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Their Laws—Our Loss

Jeff Shantz

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In events like the G20 protests and clampdown there emerge real opportunities for recognition and understanding that are not always so readily available behind the screen of “business as usual.” The learning curve shifts and some things become much more clear.

One of the interesting revelations of the G20 fallout is the extent to which many in the social movements or “the Left” are ruled by the morals, values and prejudices of the dominant classes. This has been expressed in the numerous calls for repression of the black bloc by would-be figure heads of the comfortable Left in Canada. I won’t bother naming them, most have already read the stuff. A rather stunning case in point has been the number of open statements of support for, indeed appeals for, the state capitalist rule of law. For some the rule of law should have held against the black bloc. Others turn to the the rule of law as a statist security blanket providing the basis for—the very conditions of—*their* “peaceful protests,” which the black bloc supposedly infringed upon. One of the most striking examples comes in the form of an incredible statement from CUPE-Ontario (Canadian Union of Public Employees), my former union federation:

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“Property was damaged, publically-owned [sic] police vehicles were burned, and innocent people were attacked and detained as a result of taking part in protests. All of this is wrong. What we have witnessed is nothing short of the abandonment of the rule of law, both by a small group who took part in the protests, and by a massive and heavily armed police force who were charged with overseeing them.”

Having equated the black bloc with the police in their scorn, the statement goes on to say:

“And it’s a sad day when some of those, who feel powerless to change the direction of their elected leaders, find in that feeling of powerlessness an excuse to break the law and vandalize the property of their fellow citizens and who, in so doing, silence the legitimate voices of so many others whose commitment to protest and dissent is matched by their rejection of violence and vandalism.”

Suggesting that the black bloc is an expression of powerlessness rather than confidence is one thing, but suggesting that breaking the law renders any activists or organizers illegitimate, as the statement does, is incredible. It is the logic of the bosses and the state (who set the property laws and benefit from them in the first place). And why should we view capital as our “fellow citizens anyway?” (This is not about CUPE-O, this statement expresses sentiments that have been put forward by many erstwhile members of the Left).

Even conservatives, like the sociologist Emile Durkheim and those influenced by him (Marcel Mauss, Kai Erikson) have noted that lawbreaking can provide a tremendous service to society. Often rules are not what they should be. Violations of the rule of law can be a signal that something is wrong with the rules or that the organization of society itself is a problem. Some of the greatest social improvements have resulted from acts of law violation. Virtually every progressive social movement has engaged in acts of law violation to achieve successes that are taken for granted today. The lawbreaker by putting themselves at risk,

may be acting to benefit conformers who would otherwise suffer in silence. In recognition of the positive social effects of deviance, Durkheim argued that a certain amount of lawbreaking is required by societies. It allows for innovation and progress. Those societies that have minimal lawbreaking (by the general population) tend to be marked by atrocities and excesses by the state (Nazi Germany, Soviet Russia).

When indigenous communities stood against the racist John A. MacDonald were they illegitimate? Should unionists have called for the rule of law? When gays and lesbians organized and fought (literally) against homophobic laws and practices were they illegitimate? Should supposed allies have argued for the bigots and their rule of law? When women had abortions—sometimes openly and in defiance of the laws—should unionists have stood with the moralists and “right to lifers” in support of the rule of law? All of these fights continue. Why should acceptance of the “rule of law” provide the basis for any of these movements? There are plenty of reactionaries who will wield adherence to the rule of law as a stick against movements for change (as Gary McHale has against Six Nations people reclaiming their lands). No need to do it to each other.

In expressing fidelity to the “rule of law” what is really being affirmed is fidelity to the state and to the bosses. Any union that expresses fidelity to the rule of law is not worthy of the name.

To do so is to negate the rich history of the working class and labour movements. For much of its history, right up to the present, the union movement has been “against the law,” its actions criminalized, its organizers arrested and worse. Anyone who’s been on a picket line when it really mattered should know how to take the “rule of law.” Would CUPE-O have sided with the rule of law against the sit-down strikers of the 1930s, against the Windsor strikers of 1945, the Mine Mill strikers of 2000–01, against the various general strikes? What about the recent factory occupations? Siding with the rule of law really does make clear “which side you are on,” to

answer one of labour's ancient questions. Union's that uphold the "rule of law" in the face of employers who steadfastly and routinely do not are accepting conditions of capitulation and defeat. Nothing less.

It is crucial to stress that during actions like the G20 demonstrations (as in numerous other cases before such as June 15, 2000 and Quebec City 2001) there were rank-and-file union members who chose to go to the front to challenge the police lines, fences and weapons that are the material expressions of the rule of law. Many refused simply to march to hear empty speeches or uphold the fetishization of "peaceful protest" regardless of actual effectiveness. After Quebec City, in fact, rank-and-file unionists, angry with the defeatist call of leadership to march away from the fences, demanded direct action training in their locals when they returned home. Many of those who called for and those who gave direct action workshops were CUPE members.

Even the conservative sociologists recognized that law breaking allows for freedom and growth within society. So why are so much of the Left (or at least those with access to mainstream media) having such trouble getting it after the G20 actions?

Why on earth would progressive organizers or activists call for the rule of law as a marker of the legitimacy of social movements? To do so is to call for the rule of (by and for) elites—in other words, the status quo. Who has made, and continues to make, the laws? Almost entirely they are political and economic elites. Working people and the oppressed have been largely excluded. The rule of law also surrenders social life to administration by elites, those who study the laws and legal procedures, who run the legislatures and courts. To call for the rule of law is to call for the maintenance of the system of inequality, exploitation, injustice and oppression that has given rise to and been sustained by the rule of law in the first place. All of this is what we are supposed to be getting rid of.

As Marxists have known, or used to know (before becoming professional passive-ists), justice is not about absolutes—absolute good

or absolute bad—there is a class basis to it. We cannot let the capitalist state dictate our terms.

To adhere to the rule of law as a marker of our legitimacy is to accept the masters' rules. It is to wage a fight we cannot win—because the game is fixed from the start. Their laws ensure our loss. Where our social needs are impeded by the rule of law, there should be no question where our allegiance is, on which side our commitment rests.

Only when we confront and break through the rule of law do we stand a chance of seeing the authorities retreat, break ranks, run away. We cannot lose sight of that reality. A better world will not be legislated into existence, no matter how badly some might wish it so.