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The Fetishism of the Law

Jean Grave

1895

Under this title, Le Figaro of May 28 published a short article, tending to demonstrate that there are “just laws” and “unjust laws”. This is to justify the attitude of the clergy who resist when, by means of mockery or to flatter public opinion, we pretend to want to make them enter the fold of those subject to justice.

After enumerating the laws of Calvin and Robespierre that, according to him, are more unjust than the others, our colleague ends thus:

“...Individual conscience is made precisely to distinguish between wise laws and unjust laws. One can observe this without resorting to revolt, and thus legally hasten the hour when unjust laws will fall under the effort of opinion.”

It would be interesting to look in our colleague’s collection, when it was a question of hunting down anarchists, and to put before his eyes the calls he made for legal repression, his ramblings on the need to enforce the laws, and to apply them “firmly” to those

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who needed to be gotten rid of. We would doubtless make some curious discoveries there which would prove that at Le Figaro opinions vary on the laws, depending on whether they protect or offend their friends.

We will not play this too easy joke on our colleague. Is it not the nature of the most outraged legalists to yell like skunks when the law flays them, to never find it fierce enough when it comes to reducing enemies?

And this can be explained, moreover, by the fact that laws are the most arbitrary things in the world. They sum up the spirit of a moment, the aspirations of a party, the average opinion of a nation, but, being made by men, they participate in their passions, their faults, their qualities, if those who made them were sincere; they can well satisfy those who share the way of seeing of those who made them, but they offend many more.

For it to win unanimous approval, this law would have to be of a perfection that is not of this world. But then it would not need to be codified, its sanction would be in its very justice; one only erects into laws that which finds resistance on the part of a fairly large part of the population. The “wisest” laws will always find detractors, — if only among those who see in the Code only a bulwark to protect their rapacity and their idleness against the claims of their serfs. On the other hand, also, the most unjust laws will find defenders, because they were made only to defend privileges, to prevent claims.

Those who make the laws or are responsible for applying them, are right not to allow them to be discussed. Based on arbitrariness, the law is like faith, discussion is its ruin, and Le Figaro, whatever it may say, is doing revolutionary work in wanting to subject the law to the control of individual conscience.

Anarchists have long since established that the law is only the reason of the strongest, an instrument, in the hands of those who hold power, to legitimize, in the eyes of imbeciles, the deviations of their presumption, the precautionary measures they take in or-

to comply with it, even when they recognize it as unjust. This is the *Credo quia absurdum* of Saint Augustine. The weak and the timid can comply with it, but the strong and the worthy will always refuse to docilely comply with what their reason condemns.

It is then that we are forced to involve all social forces to ensure the sanction of the laws, which proves that we are right in saying that the law is only the reason of the strongest, and this is implicitly admitted in Le Figaro article.

of individuality before the general will! or so-called general will, — and the ignorant people bowed before their new masters, as they had done before the old ones.

But, in working to undermine the divine origin of authority, the bourgeoisie had dealt it a fatal blow. From the day it was first discussed, obedience was more apparent than real, respect for authority was affected in its vital parts. The patching up that the bourgeoisie did could not fool anyone for long.

Physics teaches that the fall of bodies accelerates as they approach the center of the earth, the speed multiplying by itself. It is the same with the progress of human evolution. The more points of concordance a brain has between its internal faculties and external relations, the more it is able to acquire new ones, and the faster this adaptation of its new conquests takes place. It took thousands of years to bring down the authority of the sword, the authority of divine right that supported each other, a century was enough to crack the authority of numbers and argyrocacy. At present, it is no longer respected; those who hold it do not even believe in it, the belt that it wanted to put around the individual is cracking on all sides, its dogmas are crumbling under the hands of those who want to analyze them; at present, there is only brute force that maintains it, its definitive fall is only a matter of seconds in the chronology of human evolution.

This is why *Le Figaro*, as a defender of the privileged, is wrong to declare that individual conscience is above the law. For a supporter of legality, there are, there can be no unjust laws! The law is sacred, the law is just, the law is wise, by the fact that it is the law. It is an act of rebellion to want to discuss it, it is the beginning of insubordination. Any order discussed is only half executed; there would no longer be any law applicable the day each individual wanted to reason it according to his own conception.

There is no law that, by the fact that it is the law, does not hurt someone in his individuality, his feelings or his autonomy. It is asking more than an act of faith, on the part of the individuals it hurts,

der to defend their privileges, those of their supporters and those supported. This is what the note in *Le Figaro* implicitly recognizes.

Recently, a newspaper had counted the existing laws. It amounts, as far as I can remember, to more than two hundred thousand! There are some from all the powers that have governed us: from the Convention, the Rump Parliament, the Chamber of Peers, the Empire and the royalty of Louis-Philippe, and also from Louis IX and Francis I.

Each party, before coming to power, ranted against the laws that oppressed it. They were unjust! arbitrary, iniquitous! etc. Once installed in power, they became excellent and he used them shamelessly against those who applied them to him the day before. The perspective varied with the change of situation.

Not content with using existing laws, each power takes on the task of increasing their arsenal. We remember the diatribes of the republicans against the so-called general security law of the empire? They found a way to surpass it by voting for laws that some called “scélérates” — which was a superfetation — and which makes denunciation, even within the family, an obligation under penalty of prison!

Of course, force would not always be sufficient to ensure respect for the law. History provides us with many examples where it was enough for the authority to want to apply laws more hated, if not more absurd than the others, to stir up public opinion and contribute to sweeping away the power that had enacted them. The help that force brings to the law can only be temporary, like everything that relies on force; the latter has only a relative value, and if, sometimes, almost always until now, it is found on the side of the oppressors, it also happens, intermittently, that the oppressed find it on their side when they regain awareness of their dignity and their rights.

Also, to make the law accepted, in addition to brutal force, it was necessary to clothe it with a certain moral force that made it accepted by the greatest number as a social necessity, sometimes

inconvenient, but useful for the general well-being, and the skill of the rulers was to present it in this way. This explains to us all the theatrical apparatus with which it was once enveloped, all this staging, all this masquerade, so ridiculous today for those who think, but which the rulers are keen to preserve, because staging always has the gift of impressing fools and influencing them.

Formerly, authority claimed to be an emanation of God! Those in power were, on earth, the representatives of divine majesty, their will had to be respected as much as providential decrees. God being infallible, his delegates shared his omniscience and omnipotence. To discuss their orders was a sacrilege; also, in times of faith, authority was as much respected as feared, without the worst turpitudes it committed seeming to undermine its prestige.

But human evolution was accomplishing, slowly, imperceptibly, but surely its work of criticism. The Divinity was questioned, and, as a result, the legitimacy of authority, as a divine essence, sank under criticism. The result was the fall of the royalty of divine right, the advent to power of the middle class, the bourgeoisie.

The latter, by installing itself in power, brought, to consolidate itself there, a new theory on authority. The entity-God having lost its weight, the entity-nation was created, which was to, subsequently, transform itself into the entity-society. The law was no longer of divine will, but of national will. To give to the material force, which it had just seized, the moral force without which there is no duration, the bourgeoisie invoked the will of all, to coerce the individual will.

The Royal Parliament, which had also always sought to extend its prerogatives by encroaching on those of the royal authority, was an excellent machine, ready-made, to become the clergy of the new religion. It was purified, it was more closely attached to the State; its independence was curtailed. Paid by the State, recruited by the State, it was completely enslaved, but, for its credit, it was necessary to save appearances, and to give it a semblance of freedom: the magistrates were decreed irremovable! Only, as advancement

always depended on the master, one can judge what this pseudo-independence could be worth.

As long as people believed in the legitimacy of the law of the majority, in social necessities taking precedence over individual necessities, the laws that the bourgeoisie used or had decreed, in its interest, were endured by the masses. If people grumbled when they weighed too heavily on the individual, they were excused by invoking the general interest, and the “National Will” advantageously replaced the “Divine Will” as a means of government.

The magistracy became a formidable power; it was it that received the succession of the authority of divine right decapitated on the Place de la Révolution; it disposed, at its pleasure, of the life and liberty of citizens, having to answer for them only to itself. The lettres de cachet of the old regime were advantageously replaced by the “warrant to bring”; with the difference that the lettre de cachet generally applied only to influential people, and that the “warrant to bring in” was only issued against the plebs, that the less influential one is, the harsher one suffers its effects. The last of the robins has become the equal of the old potentates, his signature affixed at the bottom of a form is enough to plunge into a cell that displeases him, for as long as he pleases.

The Revolution of 89 displaced power, but took care not to undermine it. Those who were in the middle were placed above, but those who were below remained there and the machine continued to crush them without them being able to perceive any change, except in the form and the formulas.

It would, in fact, be too much to say that there was no change. Instead of invoking the royal will and its good pleasure, they spoke “in the name of the people.” To punish them, to bend them to obedience, they were no longer made to kneel before the king, before the priest, before the lord, very tangible figures, but before entities that they were prostrated: “National Sovereignty”! “The Law”! Individuals were made to believe that their well-being, their security, the good social order depended on the self-denial of all, on the erasure