

# Marxism, law and evolution: Marxist law in both theory and practice

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Evolutionary influences are especially visible in Marxist legal theory. Because Marx rejected the God of Creation, he was deeply scornful of the doctrine of human sin, and convinced that the evolution of human nature would lead to its absolute perfection. Marx also believed that laws are always the product of human will and, more specifically, the arbitrary will of the ruling social class. He sought, therefore, to displace the ideal of the rule of law and create in its place his own secular utopia on earth. The result? In every communist regime around the world, the attempt to enforce the Marxist dream of equality of wealth has led to gross inequality of power and, to be sure, to governmental oppression and “deification” (not to mention equality of poverty among the masses). Thus, in the twentieth century alone, Marxist-inspired governments killed at least 100 million people. Such a bloodbath is simply the by-product of a naturalistic worldview that deems the most powerful humans to be the ultimate arbiters of right and wrong.

Marxism is primarily a social, political, and economic theory that interprets history through an evolutionary prism. Marx claimed to have discovered a “progressive” pattern controlling human evolution, which would lead humanity to the advent of a communist society of classless individuals. On this basis Marx defined the state and all its laws as mere instruments of class oppression, which would have to disappear when the final stage of human evolution were finally accomplished.

This article discusses Marxist legal theory and how it has been applied in communist countries that have claimed Marxism as their official ideology. It investigates whether the undercurrent of violence and lawlessness constantly exhibited by the actual behaviour of Marxist regimes may in fact be a natural consequence of Marxist theory itself. Indeed, Marx viewed laws basically in terms of guaranteeing and justifying class oppression, thus advancing the position that laws in a socialist state must be nothing more than the imposition (by a political elite) of the “dictatorship of the proletariat”.

## Marxism and religion

In order to better understand Marxism, it is necessary to explore its religious dimensions. In many respects Marxism is no less religious or dogmatic than the traditional religions of Judaism, Christianity and Islam. As a matter of fact, Marxism contains in itself a complete worldview that includes an explanation of the origin of the universe and an eschatological theory concerning the final destiny of humankind.

Theologically, Marxism declares that God does not, cannot, and must not exist. Instead, Marxism is based on the conviction (a genuine opiate of the people?) that history is constantly evolving towards a certain direction and that the proletariat is the redemptive force of humanity. Thus Marx declared: “History is the judge, its executioner the proletariat.”<sup>1</sup>

Since Marx believed he had discovered the secret of perfecting the human condition, politics became for him a form of secular religion, whereby the ideal of human salvation would be accomplished by the proletariat’s revolutionary actions in history. History was interpreted progressively by Marx, moving by means of social struggle. He believed that the final stage of human evolution actually transcends class struggle, when the eschatological consummation of global communism is at last achieved.<sup>2</sup> Comparing such Marxist eschatology with that contained in the Bible in the Book of Revelation, David Koyzis comments:

“Much as the scriptures teaches the ultimate victory of Jesus Christ over his enemies and the reign of the righteous over the new earth in the kingdom of God, so also does Marxism promises an eschatological consummation of human history. This does not, of course, mean that there is not a battle to be waged or work to be done. Indeed, there is much of both. But in fighting for the classless society, the proletariat does so fully confident that it is fighting not against history but with it.”<sup>3</sup>

If the god of Marxism is to be understood as an evolutionary process towards communism, then its devil is constituted by the reactionary forces that either deny or hinder this progressive ideology. These reactionaries are destined to receive their final destruction in the fires of global revolution.<sup>4</sup> Thus in the opinion of Leonardo Boff, a leading contributor to Marxist-oriented liberation theology in Latin America, one day the world will face a “final apocalyptic confrontation of the forces of good [communists] and evil [anti-communists], and then the blessed millennium.”<sup>5</sup> The violent suppression of those anti-communist reactionaries, he says, will represent the advent of “God’s Kingdom on Earth, and the advent of a new society of a socialistic type.”<sup>6</sup>

Curiously, in his 1987 book *O Socialismo Como Desafio Teológico* (Socialism as a Theological Challenge), Boff argued that the highly oppressive former communist regimes

in Eastern Europe, especially the former Soviet Union and Romania, “offer[ed] the best objective possibility of living more easily in the spirit of the Gospels and of observing the Commandments.”<sup>7</sup> Returning from a visit to Romania and the former Soviet Union in 1987, just a few years before the collapse of communism in Eastern Europe, Boff averred that these notorious regimes were, in his opinion, “highly ethical and ... morally clean”, and that he had not noticed any restrictions in those countries on freedom of expression.<sup>8</sup>

Marxist theologians like Boff have refused to accept any possibility of peaceful coexistence between individuals of different social classes. For Marxists like him, every religious person has the moral obligation “to rouse the working class to an awareness of class struggle and the need to take part in it.”<sup>9</sup> Indeed, Boff certainly does not regard it as a sin for a person to physically attack another person from a supposedly oppressive class, since this would be committed by those who are oppressed and involved in the struggle to remove social inequalities.<sup>10</sup> Addressing this type of thinking, Cardinal Joseph Ratzinger, now Pope Benedict XVI, comments:

“The desire to love everyone here and now, despite his class, and to go out to meet him with the non-violent means of dialogue and persuasion, is denounced as counterproductive and opposed to love. If one holds that a person should not be the object of hate, it is claimed nevertheless that, if he belongs to the objective class of the rich, he is primarily an enemy to be fought. Thus the universality of love of neighbour and brotherhood become an eschatological principle, which will only have meaning for the ‘new man’, who arises out of the victorious revolution.”<sup>11</sup>

Eschatological Marxism regards the advent of communist utopia as an end in itself. As such, communism is an ideal to be achieved at any social cost. To achieve communism, therefore, any means can be justified, including violence and deceit.<sup>12</sup> After all, under the communist paradise there will be no more social injustice, and everybody will be treated equally. The sum of violent actions by radical Marxists is alleged to actually be a good thing, because this may potentially accelerate the advent of the great socialistic utopia. In other words, anything that a person does to advance such a noble ideal is never to be regarded as objectively wrong or even unethical. As a result, Green explains:

“Whatever the pogroms of Lenin, Trotsky, Stalin; whatever the revelations of the Gulag Archipelago and the terrifying brutality of the Soviet concentration camps; whatever the rapes of a Hungary, a Czechoslovakia, an Afghanistan, the faith of the committed Communist persists. All personal judgement is obscured in the name of faith; faith is absolutely essential if everything is not to come tumbling round his ears ... . Logically, of course, there is no reason why a modern Communist

should bother to work for a utopia in which he will never share: this is one of the surds in Communism. But he is inspired by the vision, attracted by the prospect, stimulated by the struggle and warmed by the companionship. The millennial utopia held out by ... Communism ... is both a pale imitation of and unconsciously inspired by the Christian teaching of the Kingdom of God which is partly realised in Christ and his people now, and will be consummated at the last day, when all who have worked for it, be they living or dead, will share in its joys.”<sup>13</sup>

### Marxism and Darwinism

There is a close relation between Charles Darwin’s theory of biological evolution and Karl Marx’s theory of revolutionary communism (figure 1). Darwin’s attempt to demonstrate how humans would have evolved from animals by a blind process of natural selection was deeply inspirational for Marx, who actually believed that the primacy of social classes somehow paralleled the alleged supremacy of the human races.

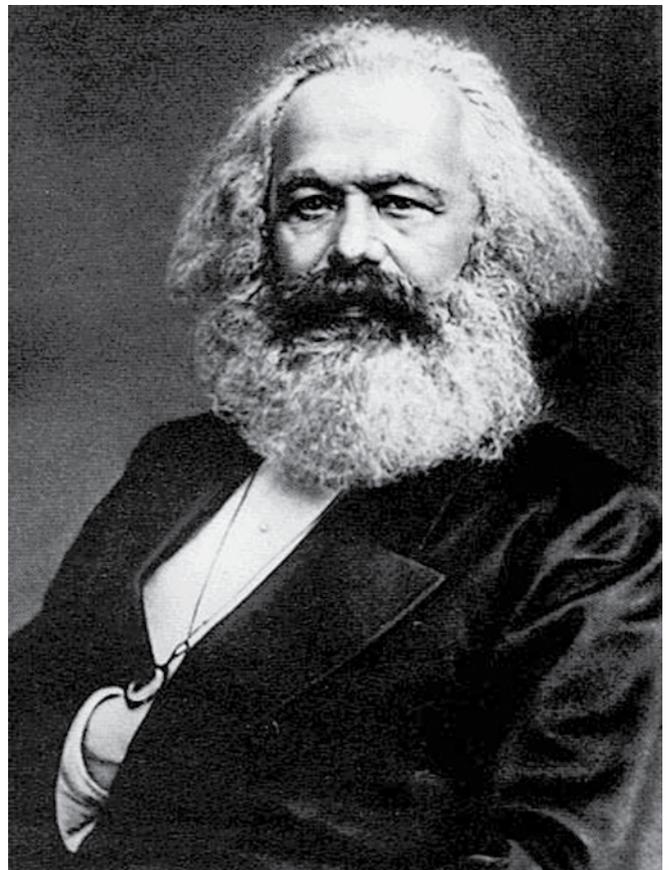


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**Figure 1.** Karl Marx believed not only in the evolution of the races and societies but also that history was invariably on his side. So his political adversaries were treated as reactionaries who deserved punishment for retarding the march of humanity in the direction of classless (and lawless) communism.

Whether viewed as the struggle of races or as the struggle of classes, Darwinism was the predominant form of socio-political thinking in the late nineteenth-century. As a philosopher of his time, Marx believed that the existence of God had been disproved by the inexorable forces of science, reason and progress. As such, Darwinism became an important element of Marxist theory.<sup>14</sup> As his close friend and co-writer Friedrich Engels pointed out, “just as Darwin discovered the law of evolution in organic nature, so Marx discovered the law of evolution in human history.”<sup>15</sup> In a personal letter to him, Marx actually reveals that Darwin’s *Origin of Species* was indeed very important, as it had provided him “with the basis in natural science for the class struggle in history.”<sup>16</sup> As a sign of gratitude, Marx sent Darwin the second German edition of *Capital*. On the title page he inscribed, “Mr. Charles Darwin/On the part of his sincere admirer/[signed] Karl Marx, London 16 June 1873.”<sup>17</sup>

Curiously, Marx adopted Darwinism not just to support his own racist theories, including his undeniable anti-Semitism (although he was ethnically Jewish himself). For instance, Marx argued that it was not so difficult to establish unions in barbarous Russia, a country where, as he put it, anybody could easily “build up successful unions with stupid young men and apostles.”<sup>18</sup> Marx quite often resorted to phrases like “dirty Jew” and “Jewish Nigger” in order to describe his political enemies. About the famous German socialist Ferdinand Lassalle he wrote:

“It is not perfectly clear to me that, as the shape of his head and the growth of his hair indicates, he is descended from the Negroes who joined in Moses’ flight from Egypt (unless his mother or grandmother on the father’s side was crossed with a nigger). This union of Jew and German on a Negro base was bound to produce an extraordinary hybrid.”<sup>19</sup>

In his work *On the Jewish Questions*, Marx shared and endorsed the anti-Semitism of Bruno Bauer, the anti-Semitic leader of the Hegelian left who had published an essay demanding that the Jews abandon Judaism completely. In Marx’s opinion, the “money-Jew” had become “the universal *anti-social* element of the present time”. To make the Jew impossible, he argued, it was necessary to abolish the preconditions, the very possibility of the kind of money activities which produced him.<sup>20</sup> Thus, he concluded that both the Jew and his religion should disappear if the world were finally able to abolish “the Jewish attitude to money”. As Marx put it, “in emancipating itself from *hucksterism* and *money*, and thus from real and practical Judaism, our age would emancipate itself.”<sup>21</sup>

### Marxism and Hegelianism

No one can deny the historical influence of the German philosopher G.W.F. Hegel (1770–1831) upon the formation of Marx’s methodology. The connection lies not in their conceptions of the state, but rather in the dialectical method used by Marx to construct his own political theories of dialectical and historical materialism.<sup>22</sup>

Hegel saw the world as an evolving living organism. As such, he argued that scientific and political progress was not smooth but rather moved dialectically and in accordance with a conflicting philosophical dialogue. According to this theory, person A states some partial truth, then person B advocates the very opposite (which is also partly true), and then the combining elements of both ideas finally comes about. In applying this dialectical premise to history, Hegel contended that truth is subjective and that it is impossible to judge cultural norms by any objective standard. Furthermore, Hegel’s theory also maintains that the historical process is affected by an ongoing conflict and evolution of human ideas.

Marx agreed with Hegel about the inevitable progress of history. However, Marx rejected the Hegelian belief that anything intellectual is the driving force in human history. “Hegel’s dialectics”, he said, “is the fundamental principle of all dialectic only after its mystical form has been sloughed off. And that is precisely what distinguishes my method.”<sup>23</sup> Believing that material or physical forces were the real forces behind human progress,<sup>24</sup> Marx replaced Hegelian dialecticism with his own dialectical materialism, in which the forces in conflict are not ideas or principles but solely the interests of social classes in their struggle over the ownership and control of material resources.<sup>25</sup>

When history is understood in accordance with that dialectical materialism, socio-political institutions appear to always correspond to the interests of the dominant class. The legal system is therefore interpreted as a superstructure that must suit the practical needs of this dominant class.<sup>22</sup> Accordingly, the rule of law is merely another ideological mechanism through which that class is able to eventually justify its grip on the means of production and the sources of wealth. As Marx put it,

“I was led by many studies to the conclusion that legal relations as well as forms of state could neither be understood by themselves, nor explained by the so-called general progress of the human mind, but that they are rooted in the material conditions of life, which are summed up by Hegel after the fashion of the English and French writers of the eighteenth century under the name ‘civil society’, and that the anatomy of civil society is to be sought in political economy [i.e. in economic forces] . . . . In the social production which men carry on they enter into definite relations of production correspond to a definite stage of development of their material powers of production. The totality of these relations of production constitutes the economic structure of society—the real foundation, on which legal and political superstructure arise, and to which definite forms of social consciousness correspond.”<sup>26</sup>

### Marxist legal theory

Darwin’s evolutionary theory had a profound impact on the Western conception of law. Under its influence



Poster from <www.wikipedia.com>

**Figure 2.** Soviet poster “Comrade Lenin cleans the Earth from scum”, November 1920. The Soviet dictator considered that Marxism “subordinates the ethical standpoint to the principle of causality, in the practice it reduces to the class struggle.” As such, Lenin declared that “The revolutionary dictatorship of the proletariat is ruled, won, and maintained by the use of violence by the proletariat against the bourgeoisie rule that is unrestricted by any laws.”

that paper Marx contends that “law, morality, religion, are so many bourgeois prejudices, behind which lurk in ambush just as many bourgeois interests.” Then he goes on to criticise the whole tradition of government under the rule of law as nothing more than a mere expression of “bourgeois” aspirations:

“Your very ideas are but the outgrowth of the conditions of your bourgeois production and bourgeois property, just as your jurisprudence is but the will of your class made into a law for all; a will, whose essential character and direction are determined by the economic conditions of existence of your class . . . . The selfish misconception that induces you to transform into eternal laws of nature and of reason, the social forms springing from your present mode of production and form of property—this misconception you share with every ruling class that has preceded you.”<sup>28</sup>

According to Marx, the final advent of revolutionary communism necessarily requires “a period in which the state can be nothing but the revolutionary dictatorship of the proletariat.”<sup>29</sup> In other words, he contended that dictatorship is the only way in which the ideal of communism can be

there proceeded over the nineteenth century a thorough transformation of legal studies as well as a general assumption among the judicial elite that “since humans are allegedly accidents, so are their laws.”<sup>27</sup> Following the trend of his time, Marx stood together with other social “scientists” in their absolute rejection of the concept of natural law that had guided and inspired the founders of modern-democratic constitutionalism in the United States.

Marx’s ideas about law were expressed mainly in the *Communist Manifesto*, which he published in collaboration with his friend Friedrich Engels in 1848. In

advanced. On the basis of such a radical premise, V.I. Lenin (figure 2) argued that Marxist law does not seek to protect any human right, but that Marxism regards law only as a mechanism “for holding the other subordinated classes obedient to the one class.”<sup>30</sup> The obvious implication of this assumption was summed up in a famous Soviet slogan: “All power belongs to the Soviets.” The same assumption is also revealed in this excerpt from a book published by English-speaking communists in revolutionary Russia:

“The proletarian state . . . is an organization of the dominating class (the dominating class here is the working class) and an organization of the violence over the bourgeoisie, as a means of getting rid of the bourgeoisie and of putting an end to it. He who is afraid of this kind of violence is not a revolutionist.”<sup>31</sup>

Marx believed that a regular pattern of evolution controlled the human condition, which would then also lead to a more perfect society of classless individuals. Since the destiny of humankind was considered to lie in the emergency of lawless communism, law was interpreted as not encompassing any universal values or principles, but rather representing a transitional device that merely illustrates “the course of political struggles and the evolution of social formations.”<sup>32</sup> In Marx’s opinion, the legal phenomenon is essentially superstructural and, therefore, invariably “dependent for their form and content upon determining forces emanating from the economic basis of society.”<sup>33</sup> The legal system of each human society is regarded as a mere superstructure which is always linked with the superstructure of the state. In Marxist theory, explain David and Brieley,

“Law is only a superstructure; in reality it only translates the interests of those who hold the reins of command in any given society; it is an instrument in the service of those who exercise their ‘dictatorship’ in this society because they have the instruments of production within their control. Law is a means of expressing the exploited class; it is, of necessity, unjust—or, in other words, it is only just from the subject point of view of the ruling class. To speak of a ‘just’ law is to appeal to an ideology—that is to say, a false representation of reality; justice is no more than an historical idea conditioned by circumstances of class.”<sup>34</sup>

Since the idea of law was interpreted by Marx as invariably an instrument of class domination, he argued that the coming of a classless society implied that all laws would have to disappear. Hence in his seminal work, *The Communist Theory of Law* (1955), legal philosopher Hans Kelsen contends that the “anti-normative approach to social phenomena is an essential element of the Marxian theory in general and of the Marxian theory of law in particular.”<sup>35</sup> Because Marx believed that law arises from class conflicts, he concluded that the need for law would cease to exist with the advent of classless communism. Such a promise

of lawlessness that leads to “perfect justice” was correctly interpreted by Kelsen as being “a utopian prophecy”.<sup>36</sup>

Since lawlessness is elevated by Marxism to represent the final stage of communism—which according to Marx necessarily predates “a period in which the state can be nothing but the revolutionary dictatorship of the proletariat”—it is not unreasonable to explain the undercurrent of extreme violence manifested in Marxist regimes as being little more than the projection of such political ideas. In other words, the mass killings which have constantly occurred in communist countries may actually represent a mere by-product of the foundations of lawlessness laid by Marx himself. Since the Marxist state assumes authoritarian forms and frees itself from any constitutional checks and balances, “this leaves out of account ... very powerful impulses to state action generated from within the state by people in charge of decision-making power.”<sup>37</sup> As a result, says Freeman,

“... those holding powerful positions in the state may be interested in power, status, privilege ... and money. They will not express themselves in terms of personal interest, but rather in terms of ‘national interest’ and those who seek state power usually find it to convince themselves and others that their achievement of power is synonymous with the ‘national interest’.”<sup>37</sup>

### Marxism and human rights

The main objective of classical Marxist jurisprudence is not to promote human rights or to support the separation of governmental powers, nor even equality before the law, but to criticise these very ideals of the rule of law and to reveal its putative structures of socio-economic domination. Thus in his *Principles of Communism*, Engels described such values as individual rights and equality before the law as fraudulent masks worn by the bourgeoisie for economic supremacy and exploitation. In fact, all the most cherished values of democratic societies were denounced by Engels as merely being ideological tools for legitimising an exploitive system that would serve only the dominant economic group.<sup>38</sup>

With this idea in mind, Marx argued that basic human rights are not fixed but rather are constantly evolving according to the progressive stages of class warfare. In *On the Jewish Question*, Marx explained that in his opinion, the so-called *rights of man* are “simply the rights of a *member of civil society*, that is, of egoistic man, of man separated from other men and from the community.” He saw liberty as not founded upon the relations between free and responsible individual citizens, but “rather upon the separation of man from man. It is the right of such separation.”<sup>39</sup> For him, its practical application was the right to property. “If power is taken on the basis of right”, commented Marx and Engels in *The German Ideology*,

“... then right, law, etc., are merely the symptoms of other relations upon which state power rests. The material life of individuals ... their mode of production and form of interest which eventually determine each other ... this is the real basis of the State ... . The individuals who rule in these conditions, besides having to constitute their power in the form of the State, have to give their will ... a universal expression as the will of the State, as law.”<sup>40</sup>

Can Marxists then believe in the universality of human rights whilst remaining faithful to Marxism? After all, Marx talked about the “narrow horizon of bourgeois right” having to be eliminated in its entirety. What is more, Marx openly denied that any of our most important human rights possess any absolute meaning apart from their historical context. According to Marx himself, human rights exist insofar as the government creates them and allows them to exist. The idea of rights is, therefore, entirely subject to the supreme authority of the state.<sup>41</sup>

Marx strongly advocated the abolition of all legal and moral rules.<sup>42</sup> Communism, as the fundamental good of humanity according to him, would have to eliminate “the conditions of morality and circumstances of justice”.<sup>43</sup> Such a view of morality in practice amounts to “a self-consistent attack on non-relativist ethics”. As a matter of fact, says Freeman, “Marx, and subsequent Marxists have singled out [morality] as ideological and relative to class interests and particular modes of production.”<sup>44</sup> To Marx and Engels, Freeman comments that

“... all that ‘basic laws’ would do is furnish principles for the regulation of conflicting claims and thus serve to promote class compromise and delay revolutionary change. Upon the attainment of communism the concept of human rights would be redundant because the conditions of social life would no longer have need of such principles of constraint. It is also clear (particularly in the writings of Trotsky) that in the struggle to attain communism concepts like human rights could be easily pushed aside—and were.”<sup>45</sup>

Since Marx advocated that morality has no transcendent justification, and as such no independence from socio-economic facts and historical contexts,

“... in the communist societies which were given impetus by variants of Marxist revolutionary thought and action, law became largely identified with the interests of the revolutionary vanguard or ruling party within the communist state. It did not support to function as a vehicle to protect against oppressive action on behalf of the state. Law was in a sense merely an application of ruling party policy.”<sup>46</sup>

The Soviet dictator Lenin once explained that in Marxism there is actually “not a single grain of ethics from beginning to end”. Theoretically, he explained, “it subordinates the ethical standpoint to the principle of

causality, in the practice it reduces to the class struggle.”<sup>47</sup> Thus, in a lecture delivered in Moscow in 1919, Lenin also argued that that “the revolutionary dictatorship of the proletariat is ruled, won, and maintained by the use of violence by the proletariat against the bourgeoisie, rule that is unrestricted by any laws.”<sup>48</sup> Indeed, as Tismaneanu points out:

“Communism in its Leninist version (and, one must recognize, this has been the only successful application of the original dogma) was from the very outset inimical to the values of individual rights and human freedom. In spite of its overblown rhetoric about emancipation from oppression and necessity, the leap into the kingdom of freedom announced by the founding fathers turned out to be actually an experiment in ideologically driven unbound social engineering. The very idea of an independent judiciary was rejected as ‘rotten liberalism’. The party defined what was legal and what was not: as in Hitler’s Germany, where the heinous 1936 Nuremberg trials were a legal fiction dictated by Nazi racial obsessions, Bolshevism from the very outset subordinated justice to party interests. For Lenin, dictatorship of the proletariat was rule by force and unrestricted by any law. The class enemy had to be weeded out, destroyed, smashed without any sign of mercy.”<sup>49</sup>

Marx believed not only in the evolution of the races and societies but also that history was invariably on his side. So it was easy for him to consider his political adversaries reactionaries, who deserved no legal right and protection but instead severe punishment for retarding the march of humanity.<sup>50</sup> Marxist theory therefore denies that anything can be properly called right unless it advances socialism.

In such a manner a radical ideology can be applied with the same catastrophic results that occur when radical ideas are applied to racial issues. From the standpoint of *Realpolitik*, therefore, it is quite possible to suggest that the class genocide conducted by Marxist-oriented regimes bears striking resemblances with the race genocide of Nazi Germany (figure 3). According to Stéphane Courtois, the editor of a seminal book on the subject,

“In Communism there exists a socio-political eugenics, a form of social Darwinism ... . As master of the knowledge of the evolution of social species, Lenin decided who should disappear by virtue of having been condemned to the dustbin of history. From the moment that a decision had been made on a ‘scientific’ basis ... that the bourgeoisie represented a stage of humanity that had been surpassed, its liquidation as a class and the liquidation of the individuals who actually or supposedly belonged to it could be justified.”<sup>51</sup>

In his famous book *Démocratie et Totalitarisme*, the late French political philosopher Raymond Aron discussed ideas that inspire both Marxist-oriented regimes and Hitler’s National Socialism. In one case, he said, the final result is the labour camp, in the other it is the gas chamber. As Aron pointed out, the destruction of the kulaks during the collectivization campaigns in the former Soviet Union was unquestionably analogous to the Nazi genocidal policies against ethnic groups who were deemed to be racially inferior. In fact, as Tismaneanu explains:

“The most important point that needs to be made is that both regimes [Nazism and Communism] are genocidal. Analytical distinctions between them are certainly important ... but the commonality in terms of complete contempt for the ‘bourgeois’ rule of law, human rights, and the universality of humankind regardless of spurious race and class distinctions is in my view beyond doubt...”

The persecution and extermination of the Jews was as much a consequence of ideological tenets, held sacred by the Nazi zealots, as the destruction of the ‘kulaks’ during the Stalinist collectivization campaigns. Millions of human lives were destroyed as a result of the conviction that the sorry state of mankind could be corrected if only the ideologically designated ‘vermin’ were eliminated. This ideological drive to purify humanity was rooted in the scientific cult of technology and the firm belief that History (always capitalized) had endowed the revolutionary elites ... with the mission to get rid of the ‘superfluous’ populations ...”<sup>52</sup>



Photo by Adam Carr. <www.wikipedia.com>

**Figure 3.** Well over 500,000 people died during the Khmer Rouge’s reign in the 1970s. The extermination of political adversaries and of entire social groups is a normal practice amongst communist regimes. Such a bloodbath is the by-product of a materialistic worldview that deems the most powerful to be the ultimate arbiters of right and wrong.

History shows beyond any doubt that class genocide in Marxist regimes have been aided and abetted by a political philosophy that encourages, inadvertently if not explicitly, governmental policies that turned out to be profoundly genocidal. The problem is not so much that such a philosophy does not pay enough attention to policies that turn genocidal, but rather that such a philosophy (and those who support it) may actually bear some responsibility for what happened. Such philosophy prepared the mindset and provided the rationale for the implementation of state-directed mass murder and violence. So it happened to be precisely in the former Soviet Union, and not Nazi Germany, that the first concentration camps in Europe were established. As early as October 1923, there were 315 of these concentration camps in the Soviet Union. Some of them were described by their very few survivors as death camps, which to even in the smallest details resembles the descriptions of concentration camps in Nazi Germany. As Kaminski pointed out:

“Trotsky and Lenin were the inventors and creators of the new form of the concentration camp. [This means not only] that they created establishments called ‘concentration camps’ . . . . The leaders of Soviet communism also created a specific method of legal reasoning, a network of concepts that implicitly incorporated a gigantic system of concentration camps, which Stalin merely organized technically and developed. Compared with the concentration camps of Trotsky and Lenin, the Stalinist ones represented merely a gigantic form of implementation . . . . And, of course, the Nazis found in the former as well as the latter ready-made models, which they merely had to develop. The German counterparts promptly seized upon these models.”<sup>53</sup>

In a normative sense, all the most prominent Marxist jurists of the former Soviet Union considered the mere existence of law “a theoretically inconvenient fact”.<sup>54</sup> In their analysis of legal practices of the 1920s, law was generally defined by them as “a disciplining principle that helps strengthen the Soviet state and develop the socialist economy.”<sup>55</sup> This sort of definition appears to perfectly justify political repression against any person or group that in the judgement of the state authorities could harm the interests of the state or inhibit the development of the socialist economic order.

According to these Soviet jurists, once the period of transition had been completed, the socialist state and all its positive laws should just wither away, given the absence of further class conflict to activate the engine of dialectical conflict.<sup>56</sup> Now the fact is that no society can actually exist without law. When a system of government turns out to be anti-legal, it ensures that instead of the rule of law there will be only the rule of terror and oppression.

Hence all the terror and oppression in Marxist regimes are the integral part of the foundations of lawlessness laid by Marx himself. As the first Commissar of Justice Isaac Steinberg in the Soviet Union so candidly put it in 1920, even though the revolution was over, the terror would have to continue, because, in his opinion, this was an intrinsic feature of every Marxist regime.<sup>57</sup>

## Conclusion

Marx believed that laws are the product of class oppression, and that laws would have to disappear with the advent of communism. Marxist ideas are closely associated with despotic communist regimes, since these regimes have claimed Marxism as their official ideology. Unfortunately, the Marxist dream of a lawless society has led only to gross inequality and class-oriented genocidal policies. In fact, Marxist regimes have been far more efficient in the art of killing millions of individuals than in the art of producing any concrete or perceived form of social justice.

But it appears that Marxism is still very much alive, and that it has deeply influenced a direct line of contemporary legal thinkers, who have adopted some of its ideas or picked up some aspects of this radical theory. Indeed, Marxist theory overlaps with much of the current work within critical theories of law, such as radical feminism and race legal theory.<sup>58</sup> This may be regarded as a dangerous development, since history empirically demonstrates—rather conclusively—that whenever Marxist legal theory is applied, at least two of its most dreadful characteristics invariably appear, namely, judicial partiality and political arbitrariness.

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