that they will express immediately potentiality, cooperation and productivity. The Soviets of mass intellectuality will give rationality to the new social organisation of work, and they will make the universal commensurate to it. The expression of their potentiality will be without constitution.

The constituent Republic is thus not a new form of constitution: it is neither Platonic nor Aristotelian nor Polybian, and perhaps it is no longer even Machiavellian. It is a Republic which comes before the State, which comes out-

side of the State. The constitutional paradox of the constituent Republic consists in the fact that the constituent process never closes, that the revolution does not come to an end, that constitutional law and ordinary law refer back to one single source and are developed unitarily within a single democratic procedure.

Here we are, finally, at the great problem from which everything starts and towards which everything tends: the task of destroying separation and inequality, and the power which reproduces separation and inequality. Now, the Soviets of mass intellectuality can pose themselves this task by constructing, outside of the state, a mechanism within which a democracy of the everyday can organise active communication, the interactivity of citizens, and at the same time produce increasingly free and complex subjectivities.

All the above is only a beginning. Is it perhaps too general and abstract? Certainly. But it is important that we begin once again to talk about communism — in this form — in other words, as a programme which, in all its aspects, goes beyond the wretched reductions that we have seen being enacted in history. And the fact that it is only a start does not make it any the less realistic. Mass intellectuality and the new proletariat which have been constructed in the struggles against capitalist development and through the expression of constitutive potentiality are beginning to emerge as true historic subjects.

The moment of the new, the new happening, the "Angelus novus" — when they arrive — will appear suddenly. Thus our generation can construct a new constitution. Except that it will not be a constitution.

And perhaps this new happening has already occurred.