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THE PANDEMIC AS HISTORY¹

Dedicated to the memory of Mario Castelani

ABSTRACT

The author finds the possibility of overcoming the current liberal-capitalist system in a different conception of time, which requires a different attitude towards both the past and the future. The paper begins with an analysis of the Benjamin's critique of Marx, followed by analysis of Derrida's critique of Benjamin and finally Derrida's critique of Marx. Benjamin points out the problem of teleological understanding of time, the understanding that the meaning of events comes only from the future, which is present in Marx, and which prevents us from escaping the "circle" of violence. Although he relies on Benjamin's conception of time, the author seeks to transcend the understanding of law as something separate from justice, and law as violence. Therefore, the paper turns to Derrida and his understanding of the law, eventually providing new possibilities for understanding and constituting the left, social theory, but also critical thinking today.

KEYWORDS

history, time, violence, law, Benjamin, Marx, Derrida

I recently remembered Sartre's important visit to Brazil in 1960, as well as his visit, the same year, to my other homeland, then called Yugoslavia. Needless to say, both visits caused a lot of enthusiasm in both countries. What Sartre left us as a legacy was this sense of enthusiasm, needed so much today – here and now – in a dramatic time of a catastrophe of the right and resignation of the left.

At one point – in *The Problem of Method*, Sartre says that Marxism still remains the philosophy of our time because the circumstances that created it has not yet been overcome. Today, the only question is how to rethink Marxism but without replicating the ideology. The future still belongs to Marx, it seems.

¹ Translated by Aleksandra Zistakis.

Miroslav Milović (†): Full Professor, Department of Law, University of Brasília; milovic.unb@gmail.com. This is the last text by Miroslav Milović, who passed away on February 11th 2021. He was born in Čačak in 1955, studied philosophy in Belgrade. He defended his doctorate in Frankfurt in 1987 and in 1990 at the Sorbonne. From 1988 until 1997 he was a docent for Ethics at the Faculty of Philosophy in Belgrade. He spent years working in Ankara, Granada, Tokyo, Brasilia. The last twenty years he worked as a full professor of philosophy at the University of Brasilia. He was a friend of the Institute for Philosophy and Social Theory.

While French intellectuals became interested in Marxism after World War II, Sartre was moving nearer to existentialism. At the same time, while the vast majority of the intellectuals, after the experience of the Soviet Union, were distancing themselves from Marxism, Sartre was approaching it. Thus, after he made a visit to the “Soviet miracles” in 1954, Sartre will say that freedom there is a total one. Shortly after this utterance of his, the USSR will invade Hungary.

Bearing all these facts in mind, the question now is how to think about social theory today, or Marxism, or simply even our future? In order to answer this question, first, I will comment on Walter Benjamin’s critical readings of Marx; then I will offer a brief analysis of Derrida’s critique of Benjamin, and finally, in the third part, I will deal with Derrida’s critique of Marx. It will be, I hope, clearer what kind of critical thinking we need today. And what kind of the left; for that matter.

1. Benjamin returned from the Soviet Union in the 1920s with having had an utterly different experience from Sartre: He was overwhelmed with a sense of a great disappointment, and it is through this disenchantment that he will approach Marx. The USSR simply followed and got lost in the mistakes of Marxism itself. How should we understand it?

At the beginning of the 14th thesis, in *Theses on the Philosophy of History*, Benjamin says: “History is the subject of a structure whose site is not homogeneous, empty time, but time filled by the presence of the now (*Jetztzeit*)” (Benjamin 1992: 166). He continues, at the beginning of the 16th thesis, by saying: “A historical materialist cannot do without the notion of a present which is not a transition, but in which time stands still and has come to a stop” (Benjamin 1992: 167). The present is not transient and does not get its meaning from the future. In that sense, Marx remains within a teleological articulation of history, following Hegel’s optimism. Let us remember that according to Hegel, history acquires its full meaning only at its end. In other words, Marx did not overcome metaphysical teleology. No revolution has done that. Therefore, communism only renewed metaphysics and its static project.

Here, we arrive at the point of contention between Benjamin and Marx: History is not a scene of progress; time is not linear; we must return to the contingency of this “here and now”, to this discontinuity. Moreover, we must, in fact, go back to the past, because of the injustices committed. We must do it in the name of the victims. Marx deals with the things yet to come, and in doing so, he even defends or justifies violence. For,] only through proletarian violence we can reach the future.

The conflict with Marxist teleology leads Benjamin to the notion of messianism. The messianic here is understood as an opening up of the past. For Benjamin, the messianic “is not its relationship to the future classless society, but is an opening up of memory” (Fritsch 2005: 37). This destruction of metaphysics, hinted at by Spinoza and Nietzsche, clashes with teleology. At this point, let us remind ourselves: Teleology is not a harmless thing, limited only to academic discussions. It determines Greek thought, and through Christianity,

all the way to Modernity, to Hegel and Marx, to us, determines our thought. The meaning of our life stems from the future. Also, Marx's promise of social justice remains within this teleology. Is it possible then, to think about justice without the teleology of the future? (Fritsch 2005: 24)

That is why, for Benjamin, justice is related to the messianic project, to the divine. Here, justice is opposed the constitution and preservation of the law itself. Therefore, for Benjamin, the law is tied to a mythical violence. Thus, the law, separated from justice, remains related to violence. Hence the question: Can the law still be a place/site of justice? Benjamin also relates divine justice with the proletarian revolution. But, the revolution easily can become a new form of violence. In other words, Benjamin is close to a conclusion that one form of violence can only be overcome by another violence. These dilemmas were the basic inspirations of Derrida's book *Force of Law*. It seems that we need to distance ourselves from Benjamin in order to think about justice as (with)in the law or as the conditions of a social integration.

Let me repeat once more, this is not, by all means, a question of academic discussion or a case of philosophical rhetoric. Today, it is necessary to confront Benjamin in this context, for the system itself is based on the law. The normativity of the law is a condition for the preservation of the system itself, or, better capitalism itself. We are not talking about the return to a legal conservatism, as suggested by Aristotle. As Aristotle himself says, the normative premises of the law, based on an unquestionable ethical project, are not a subject of discussion. The Greeks do not question their own metaphysics. The world is simply taken as it is. The Greeks, thus, seem to imply modern positivism. It is, by the way, a concept that points us to many doubts about modern law we seem to have. Positivism: Descartes implies it, battling with the Greek metaphysics; Hobbes affirms it within a social context. The system, integrated by the law, does not question its own assumptions. The system simply needs to function. The problem is, however, that – in addition to conservatism and positivism – something else emerges. Namely, the system needs law. It needs legal violence to sustain itself. The capitalist system, in other words, depends on legal violence. Or, as Fischer-Lescano would say: "The devil is in the legal order itself" (Fischer-Lescano 2017: 58). Conservatism, positivism, the devil's order. These may be the proper words used for the reconstruction of the history of law. So, the question recurs: Can the law be a place/site of justice? That is Derrida's question.

2. How to think social justice, then? This is the point of Derrida's dispute with Benjamin and, at the same time, the point where we need to rethink the Marxist promise of social justice. So, along with Benjamin and against Benjamin, Derrida wants to confront Marx. In the name of some other left, which today could be seen only as a matter of regaining our life in the demonic world of neoliberalism, in my homelands, here in Brazil, and in Serbia.

Already in his texts from the 1970s, such as in the book *Speech and Phenomena*, Derrida begins his critique of metaphysics that continues all the way

to his works on Benjamin and Marx. Metaphysics is based on the premise of Identity, it creates a culture of a strong identity, a cage so to speak.

However, language itself tells us that this does not have to be the case. Namely, language creates conditions for something to be memorized. It is at the place of absent things and thus creates conditions of/for meaning. This mediation by something else in relation to consciousness Derrida calls iterability. In this way otherness, iterability, language, become, in a sense, the quasi-transcendental conditions of thought. For, in order to think something, we need something else, i.e. language. This brings us to the possibility of a critique of metaphysics. The otherness, the difference, becomes a condition of identity. It is, obviously, a critique of metaphysics that does not create new identities. Here, Derrida thinks of Heidegger and his unfinished project of the critique of metaphysics. That is why Derrida does not imply the destruction of metaphysics, but, rather, its deconstruction. He implies an opening up to a difference, that also creates new possibilities of difference; an unstoppable opening towards the Other. Let us remind ourselves that St. Paul spoke about this opening as the meaning of Christianity. For Derrida, this opening leads to an inexhaustible critique of the identity today called capitalism.

That is another reason why Derrida does not agree with the pure divine justice, with its pure original principle, with the identity of justice as advocated by Benjamin. Derrida simply doubts that violence, the imposition of the same or the identical, will create new violence. In this context, the third element of his critique of Benjamin could be seen. Namely, Benjamin talks about the victims of metaphysics who were overcome by the teleological progress of history. Thus, the messianic, if we follow Benjamin's argument, returns to these victims and becomes a kind of revitalization of the past. According to Derrida, however, the question of language refers to an even more rudimentary form of violence, or, as he says, the arch-violence. In order to have an identity at all, we lose the singularity that the generality of language suffocates. In that sense, Derrida speaks of absolute sacrifices. His messianic project is related to them. The absolute sacrifice disappears due to the linguistic mediation of any identity. But, due to the necessity of this mediation, due to the necessity of mediation of the other, of the language, a kind of a responsibility appears in relation to that other. The mediation refers to the simple fact that "subjects must thank others for their own constitution" (Fritsch 2005: 185).

This also represents the beginning of Derrida's critique of Marx. At this point, he follows Benjamin. Specifically, Benjamin's belief that the metaphysical interpretation of history, which in Modernity led to the articulation of economic identity, influenced Marx to neglect the politics: History has defeated politics. So, Derrida's critique of Marx seeks to find a possible political inspiration.

3. It would be useful here to offer an understanding of Marx's critique of politics. After all, this is a point where Marx comes up with a kind of messianic project of his own. Criticizing Hegel's philosophy, Marx understands politics as a form of alienation. While Kant brings freedom closer to ethics, Hegel

brings freedom closer to politics. According to Hegel, politics realizes us, affirming a sort of a historical secret about the relationship between the individual and the general. The French Revolution, affirming individuals, each of us as a form of a general, in the Declaration of Human Rights, also hints at the end of history. Nothing new will happen in history. Isn't it true that many consider capitalism to be the end of history? Marx, however, believes that our freedom has yet to be realized. We can see that just by looking at the economy or at the poverty in the world. It is still before our eyes today and it only deepens in neoliberalism. The alienation is basically an economic one, Marx believes, so freedom is, therefore, possible only if it is related to economy, to a change within the economy, that is. In this sense, for Marx, politics is, a kind of, the last word of capitalism, pointing to a possibility of freedom where freedom is not possible at all. Just as democracy is not possible here, either. The modern age is a polarized world, i.e. a crisis of the relationship between the capital and labor. The border of politics and democracy is the capital itself. Capitalism is sustained in this crisis and it is only possible if it is based on the crisis; it can be preserved only as a society of spectacle, not as a possibility of real change.

In *On the Jewish Question*, referring to the boundaries of politics, Marx also proclaims his own messianic project (Marx 1978). Namely, Marx grasps modern development, and following Hegel's footsteps, he perceives it as the progress of the abstract. We separate ourselves from the concrete, from the utility, heading in the direction of market mediation and the exchange value. To that extent, says Marx in *On the Jewish Question*, we can speak of an emancipation only when a concrete, individual agent implies an abstract citizen. This is the only way to complete the project of human emancipation: when life affirms itself against the system, when we feel alive again. We are witnessing the timelessness of that project: we, the zombies of capitalism, as Alain Badiou would say.

Why, therefore, do we need to return to politics and democracy, when Marx is already pointing out to their borders? This is where Derrida's critique emerges: The critique of economics and commodity fetishism deepens and it is linked to the question of language, which has already been discussed. In a way, Marx's project of social justice remains unfinished. Our question is still the one that concerns social justice. The answer is not going to be necessarily a Marxist one, or at least not just Marxist. According to Jean-Luc Nancy, no revolution has stepped out from a metaphysical teleology. Communism has only, in a different way, renewed the metaphysical cage of identity. We can here recall the Berlin *Wall Museum*, that displays the evidence of the dramatic attempts to escape from such a world – the attempts to escape from the same.

For Derrida the question is what kind of a radical opening to justice is possible. Or, what is this radical opening to the possibility of the future? The answer is in the opening towards the Other, to which the language itself points out. Marx seems to have neglected such an opening. Instead, he remained enclosed within the economy, within a particular identity, that is. Therefore, the working class was identified as the subject/agent of change. But we don't see

the members of this class on the streets today. Not on the streets of Belgrade nowadays, anyway. To that extent, Derrida speaks of the democratic, not just of social and/or economic, promise of social justice. Needless to say, it is necessary to change the economic identity, as one of the consequences of the critique of metaphysical culture. Here, I can only suggest to the readers the works of Antonio Negri whose central question is how to overcome the identity of the economy itself.

In short, the world of the empire of capitalism is domination of the same. Benjamin connects hell with this repetition of the same (Benjamin 2001: 162). Michael Löwy understands this as the essence of Benjamin's opinion about hell (Löwy 2005: 90). In that sense, the word pandemic from the title of this essay is not just a historical contingency. It is, rather, a picture of history. The scene of the domination of the Identical. To that extent, the future is possible only as an opening to difference, to Other, that is. As a rupture. As a way out from the linear time that determines us, starting from the ancient Greeks all the way to neoliberalism.

At this point Derrida turns to the question of law, because the law is, so to speak, a condition for the Other to appear. "Without this right, he cannot even enter my house, the host's house, but only illegitimately, secretly, as a parasite, an intruder, exposed to expulsion or imprisonment." (Derrida, Dufourmantelle 2003: 55)

Thus, is law understood as a place/site of justice, and no longer as a place of violence. According to Fischer-Lescano, maybe this is the place/site where this often unexplained, mystical basis of the law also appears (Fischer-Lescano 2017). A right that we, the subjects, have created, but as the right that constitutes us, that appears as a guarantor of our political activity: The right to have rights.

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Pandemija kao istorija

Apstrakt:

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Ključne reči: istorija, vreme, nasilje, zakon, Benjamin, Marks, Derida.