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Illegality

Alfredo M. Bonanno

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Potential illegality comes within the law today, but the farseeing eye of the censor looks ahead to foresee its possible outcome. In the same way social deviance today might be a possible object of study or surprise, tomorrow it could become a concrete manifestation of social subversion.

but that does not alter the substantially “illegal” character of this critique.

On the other hand, even behaviour that comes heavily under the jurisdiction of the penal code can be considered differently in the light of a relationship of a political kind. For example, the armed struggle of a combatant party is undoubtedly an illegal action in the formal sense of the word, but at a given moment it can become functional to the State and capital’s projects of recuperation and restructuring. It ensues that an agreement between combatant party and State is not impossible.

This is not as absurd as it seems. The combatant party puts itself within the logic of destabilising the existing ruling power for the construction of a future power that is different in form but identical in substance.

In this project, as soon as it is realised that there is no outlet for a military confrontation, they make a deal. The amnesty that is being talked about so much in Italy today with the Red Brigades is one such deal.

As we can see, while simple anarchist critique – radical and total in content – always remains “illegal”, even the armed struggle of the combatant parties can at a given moment enter the domain of “legality”. That clearly demonstrates the “fluctuating” nature of legality and the State’s capacity to adapt this to levels of social control.

The exercise of control

The instruments of repression only use brute force minimally. They function preventively to a far greater extent as instruments of social control.

This is applied through a series of provisions for all the forms of potential illegality and deviant behaviour.

Contents

<i>Relation between politics and illegality</i>	5
<i>The exercise of control</i>	6

Simply spreading facts that have been distorted or concealed by the institutional information system constitutes an “illegal” action. Not against one precise law (except in the case of the so-called ‘State-secret’), but something that goes against the management of social control on which the State’s very possibility of having its laws respected is based.

A wide area of behaviour exists therefore that attracts the attention of the State’s repressive organs just as much, if not more, than that which clearly breaks a specific law.

It can be extremely damaging to the project of State control for certain news to be in circulation at a given moment, at least as damaging as actions falling into the “illegal” category.

This shows that the line between “formal” legality and that of “real” legality fluctuates according to the repressive projects being put into act.

It varies according to the relationship between State and capital at a given time, and this is established less through recourse to precise laws than through a myriad of controls and dissuasions that only evolve into actual repressive actions in specific cases.

Relation between politics and illegality

Basically all political critique remains within the field of legality. In fact it bolsters the social fabric and allows it to overcome certain defects and deficiencies caused by capital’s contradictions and some excessively rigid aspects of the State.

But no political critique can reach the total negation of State and capital. If it did it would become a social critique – as in the case of anarchist critique – and would cease to be a constructive contribution to the institutional fabric, and so become “illegal”.

Periods of institutional and social equilibrium can exist that allow the existence of a social critique of a radically anarchist nature,