

# INTERPRETATION

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# INTERPRETATION

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LEGALITY AND ILLEGALITY AS INSTRUMENTS OF  
 REVOLUTIONARIES IN THEIR QUEST FOR POWER:  
 REMARKS OCCASIONED BY THE OUTLOOK OF  
 HERBERT MARCUSE\*

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I

In the 1960s Herbert Marcuse counseled New-Left revolutionaries to conduct their activities outside the limits of the established legal order, because, he declared, the legal means are inadequate for the oppressed and overpowered minorities to "achieve their share of humanity."<sup>1</sup> By allocating extralegal or illegal tactics a prominent place in his ideologically inspired writings, Marcuse catapulted to the forefront a topic which had for some years been dormant in the West.

His decision to opt for illegality as an instrument by which revolutionaries could achieve power might easily be understood if liberal democracies had continued to exclude the masses from participating in the electoral system, and hence from the parliamentary process. Legality as an instrument of revolutionaries would then have been an entirely abstract question—as it still was in the days of Marx and Engels of the period of *The Communist Manifesto* (1848) and the *Address of the Central Committee to the Communist League* (1850).

Yet, as everyone knows, much had happened even in those days. Under the impact of the Industrial Revolution the franchise was drastically enlarged. This resulted in the disappearance of some of the traditional factions or parties and in the growth of other parties and the birth of new ones—including some that aimed at uprooting existing systems. The emerging reality, and the implications this had on tactics to be utilized by revolutionaries who formerly had no option but to operate outside the established legal framework, was

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quickly grasped by Marx and Engels. In 1872, for example, Marx noted that revolutionaries “do not assert that the attainment of the goal requires everywhere identical means. . . and we do not deny the existence of countries, as America [and] England. . . where the workers could [conceivably] attain their goal peacefully.”<sup>2</sup> This was stated more succinctly by Engels in 1895. According to him,

The irony of world history [is that] . . . we, the ‘revolutionaries,’ the ‘subversionists,’ thrive much better on legal means to accomplish the overthrow than illegal means. The parties of order, as they call themselves, are ruined by their self-created legal order. . . . In despair they cry out ‘la légalité nous tue’—legality is our death, while we with this same legality acquire swelling muscles and red cheeks and look like the picture of health.<sup>3</sup>

The recognition of legality as a potent instrument, and the incorporation of it into the arsenal of weapons available to revolutionaries in their quest for power in liberal democracies, constitutes a breakthrough in what may be called “tacticology.”

Though Marx and Engels had enlarged the arsenal of weapons available to revolutionaries, they did not truly believe that the state would ever abdicate its powers willingly—even in the face of a politically peaceful revolution.<sup>4</sup> Hence, to reach the goal in England and in America some form of illegal work was unavoidable. Whether the emphasis should be on legality, on illegality, or on balancing the two, depends on the concrete economic level a country has reached in the ongoing revolutions in the modes of production and exchange. This, in turn, is reflected in the intensity of the political antagonisms between the bourgeoisie and the proletariat and in the growth of the latter.

From this ongoing process emerges a definite role for the Communist Party. Its task, according to the *Manifesto*, is to instill in the ever-growing proletariat a revolutionary consciousness—a necessary prerequisite for a successful revolution—to help to push the old order into oblivion, and to guide the revolution in a positive direction. The overthrow of the bourgeois state occurs at precisely the moment when the party recognizes that the economic and political forces have sufficiently matured for the revolution to be implemented.

At the turn of the century, the means of gaining the end became perhaps the most widely discussed and argued topic among revolu-

tionaries. In the face of the drastic enlargement of the franchise, three distinct schools of thought gradually emerged: those who believed that the end should be achieved solely by legal means, those who refused to compromise about the necessity of illegality as a revolutionary instrument, and the political realists who had no qualms about using any tactic—legal or illegal—to gain the desired goal.

Lenin, as the heir of Marx and Engels, embraced not only their economic assumptions, but also their ideas on the need for instilling a revolutionary consciousness in the masses, and expanded on the party's role in overthrowing existing systems. On the last point, Lenin went considerably beyond his mentors by advocating the necessity of professional revolutionists. What seemed to be implicit in Marx and Engels became quite explicit in Lenin's "What Is To Be Done?" (1902). He argued here for the necessity of building a cohesive organization to consist "chiefly of people professionally engaged in revolutionary activity,"<sup>5</sup> and he attacked those revolutionaries who approached tactics from preconceived notions only. The need to analyze historical circumstances and to exploit these accordingly precludes, he maintained, following "all abstract formulas and . . . all doctrinaire recipes."<sup>6</sup> If anything, Lenin insisted, "Marxism *learns* . . . from mass practice, and makes no claim whatever to *teach* the masses forms of struggle invented by 'systematizers' in the seclusion of their studies."<sup>7</sup> Consequently, Lenin mercilessly denounced orthodox Communists for refusing to abandon illegal tactics, and right-wing deviationists who had hoped to gain the end by legal means solely. Not to utilize every possible tactic, namely the unwillingness "to combine illegal forms of struggle with *every* form of legal struggle" wherever necessary, is, according to him, characteristic of "poor revolutionaries."<sup>8</sup>

Though he subscribed to and underlined the need for revolutionaries to keep open all options in their struggle to overthrow the bourgeois order, Lenin, like his predecessors, did not think that peaceful and legal revolution could succeed. This, in his opinion, was out of the question—even in America and in England. He asserted in 1917 that ever since Marx had imagined in the early 1870s the remote possibility of a legal revolution succeeding there, these countries had acquired powerful military complexes, and their bureaucracies had

also grown and had become thoroughly entrenched.<sup>9</sup>

In short, Lenin's doctrine was that revolutionaries should combine both tactics simultaneously, but at times it might be expedient to emphasize one at the expense of the other.

## II

Hitler fully grasped and exploited the possibilities inherent in legal work. The precise extent to which he was influenced by Lenin and his companions, or whether he had arrived at his plan of action on the basis of the concrete situation in Weimar Germany, must here remain unanswered. The mere fact that he had succeeded in gliding into power by ostensibly legal means is sufficient reason to study Hitler's road to success.

Completely unconcerned with analyses of the economic modes of production and of exchange, and not a philosopher of history in the intellectual sense of the word, Hitler focused his attention on the German scene exclusively; he exploited every discontent to enhance his chance of success. As is well known, three phases are clearly discernible in his quest for power: from 1919 until the Munich Beer Hall putsch of November 1923, during which Hitler relied exclusively on illegal methods; the period between his release from prison for his role in the putsch and his appointment as Chancellor of Germany in January 1933, and the phase which culminated in the Reichstag passing (in March 1933) an unprecedented enabling act.

By his own admission Hitler claimed that until the abortive putsch, he thought of little else but the violent overthrow of the legally constituted authorities.<sup>10</sup> In opting for this method he had apparently failed to appreciate the rules by which modern bureaucracies operate. Moreover, unable to secure the support of the *Reichswehr* and the local police, it was the state's machinery which was "responsible for wrecking Hitler's action."<sup>11</sup> Realizing his amateurishness, he purportedly stated while still a prisoner that in the future his party or movement would have to resort to legal means as well:

Instead of working to achieve power by an armed coup, we shall have to hold

our noses and enter the Reichstag against the Catholic and Marxist deputies. If outvoting them takes longer than out-shooting them at least the results will be guaranteed by their own Constitution. Any lawful process is slow. . . . Sooner or later we shall have a majority—and after that Germany.<sup>12</sup>

Hitler's incorporation of legality into his arsenal of weapons was in accord with Weber's analysis of how a bureaucracy operates in a modern state. Of the three types of legitimate rule—legal, traditional and charismatic—Weber discussed legal rule first. This form of rule, according to him, does not emanate from a person but from a set of rules which come into force through the legally constituted authorities.<sup>13</sup> Whether Hitler was aware of Weber must here remain unanswered. But given the constitutional order in Germany, Hitler, like his arch-foe Lenin,<sup>14</sup> was adamant on the necessity of exploiting the legal avenues available. Yet the illegal operations of Hitler's cohesively organized Storm Troopers continued simultaneously.<sup>15</sup>

Overtly, however, it became his primary objective to gain a sufficiently large parliamentary representation in order to legally bring about laws which the bureaucracy would then proceed to implement. He might not have resorted to this tactic had it not been for the phraseology of certain articles in the constitution, and the purely legalistic or formalistic interpretation of the constitution which had dominated Weimar thought.

The framers of the Weimar constitution had intended it to be a truly liberal democratic document. But it turned out to be a document of political engineering in a country void of a liberal democratic tradition. To function properly, such a constitution requires a fair consensus of a country's electorate on the nature of a liberal democratic state. Yet this was not the case in Germany. Its political heritage in general, Germany's defeat in World War I, and the terms of Versailles, converged to undermine the credibility of Weimar. It was, as many then believed, *eine Republik ohne Republikaner*.

Exploiting parliament and the constitution for revolutionary ends was not difficult, for, with the possible exception of Article 48, the Weimar document provided no safety valves for its own preservation. A trail-blazing discussion of some of the constitution's articles which played into Hitler's hands is Arnold Brecht's *Prelude to Silence*.<sup>16</sup> One point he has overlooked, however, is the crucial Article 76. The

pertinent first two sentences of Article 76 read as follows: "The constitution may be amended by process of legislation. But acts of the Reichstag relating to the amendment of the constitution are effective only if two-thirds of the legal membership are present, and at least two-thirds of those present give their assent."

This article, in fact, inspired revolutionary parties in Germany to resort to legality as a tactic. With the required majority such a party alone, or in coalition with other parties, could fundamentally amend, destroy, or infuse an alien spirit into this document,<sup>17</sup> because the leading constitutional lawyers and commentators of the document shared Richard Thoma's and Gerhard Anschütz's formalistic or legalistic interpretation of the constitution, that it is at the disposal of the legislature and not above it.<sup>18</sup> As Jasper has pointed out, since the constitution did not account for unconstitutional objectives, the sole requirement of parties to achieve fundamental revisions was to proceed legally.<sup>19</sup>

Although no friend of republican ideas or the Weimar republic, Hindenburg, on assuming the presidency, swore, in accordance with Article 42, to uphold this document. No one really doubted the seriousness with which Hindenburg understood the oath.<sup>20</sup> But because he was also strongly influenced by the formalistic or legalistic interpretation of the constitution, it appears that he was never certain about how far he could legally use Article 48 to meet crises.

The discomfort he felt with Article 48 can thus be ascribed to his oath and his predilection toward the legalistic interpretation of the constitution. For fear of violating this document he loathed ruling by decree,<sup>21</sup> and yearned to return to parliamentary procedures.<sup>22</sup> This longing was reinforced by many supposedly responsible citizens who insisted on the necessity of returning to constitutional rule in the sense of a government supported by the Reichstag.<sup>23</sup> By implication this meant two things: (a) Hindenburg was violating the constitution and thereby his oath, and (b) it became necessary to appoint Hitler Chancellor since he controlled the largest party in the Reichstag. Despite the fact that Hitler did not possess a majority in that body he promised to find one by calling for new elections.<sup>24</sup> To gain his end he again vowed to respect the constitution,<sup>25</sup> and simultaneously he denounced all those whose intention it was to establish a military dictatorship.<sup>26</sup>

As long as the constitution did not recognize unconstitutional objectives—provided that they were brought about legally—it probably never occurred to Hindenburg what great danger lurked in his appointment of Hitler as Chancellor on January 30, 1933. What Hindenburg, and others, failed to understand was Hitler's ability to operate on various levels simultaneously. Hitler's success in clouding his long-range intentions was responsible for Hindenburg's blunder, and it also explains the calmness with which the anti-Nazi press had received Hitler's appointment. According to Dorpalen, their editorials showed that they were not aware that revolutionary changes were imminent.<sup>27</sup>

### III

Having reviewed the political framework within which Marcuse operates on the question of tactics, it is now possible to ask why he turned his back on legality in his ideologically inspired writings. After all, parliamentary systems in liberal democracies are as solidly entrenched as before, and modern bureaucratic and military machines in such systems still function, for the most part, in accordance with legality, i.e., only those laws, orders, and decrees are implemented which emanate from the legally constituted authorities.

Why then has Marcuse opted for illegality? In his view, has something happened in the liberal-parliamentary structure which is distinct from the days of Marx, Engels, Lenin, and Hitler? In speaking of advanced industrial societies in general, and of America in particular, Marcuse notes a profound quantitative and qualitative economic change which has had a definite repercussion where parliamentary systems are concerned.

Because of technical, scientific, and mechanical advances, particularly since World War II, the traditional proletariat, according to him, has reached a point at which workers "recognize themselves in their commodities; they find their soul in their automobile, hi-fi set, split-level home, kitchen equipment."<sup>28</sup> He proceeds to argue that the traditional proletariat has not only become synchronized to capitalist society, but "in some of the technically most advanced establishments, the workers even show a vested interest in the establishment—a frequently observed effect of 'workers participation' in capitalist enterprises."<sup>29</sup>

Based on these observations, Marcuse is forced to abandon the classical Marxian argument that the traditional laboring class constitutes the actual gravediggers of capitalism.<sup>30</sup> But in view of the traditional proletariat's "basic position in the production process, by virtue of its numerical weight and the weight of exploitation," this force, Marcuse observed, "is still the [potential] agent of revolution."<sup>31</sup> But as this force does not now embody revolutionary consciousness, Marcuse is compelled to search for other actual agents of revolution, and he finds these in the national and racial minorities the world over. Though these minorities "do not occupy a decisive place in the productive process and for this reason cannot be considered potentially revolutionary forces from the viewpoint of Marxian theory. . . [the underprivileged] really are the mass basis of the national liberation struggle. . . . These masses can perhaps now be considered the new proletariat and as such they are today a real danger for the world system of capitalism."<sup>32</sup>

As for the United States, Marcuse laments the fact that racial conflicts not only separate the ghetto population from their allies outside,<sup>33</sup> but, even worse, the considerable conflicts raging "in the large cities between blacks and Puerto Ricans"<sup>34</sup> impede the development of a cohesive force. As neither the traditional proletariat on the one hand, nor what Marcuse considers to be the new proletariat on the other, now constitutes a revolutionary force, and because there has so far not occurred a critical weakening of the global economy of capitalism, he concludes that the situation in the centers of capitalism is not yet "prerevolutionary" but still largely "nonrevolutionary."<sup>35</sup>

As already observed, the profound changes in the economies of the advanced industrial societies have, in Marcuse's view, had a deep impact on parliamentary institutions in the technically most advanced liberal democracies. He strongly implies in this context that, prior to the technical, scientific, and mechanical productivity explosion, Madison Avenue advertising techniques had not yet succeeded in engulfing man's totality—his outer beliefs and actions as well as his inner freedom—to such an extent that he has been absorbed into, dominated by, and synchronized to the needs of advanced industrial complexes. But gradually these techniques have become so refined that Marcuse echoes a thought already expressed

by the late Walter Benjamin in 1934, namely, that even in the face of opposition, the highly efficient and powerful bourgeois medium is not only able to assimilate but also to "publicize. . .revolutionary notions without throwing into question either its own basis or the foundation of the class that controls it."<sup>36</sup> In a similar vein Marcuse speaks of the "unification or convergence of opposites"<sup>37</sup> and the "flattening out of antagonism"<sup>38</sup> by the "manipulation of needs by vested interests."<sup>39</sup> And precisely this is reflected in the proceedings of liberal democratic parliaments.

Just as for Marx, Engels, Lenin, and Hitler, so also for Marcuse, the liberal democratic parliament is a farcical institution. To him parliamentary representatives are victims of the established economic order and manipulated public opinion machinery, and hence their spokesmen.<sup>40</sup> But whereas the others saw in this institution a means to reach the end, Marcuse slams the door to parliamentary activities on the part of revolutionaries.<sup>41</sup> The Left, with its meager financial resources, according to Marcuse, can never hope to have an equal voice in the halls of parliament and also "no equal access to the mass media and their facilities."<sup>42</sup>

He is convinced that the economic system in America will falter when it can no longer satisfy the rising expectations of ever-larger strata of the population, including salaried employees as, for example, engineers, educators, researchers, etc.<sup>43</sup> But in the meantime, he urges the political Left in the still largely nonrevolutionary phase to instill and raise revolutionary consciousness in the masses.<sup>44</sup>

Under the impact of student rebellions at leading American colleges and universities, Marcuse, in 1968, believed that the strength of the political Left actually resided in its being split ideologically. The "small contesting and competing groups" of the Left, he argued, could thus easily spring into action and exploit "specific grievances" in different localities by fomenting and directing "riots [and] ghetto rebellions,"<sup>45</sup> and, wherever possible, deny to political opponents what Carl Schmitt had called in 1932 an "equal chance."<sup>46</sup>

To suppress political opposition wherever possible, even in the nonrevolutionary phase, Marcuse is not adverse to resorting to violence. He justifies this on the ground that the historical record seems to indicate "that the violence emanating from the rebellions of the oppressed classes broke the historical continuum of injustice, cruelty, and silence for a brief moment, brief but explosive enough

to achieve an increase in the scope of freedom and justice. . . ."<sup>47</sup> Yet he cautioned the Left in America not to be too hasty in resorting to mass violence at the present time.

His hesitancy is based on his assumption that the critical point has not yet been reached here, partly because the economy is still able to satisfy the economic expectations of the masses, and partly because there is a lack of revolutionary consciousness. Hence, he does not believe in the imminence of revolution in America, nor (in the event of such an occurrence) in its ability to succeed. He argues that in the nonrevolutionary phase here the legally constituted government continues to enjoy strong military and police support.<sup>48</sup>

Though continuing to maintain his thesis on the necessity of suppressing political opposition wherever possible in the nonrevolutionary stage, Marcuse did, however, change his attitude in 1972 on the question of organization. He feared that the powerful political reaction which had recently set in might succeed in destroying "any revolutionary potential for an indefinite time."<sup>49</sup> Because of the conservative reaction, he no longer argues that the strength of the Left is in its being split. To meet the new situation, he now urges the split and weak radical Left to resolve its differences and organize effectively.<sup>50</sup>

Marcuse is convinced that because the technical, scientific, and mechanical productivity is so highly rationalized in the industrially advanced societies, there will inevitably be a profound transformation within the economic process. And, according to him, overrationalization will certainly bring about breakdowns, and a mere "disruption at one key place," Marcuse maintains, "can easily lead to a dysfunctioning of the whole."<sup>51</sup> The forthcoming revolution, he argues, will differ profoundly from all previous ones. It will not be set off by "a laboring class against other sectors of the working population, not 'wage labor' versus capital, but rather all dependent classes against capital."<sup>52</sup> The revolution, in Marcuse's view, will therefore come "from below."<sup>53</sup>

With the economic system faltering, i.e., the economy unable to satisfy the expectations of the masses, and the masses hopefully then in the possession of a revolutionary consciousness, the situation will have emerged which the organized radical Left must carefully exploit to reach the desired goal. For Marcuse, this means gearing the revolution by every means possible toward the realization of a true

society "in which 'the people' . . . [will] become autonomous individuals, freed from the repressive requirements of a struggle for existence in the interest of domination, and as such human beings choosing their government and determining their life."<sup>54</sup>

#### IV

By opting exclusively for illegal tactics, Marcuse, like the Marx and Engels of the "Manifesto," fails to recognize the possibility of the capitalist economy overcoming bottlenecks and, thereby, possibly bringing about further technological breakthroughs. The latter could easily result in a condition similar to the one which arose at the time of the introduction of assembly-line techniques of production, namely, the availability of ever greater quantities of consumer goods to the traditional proletariat. Though not solving the alienation question, the mere supply of more goods and the ability of workers to purchase these had, as Marcuse realized, a severely depressant impact on the revolutionary consciousness of the traditional proletariat. In Marcuse's ideologically inspired writings he fails to take into account the possibility of this happening again and, therefore, appears unconcerned with the possible impact which technological breakthroughs may have on what he calls the "new proletariat." In other words, the destruction of the established order hinges primarily on Marcuse's economic determinism. Conversely, should the course of history deviate from his rigid line of thought, then his entire construction collapses.

Contrary to Marx, Engels, Lenin, and Hitler, Marcuse, by opting for illegal tactics exclusively, is either unwilling or incapable of confronting the historical process realistically. Hence, he boxes himself into a corner. What he has neglected to take into account from the immediate past is the fate which befell the orthodox Communists who had opted for illegality. In due time they vanished from the scene, whereas in the liberal democracies only those Communist parties survived who were prepared, from the viewpoint of tactics, to adapt to ever-changing circumstances. Only time will tell if the reformism of the sophisticated and legally inclined Communist parties of Italy and France, for example, is genuine and, therefore, may not pose the greatest internal threat to the established

bourgeois order of things, or whether it is nothing more than a tactical maneuver.

Aside from Marcuse's unwillingness to take into account the resilience of capitalist modes of production and the impact these may have on the revolutionary consciousness of the "new proletariat," and his failure to learn from the trials and tribulations of orthodox Communists, another argument of his is just as cursory. For example, without providing any concrete evidence, he debunks legal work merely on his assumption that the New Left does not possess sufficient financial resources. He concludes, therefore, that the New Left is unable to compete with bourgeois parties inside and outside of parliament, nor can it hope to have equal access to the mass media. Has Marcuse ever asked himself, to what extent was Marx concerned with this problem when, cognizant of the new reality, he brought legality into the arsenal of weapons available to revolutionaries? What Marcuse fails to realize is that once a new situation had presented itself, Marx, Engels, Lenin, and Hitler were not concerned primarily with technical details but, instead, on how best to exploit new opportunities to gain an end. The Nazi party, for example, was in financial difficulties for most of its existence during the Weimar period, and on the eve of Hitler's appointment, was in catastrophic financial circumstances.<sup>55</sup> Yet the party did not disintegrate, nor did its activities appear to suffer. Had Hitler not controlled the largest party in the Reichstag and, instead, relied on illegal tactics solely, he would not have become Chancellor of Germany in January 1933, and possibly never. Because of Marcuse's views on illegality it may be concluded that he is primarily an abstract political ideologue, and therefore cannot be included among the foremost thinkers regarding the tactics to be utilized by revolutionaries in liberal democracies.

<sup>1</sup>Herbert Marcuse, "Repressive Tolerance" (1965), *A Critique of Pure Tolerance* (Boston: Beacon Press, 1969), p. 116. Hereafter cited as *A Critique*.

<sup>2</sup>Karl Marx, "Rede über den Haager Kongress," *Marx-Engels Werke* (Berlin: Dietz Verlag, 1964), Vol. 18, p. 160. Hereafter cited as *Werke*. In an interview on July 3, 1871, Marx put it as follows: "In England. . . the road is open to the working class on how it wants to achieve political power. An uprising there would be silly because the end can be reached more quickly and more surely by peaceful agitation." *Ibid.*, Vol. 17, p. 641.

<sup>3</sup>Friedrich Engels, Introduction to Karl Marx's "Die Klassenkämpfe in Frankreich," *Werke* (1963), Vol. 22, p. 525.

<sup>4</sup>See Karl Marx's letter to Ludwig Kugelmann, April 12, 1871, *Werke* (1966), Vol. 33, p. 205; "Rede über. . .," *Werke* (1964), pp. 160, 730 n. 182; also Engels' preface to Marx's first English edition of *Capital: A Critical Analysis of Capitalist Production*, trans. from 3rd German ed. by Samuel Moore and Edward Aveling (London: Swan, Sonnenschein, Lowery, 1887), Vol. I, p. xiv.

<sup>5</sup>V. I. Lenin, *Collected Works* (Moscow: Foreign Languages Publishing House, 1961), Vol. 5, p. 464. Hereafter cited as *Works*.

<sup>6</sup>"Guerrilla Warfare" (1906), *Works* (1962), Vol. 11, p. 213.

<sup>7</sup>*Ibid.*, pp. 213-14. The Italics are Lenin's.

<sup>8</sup>"'Left-Wing' Communism, An Infantile Disorder" (1920), *Works* (1966), Vol. 31, pp. 96-97. (The Italics are Lenin's.) For a discussion of tactics in the context of Communist revolutionary doctrine, see Georg Lukács, "Legalität und Illegalität" (1920), *Geschichte und Klassenbewusstsein* (Berlin: Luchterhand, 1968), Vol. II, pp. 432-47. Although Marx and Engels conceived in the "Manifesto" of the revolution occurring solely by violent means, illegality need not necessarily be equated with mass violence. Variations on a theme of civil war or insurrection are terror, intimidation, assassination, strikes, demonstrations, and so forth. See Lenin, "Guerrilla. . .," *Works* (1962), pp. 214-16; Lev Trotsky, *Terrorismus und Kommunismus: Anti-Kautsky* (Hamburg: Carl Hoym, 1920), p. 43.

<sup>9</sup>"The State and Revolution," *Works* (1964), Vol. 25, pp. 415-16.

<sup>10</sup>In commemorating the 1923 uprising Hitler stated that "I can confess quite calmly that from 1919 to 1923 I thought of nothing else than a *coup d'état*." Quoted in the *Völkischer Beobachter*, November 10, 1936.

<sup>11</sup>"Der 'Staat an sich' hat Hitlers Aktion scheitern lassen." Hanns Hubert Hofmann, *Der Hitlerputsch: Krisenjahre deutscher Geschichte, 1920-1924* (München: Nymphenburger Verlagsanstalt, 1961), p. 266.

<sup>12</sup>See Kurt G. W. Ludecke, *I Knew Hitler: The Story of a Nazi Who Escaped the Blood Purge* (New York: Charles Scribner's Sons, 1937), pp. 234-35. There is no reason to doubt the credibility of this passage if it is compared to Hitler's subsequent pronouncements on the same topic. For example, in 1930 Hitler put it as follows:

"When among our different weapons today we exploit parliament, this does not mean that parliamentary parties are there for parliamentary purposes only. Parliament for us is not an end, but only a means to an end. . . . We are. . . a parliamentary party. . . only out of necessity. . . . We do not battle for parliamentary seats for the sake of such seats, but in order to liberate one day the German people. . . . The constitution prescribes only the ground on which the battle has to be fought, not its aim. We enter into the legally constituted bodies and we shall thus make our party the decisive factor. Once in possession of constitutional rights, we shall then forge the state into the form of which we approve." Quoted in the *Frankfurter Zeitung*, September 26, 1930.

<sup>13</sup>Max Weber, *Staatssoziologie*, ed., Johannes Winckelmann (Berlin: Duncker & Humblot, 1956), pp. 99-101.

<sup>14</sup>See Lenin's "Political Report of the Central Committee" (March 7, 1918), *Works* (1965), Vol. 27, p. 99; "'Left-Wing' . . .," *Works* (1966), pp. 58-59.

<sup>15</sup>As Frederick M. Watkins aptly put it: "It would be a mistake to suppose...that the adoption of electoral methods involved the abandonment...of revolutionary ends. As a matter of fact, private armies were maintained throughout this period on a quite unprecedented scale by the extremist parties. . . . These private armies. . . were quite ready to use violence for the accomplishment of their purposes. The total result of their activities was to make illegal force a problem hardly less serious in the later than in the earlier days of the republic." *The Failure of Constitutional Emergency Powers under the German Republic* (Cambridge: Harvard University Press, 1939), pp. 54-55. See also *Die Memoiren des Stabschefs Röhm* (Saarbrücken: Uranus-Verlag, 1934), pp. 147-50, 169-83.

<sup>16</sup>(2nd printing contains new preface; New York: Howard Fertig, 1968), particularly pp. 138-44.

<sup>17</sup>Carl Schmitt, *Legalität und Legitimität*, 2nd ed. (Berlin: Duncker & Humblot, 1968), pp. 48-51. Hereafter cited as *Legalität und Legitimität*.

<sup>18</sup>See Richard Thoma, "Die Funktionen der Staatsgewalt," *Handbuch des Deutschen Staatsrechts*, ed. Gerhard Anschütz and Richard Thoma (Tübingen: J.C.B. Mohr [Paul Siebeck], 1932), II, pp. 153-54; Gerhard Anschütz, *Die Verfassung des Deutschen Reichs vom 11. August 1919*, 14th ed. (Berlin: Georg Stilke, 1933), p. 405. The foremost exponent of the latitudinarian interpretation of the constitution was Carl Schmitt. For a discussion of his views see George Schwab, *The Challenge of the Exception: An Introduction to the Political Ideas of Carl Schmitt between 1921 and 1936* (Berlin: Duncker & Humblot, 1970), pp. 37-43, 49-51, 77-89, 94-97.

<sup>19</sup>Gotthard Jasper, *Der Schutz der Republik: Studien zur staatlichen Sicherung der Demokratie in der Weimarer Republik 1922-1930* (Tübingen: J.C.B. Mohr [Paul Siebeck], 1963), pp. 11, 14-15.

<sup>20</sup>Heinrich Brüning, *Memoiren, 1918-1934* (Stuttgart: Deutsche Verlagsanstalt, 1970), p. 387.

<sup>21</sup>Theodor Eschenburg, "Die Rolle der Persönlichkeit in der Krise der Weimarer Republik: Hindenburg, Brüning, Groener, Schleicher," *Vierteljahrshefte für Zeitgeschichte*, Heft 1 (1961), p. 6.

<sup>22</sup>See Hindenburg's letter of February 25, 1932 to Friedrich von Berg. Reprinted in *Vierteljahrshefte. . .*, Heft 1 (1960), Doc. I, p. 81. Also, Karl Dietrich Bracher, *Nationalsozialistische Machtergreifung und Reichskonkordat* (Wiesbaden: Hessische Landesregierung, 1956), p. 31. Hereafter cited as *Nationalsozialistische Machtergreifung*.

<sup>23</sup>See, for example, the January 26 letter of Prelate Kaas, head of the Center party, to Chancellor Schleicher. In it Kaas denied the existence of a state of emergency. Instead he accused the government of wrongdoings and for having "tolerated and even encouraged the mistakes of others." Hence he argued for the need to return immediately to "methods provided for in the constitution to bring about viable government coalitions." This letter was made public on January 29, 1933, one day before Hitler's appointment. Reprinted in *Jahrbuch des öffentlichen Rechts der Gegenwart* (Tübingen: J.C.B. Mohr [Paul Siebeck], 1934), Vol. 21, 1933/34, pp. 141-42. A copy of the letter was also mailed to

Hindenburg on January 26. *Die Protokolle der Reichstagsfraktion und des Fraktionsvorstands der deutschen Zentrumspartei, 1926-1933*, ed. Rudolf Morsey (Mainz: Matthias-Grünewald Verlag, 1969), p. 609.

<sup>24</sup> Bracher, *Nationalsozialistische Machtergreifung*, pp. 31-32.

<sup>25</sup> Hans Otto Meissner, Harry Wilde, *Die Machtergreifung: Ein Bericht über die Technik des nationalsozialistischen Staatsstreichs* (Stuttgart: J. G. Cotta'sche Buchhandlung, 1958), p. 170.

<sup>26</sup> See the "Unterredung des Reichskanzlers Hitler und des Reichsinnenministers Frick mit den Zentrumsführern Kaas und Perlitius" (January 31, 1933), *Vierteljahrshefte. . .*, Heft 2 (1961), Doc. I, p. 186.

<sup>27</sup> Andreas Dorpalen, *Hindenburg and the Weimar Republic* (Princeton: Princeton University Press, 1964), pp. 443ff. For the swiftness with which Hitler solidified his power after his appointment see Eliot Barculo Wheaton, *The Nazi Revolution 1933-1935: Prelude to Calamity* (New York: Anchor Books, 1969), pp. 211ff.; also the essays by Karl Dietrich Bracher and Helmut Krausnick in *The Path to Dictatorship, 1918-1933*, trans. John Conway, introd. Fritz Stern (New York: Anchor Books, 1966).

<sup>28</sup> *One-Dimensional Man: Studies in the Ideology of Advanced Industrial Society*, 5th printing (Boston: Beacon Press, 1968), p. 9. Hereafter cited as *One-Dimensional Man*.

<sup>29</sup> *Ibid.*, p. 30.

<sup>30</sup> *An Essay on Liberation* (Boston: Beacon Press, 1969), p. 53. Hereafter cited as *An Essay*.

<sup>31</sup> *Ibid.*, p. 16.

<sup>32</sup> *Five Lectures*, trans. J. J. Shapiro and S. M. Weber, 2nd printing (Boston: Beacon Press, 1970), p. 85. Hereafter cited as *Five Lectures*.

<sup>33</sup> *An Essay*, p. 57.

<sup>34</sup> *Five Lectures*, p. 85.

<sup>35</sup> *An Essay*, p. 57. The transition from the nonrevolutionary to the prerevolutionary situation "presupposes a critical weakening of the global economy of capitalism, and the intensification and extension of the political work: radical enlightenment." *Ibid.*

<sup>36</sup> Walter Benjamin, *Versuche über Brecht*, ed. Rolf Tiedemann, 3rd ed. (Frankfurt A. M.: Suhrkamp Verlag, 1971), p. 105.

<sup>37</sup> Marcuse, *One-Dimensional Man*, p. 19.

<sup>38</sup> *Ibid.*, p. 57.

<sup>39</sup> *Ibid.*, pp. 3, 104.

<sup>40</sup> "Postscript 1968," *A Critique*, p. 118.

<sup>41</sup> "Repressive Tolerance," *A Critique*, pp. 116-17. See also *An Essay*, pp. 63-66. Although Marcuse closes the door to parliamentary activities as a means to gain power, he, nevertheless, warned revolutionaries that "it would be fatal to abandon the defense of civil rights and liberties within the established [legal] framework." *Ibid.*, p. 65.

<sup>42</sup> "Postscript 1968," *A Critique*, p. 119.

<sup>43</sup> Herbert Marcuse, *Counterrevolution and Revolt* (Boston: Beacon Press, 1972), pp. 10, 12, 22. Hereafter cited as *Counterrevolution*.

<sup>44</sup> *An Essay*, p. 57.

<sup>45</sup> Herbert Marcuse, "On the New Left," *The New Left: A Documentary History*, ed. Massimo Teodori (New York: The Bobbs-Merrill Co., 1969), pp. 471, 472.

<sup>46</sup> Whereas for Schmitt the notion of the "equal chance" had meant driving the extreme political movements from the political arena in order to safeguard the Weimar state (*Legalität und Legitimität*, pp. 30ff. For a discussion of Schmitt's concept of the "equal chance" see Schwab, *The Challenge of the Exception*, pp. 94-97.) Marcuse's idea of "repressive tolerance" entails "the withdrawal of toleration of speech and assembly from groups and movements which promote aggressive policies, armament, chauvinism, discrimination on the grounds of race and religion, or which oppose the extension of public services, social security, medical care, etc." ("Repressive Tolerance," *A Critique*, p. 100). I am grateful to G. L. Ulmen, the author of a forthcoming study of K. A. Wittfogel, for having called to my attention the impact Schmitt's concept had on Marcuse.

<sup>47</sup> "Repressive Tolerance," *A Critique*, p. 107.

<sup>48</sup> *Counterrevolution*, p. 43.

<sup>49</sup> *Ibid.*, p. 29.

<sup>50</sup> *Ibid.*, pp. 28, 42.

<sup>51</sup> *Ibid.*, p. 42.

<sup>52</sup> *Ibid.*, p. 39.

<sup>53</sup> *Ibid.*, p. 42.

<sup>54</sup> "Repressive Tolerance," *A Critique*, p. 105. For a critique of Marcuse's paradise see Kurt von Fritz, *Grundprobleme der Geschichte der antiken Wissenschaft* (Berlin: Walter de Gruyter, 1971), pp. xxiii-xxvii.

<sup>55</sup> See Dietrich Orlow, *The History of the Nazi Party, 1919-1933* (Pittsburgh: The University of Pittsburgh Press, 1969), pp. 287-88.