

**From Advocates to Terrorists: Ideology, the State of Exception and State of  
Emergency, and Political Ethics**

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**Abstract:**

Advocacy is a type of political expression. It takes certain political forms, depending on the state of the State, as a function of class relations. In 'normal times,' most States maintain a level of cultural hegemony that allow them control upon the tensions of class relations through what Althusser (2001) termed the "ideological state apparatus," with a lesser use of the "repressive state apparatus." In more acute times of States of exception and States of emergency, when the sovereign State increasingly reappears and claims itself as the nation, the range and scope of ideological expression tightens, and so too the repressive state apparatus becomes more active, foreclosing freedom of expression across various life-spheres by means of media control, violence, and other threats and actions of repressive force.

'Advocacy' is increasingly pushed into a terrorist position as understood within a narrowing rational framework that then allows the increasingly sovereign State to punish it legally and morally. At the same time, 'advocacy' assumes more ethical, rather than simply moral, dimensions, and its struggles for justice, and not just State sponsored rights, may become more universal.

## **Introduction**

Political information, like much of what is understood as information, today, is often understood in a rather passive sense of being expressions that are consulted for understanding. This is a liberalist view that sees persons as choosers and consumers of information. In this article, I would like to go beyond this epistemology and discuss information from an expressive viewpoint, namely that of an agent's expressive actions in relation to the State. Our discussion will pass through the topics of ideology, States of exception and States of emergency, and the distinctions between morals and ethics, law and justice. Far from being passive or synonymous with 'facts,' information will be understood as expressions by agents, both institutional and personal. Our final discussion in this article will be in regard to the writings of the political theorist and activist Antonio Negri in the context of his imprisonment and trial on terror charges from 1979-1983 (the writings issue from 1983—the year in which his case actually began to be tried). Here, we will suggest the dissonance between States and social movements as expressive agents and forces. Here we will see the denial of the ethical by the moral, justice by legal right, and the denial of a more open future for a nation by classes that control a State.

Today, these topics couldn't be more timely. 'Intellectual Freedom' and 'Freedom of information' form core value for the Western library tradition, but as I write this the Library of Congress, as well as all other United States government agencies, have been forbidden by the federal government to allow access to U.S.

diplomatic dispatches or ‘cables’ made public by an internet organization named Wikileaks. As I write this, the founder of Wikileaks, Julian Assange, has been under legal threat by the U.S. Attorney General Eric Holder, and several leading politicians in the U.S. have urged his arrest and trial on treason (despite his being an Australian citizen), with several other leading political and media figures also calling for his assassination as a “terrorist.” The Vice-President of the United States, Joseph Biden, on December 19<sup>th</sup>, 2010 referred to Assange on a popular Sunday news program as a “hi-tech terrorist”<sup>1</sup> and the commercial media has largely continued this view of Assange, echoing the dominant government line. The accused leaker of this material, a U.S. Army private, Bradley Manning, has been held for over seven months at the time of this writing in harsh solitary confinement without trial or conviction. Further, Senator Joseph Lieberman, Chair of the Senate Homeland Security and Governmental Affairs Committee, on December 7, 2010 said that the U.S. Justice Department should extend the investigation of these leaks to the *New York Times*, which published reports based on the Wikileaks releases.<sup>2</sup> While the press coverage of the contents of the leaks has been relatively sparse in the U.S. press, European and other world wide presses have been reporting on the contents since the time of the first release. For the most part, it would not be unfair to suggest that the U.S. media—including the *New York Times*—in contrast to main European newspapers,

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<sup>1</sup> *Guardian* newspaper, December 19, 2010. G  
<http://www.guardian.co.uk/media/2010/dec/19/assange-high-tech-terrorist-biden>

<sup>2</sup> Huffington Post, December 7<sup>th</sup>, 2010.  
[http://www.huffingtonpost.com/2010/12/07/lieberman-times-crime-wikileaks\\_n\\_793293.html](http://www.huffingtonpost.com/2010/12/07/lieberman-times-crime-wikileaks_n_793293.html)

have largely focused on the personal and alleged sexual life of the founder of Wikileaks and Swedish criminal investigations related to the latter, rather than upon the contents of the ‘cables.’ And as I am editing this article, the revelations of the ‘cables’ have contributed to the overthrow of dictatorial governments in Tunisia and Egypt. The Hosni Mubarak government in Egypt unsuccessfully relied in large part upon the silencing of the Internet and mobile telecommunication media as a means of stopping popular revolt. Meanwhile a bill earlier introduced in the U.S. Senate, will be reintroduced by Senators Joseph Lieberman and Susan Collins in 2011, giving the executive branch authority, without judicial review, to control “crucial” parts of the national Internet cyber-infrastructure in the case of a “national cyber-emergency.”<sup>3</sup>

Such a backlash against Wikileaks’ web site, its founder, the accused military leaker, and the news sources that report on the documents do not come out of nowhere. The purpose of this article is to sketch a theoretical framework for understanding the relation of expression and the State that explains such actions. It should be added that while it is not at all the intent of this paper to compare the role of Wikileaks and its founder, Julian Assange, to the role of Antonio Negri (a political philosopher and earlier an activist), the analogy between journalism and revolutionary rhetoric finds a common logical position by their being identified by State powers as ‘terrorists’ to the State. While we don’t have room to discuss this further, it may be suggested that many aspects of the Italian State’s ‘war on terror’ in

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<sup>3</sup> *CBS News*, January 24, 2011. [http://www.cbsnews.com/8301-501465\\_162-20029302-501465.html](http://www.cbsnews.com/8301-501465_162-20029302-501465.html)

the late 1970s and early 1980s bear grim commonalities with the U.S. ‘war on terror’ at home and abroad over the past decade and recently, including, but not limited to, extraordinary extended detention without trial, outright attacks on free speech, and the implicit and explicit control of the media and information providers for purposes of limiting public information and “manufacturing consent” (Herman and Chomsky, 1988).

In presenting the theoretical framework, we will utilize three conceptual discourses: Louis Althusser’s expressionist conception of ideology, the recent literatures on States of exception and States of emergency, and last, the philosopher of science and psychology Rom Harré’s notion of “moral orders.” What we seek to understand are cycles of struggles between increasingly sovereign States and agents of strong or ‘revolutionary’ change. What we attempt to theorize are the conditions of the State and of political discourse through which political subjects are formed and become identified as ‘terrorists,’ and with this, how such person are foreclosed from powers in State determined moral and legal domains and come to be positioned in intra-national and extra-State indeterminate, yet still potentially or actually powerful, social spaces of justice and political ethics. Here we encounter two views for the nation—as an institutional (and thus class) and discursive *stasis* (that is, as a state of a State, grounded in the exercise of ideological and repressive powers in the name of tradition and national ‘essence’), and as a future posed by various discursive and social *movements* with increasingly universal claims.

### **Louis Althusser’s “Ideology and Ideological State Apparatuses”**

While there have been volumes published on the concept of ideology, Althusser's "Ideology and Ideological State Apparatuses" (1969- 1970/2001) is a classic text that helps us understand the functions of social, cultural, and political discourses and their constructions of the subject. Psychological subjects are both theoretically and practically composed: theoretically, they are hypothesized toolboxes of skills and expressions that are developmentally constructed. Those skill and expressions are then actualized and realized in moments of action, which is what makes such persons both intellectual and physical agents. Moral agency is a question of the social and cultural rules and roles that are enacted by an agent for right actions and that justify the acts of the agent, while political agency is the focus of these qualities to issues of governance and social infrastructure—in other words to the political forms of the *socius*. As Althusser (2001) points out, traditionally, political governance is concerned with the reproduction of the means of cultural, social, economic, and ultimately, political production. Political actors in critical situations are both moral (including ethical) and political agents. Althusser's (2001) essay helps explain the State's role in constructing agency through its various mechanisms or devices (*dispositifs*) for expressions of power. It also can be used to understand how the State inscribes agents in the category of 'terrorists,' as a defense mechanism known in Lacanian psychoanalysis as *forclusion* ("foreclosure"—which in Lacan's work is a mechanism of psychotic hallucinations).<sup>4</sup>

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<sup>4</sup> "Forclusion" in Lacan's later works refers to a type of defense mechanism specific to psychosis. In *forclusion*, the psychotic has an inability to incorporate a fundamental element of the real into his or her symbolic domain. That element is then experienced as

For Althusser (2001), ideological state apparatuses (*appareils*) are the complement of “repressive state apparatuses” (the military, police, courts, prisons, etc.). Ideological state apparatuses function by maintaining the social norms and cultural rules and roles that make up persons as social, cultural, and political subjects within a given State. Through such, economic relations are reproduced and class relations maintained and extended. For Althusser (2001), educational, religious, and political institutions, as well as family structures (and we may add, certainly, the media), have a key role in the development of productive agents with certain normative powers of expression. These institutions have the role of giving social, cultural, and even physical affordances to the child and the adult for his or her development as a political subject.

Further, as Althusser wrote,

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an aggressive hallucination (see, for further discussion, Evans, 1996, 64-66). We should note in regard to this aggressive hallucination both the legal and the moral crimes that are attributed to the political monster that is named, ‘the terrorist,’ as well as the shifting configurations of this hallucination. This has bearings both on the Assange case, and as we will discuss, with a different moral configuration, on the earlier case of Antonio Negri as the *cattivo maestro* (in the sense of ‘the bad teacher’). Here, the State and its ideological and sometimes its repressive apparatuses--such as the courts, the police, and the military—literally go mad in their accusations, judgments, and punishments, that is, their acts of force are qualitatively and quantitatively overdetermined beyond any meaningful bounds of even the most perverse reason. Such madness, though expressed by individuals and groups of various class inscriptions, inflects the indignation of the ruling classes at the perceived violation of their ‘rights’ and their ‘status,’ in the face of even minor threats. These are people for whom the capacity for the violence of repressive power is a *valued object*--as bizarre as it may be for most others to conceive of power in this intellectual or emotional manner.

“What distinguishes the ISA’s [Ideological State Apparatuses] from the (Repressive) State Apparatus is the following basic difference: the Repressive State Apparatus functions ‘by violence,’ whereas the Ideological State Apparatuses *function ‘by ideology’*.”

(Althusser, 2001, p. 97)

This division between classic notions of political repression and violence, on the one hand, and discourse and ideology on the other, however, is sometimes a thin one. For as Walter Benjamin’s *Critique of Violence* (Benjamin, 1978) suggested, it is the *infrastructure* of discourse and ideology that gives the modern State the ability to have a monopoly upon violence and to legitimize such, and it is the latter which *structurally* supports the former.<sup>5</sup>

Violence must be legitimized on a mass scale in modern societies because the powers of the State quickly can be made public. Ideology is, thus, essential for the manufacture and maintenance of State power as a power of repressive force. The production of ideology is necessary in order to grant the State the right to manufacture consent as to its authority to enact violence, but not, itself, to be enacted upon by violence. Ideology is essential for determining the State as a State of exception, in the sense that the State is distinct from the nation.

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<sup>5</sup> Machiavelli’s well known quote from *The Prince* (chapter six) must be remembered here, one which Althusser’s (2001) essay doesn’t seem to forget even in the midst of Althusser’s focus upon ideology. Machiavelli’s quote must be remembered throughout the present analysis, as well: “...people are fickle by nature; and it is a simple to convince them of something but difficult to hold them in that conviction; and, therefore, affairs should be managed in such a way that when they no longer believe, they can be made to believe by force.” (The Portable Machiavelli, New York: Penguin, 1979)



In a like manner, in the realm of discursive force, this exception is also extended to ideology itself. Indeed, ideology seems to vanish and become the real in the absence of a foundational critical discourse or a counter-discourse. (A condition that distinguishes mere discourse from those constellations of words and actions that compose the sense of the term, 'ideology.')

*Althusser's (2001) crucial insight in this regard is that of the expressive form for socio-cultural discursive infrastructures in the service of the repression of social and political movements and the reproduction of the nation as political stasis.* Through this lens we can see ideology--from the point of view of expression and structure, action and reproduction--as the informational *vox of advocacy*--and then can view more properly the problem of attaining an 'a-ideological' intervention into the stasis of the State (i.e., the so-called 'negative' movement of a political struggle). As Althusser writes at the end of his postscript to the essay proper: "...ideologies are not 'born' in the ISAs [ideological state apparatuses] but from the social classes at grips in the class struggle: from their conditions of existence, their practices, their experience of the struggle, etc"

(Althusser, 2001, p. 126). Ideology emerges from class relationships and from the personal and institutional expressions of such. The ideological state apparatuses are there to inculcate those relationships in the expressions of subjects so as to minimize the need for repressive state apparatuses. They serve to maintain certain social, cultural, political, and economic expressive and repressive powers.

Thus, the formation of the political subject is an absolute necessity in modern states that implicitly or explicitly depend upon popular legitimation or, at least, popular complicity. In other words, ideology is the crucial device in the historical

sublimation of sovereign States into democratic States (and the reappearance of sovereignty in new forms, such as plutocracies, oligarchies, seeming meritocracies, and other class sovereignties). Althusser's (2001) most important and fundamental insight into the topic of ideology is that the term primarily refers not to a set of ideas that the subject chooses, but to the cultural forms and social norms through which an individual appears as a subject of rational political expression (inclusive of all forms of action). In other words, 'ideology' refers not just or even primarily to an aesthetic judgment (a "judgment upon judgment," as Ulu Baker once put the matter regarding the concept of 'having an opinion' in the field of public opinion (Baker, 2003)), but rather, *the term 'ideology' primarily refers to the social and cultural formation of prejudgments in individuals that contribute to the reproduction of class relations and their historical staying power through individual and group expressions.* Such a reading of "ideology" recasts our understanding of ideology from that of being a *structural* background which the subject chooses, to being the social, cultural, and in sum, the political *infrastructure* for the formation of subjects and groups. Thus, Althusser stresses the historicity of ideology through the subject in a way that a more traditional understanding of ideology as mere manufactured structural background cannot account for. To put this another way, the ideological "*manufacturing of consent*" (Herman and Chomsky, 1988; italics added) is explained in terms of the cultural, social, and physical *tools* or *affordances* (the devices and apparatuses), as well as the properly governmental tools or affordances, that make up that political *production*. *Ideological infrastructures are composed of cultural forms (e.g., language), social norms, and technological means (i.e., cultural, social, and*

*physical affordances*) for the construction and maintenance of class relations. The reproduction of such relations over time is what composes the modern sovereign forms of political governance.

Ideology thus appears as forms for expression, by which the subject is recognized as an individual by others (as distinct from a 'mere' singularity of traits and abilities):

It therefore appears that the subject acts insofar as he is acted [sic.] by the following system (set out in the order of its real determination): ideology existing in a material ideological apparatus, prescribing material practices governed by a material ritual, which practices exist in the material actions of a subject acting in all consciousness according to his belief.

(Althusser, 2001, p. 115)

Althusser's understanding of 'ideology' introduces two senses to this term, corresponding to the Saussurean division between *parole* (spoken utterances) and *langue* (the total possibilities of utterances available to a speaker of a language). As the repetition of *parole* makes possible the 'existence' of *langue*, so ideology as an infrastructure constructed by the subject's expressions makes possible the more traditional understanding of 'ideology' as a structural, 'top-down' force. In other words, in Althusser (2001) ideology is understood as both a constituent and a constituted force by, and of, the subject.

Thus on the one hand, ideology can be understood through the developmental psychological 'introjection' of ideological materials as means for

expression and identity, and on the other hand, as the structural coherence of these ideological materials (which is so important for their incorporation into subjectivity) vis-à-vis a process of normative structuration, built up by consistent individual repetitions. Without such repetitions, 'ideology,' in the sense of its being a *langue*, can *only* be said to be hypothetical. It is through repeated ideological expressions within a constellation of such statements that gives us the structural empirical totality—and the practical force and the practical reality—of ideology.

The problems of value and function for agent acts within an account of ideology occurs in Althusser's (2001) work not least in regard to whether there can be any non-ideological acts and what type of critical positioning allows for interventions into ideological productions and violence.

The answer to these questions must, perhaps, be surmised. In Althusser's model, ideology is understood as developmentally learned by means of expressions. To stand in critique of such means to embrace either a counter-discourse that is itself 'ideological' or to engage in a tactical engagement with ideology that consists in acts of *critique* of the non-logical coherence of expressions and/or their factual contradictions in relation to the real. The construction of a critical position from symptoms of contradiction and overdetermination constitutes a *tactical* critique, by means of analytical and rhetorical techniques, into what connects ideology as a structure to ideology as an infrastructure built out of individual expressions. In other words, it constitutes a critique of *ideological power as an expressive force*. The *strategic* difficulty for oppositional discourse, then, is that of creating and preserving traditions and movements of critique and common languages of critique that link

the various appearances of tactical, critical, interventions. Such critical discourses in the beginning of the Enlightenment tradition were supposed to be the expressive possibility and means of a learned citizenry (various texts of Kant, Fichte, and the fact of the modern, Humboldtian university, stand as witnesses to this claim), but this event has largely not come to pass, despite public education, public libraries, and the rhetorical gloss of 'democracy' and 'democratic citizenship' in many political States. (And for its part, the modern university since the post-World War II period largely has been transformed back into the information delivering apparatus of technical knowledge that characterized medieval universities--though, of course, largely with a different understanding of technical knowledge than was had by medieval universities).

The political status of such critical positions will weave through what follows in this paper. In particular, we will follow such an analysis in regard to the domain of jurisprudence, namely the collapse of justice into law, and in regard to the domain of personal action, namely the collapse of ethics into morality. Once again, what is at stake is the question of the political status and power of the *vox of advocacy* today and how answers to this question by events in *Realpolitik* reveal the history and sustenance of political structures in the face of real needs, movements for change, and political, social, and cultural claims regarding freedom and democracy.

### **State of Emergency, State of Exception**

The conceptual foundation of the State as a State of exception begins with Carl Schmitt's understanding of the sovereign in his *Political Theology* (1922). The

sovereign in Schmitt's text is understood as he who decides upon the State of exception. A conceptually related text, Walter Benjamin's "Critique of Violence" (1921/Benjamin, 1978), understands the State's monopoly upon violence as a function of its transcendental status as a State, which is achieved through its ability to *express* violence without retribution and thus appear as an essential existent (i.e., a transcendental State) for violence's expression. Following these two works, with particular emphasis upon (and subsequent influence upon reading) Benjamin's essay, Jacques Derrida's "Force of Law: the 'Mystical Foundation of Authority,'" (Derrida, 1990) extends this discussion to the foundations of law itself—namely, that of a transcendental entity ('Law') that exists by virtue of its expressive performance. More recent works, such as Giorgio Agamben's *State of Exception* (2005), and more recently, notably that of Massimiliano Tomba (2009), take up, particularly, the Schmittian thematic. 'Autonomist Marxist' readings tend to read the State-expression (*pace* the *langue-parole*) distinction according to a constituted/constituent power distinction, perhaps best known in English today through the work of Antonio Negri (sometimes together with Michael Hardt), though here the constituted power is understood as neither hypothetical nor "mystical," but rather, denotes a real state of class relations embodied in a political State and its legal force and violence, and constituent powers are understood as 'autonomous' from such, either politically or, as in the case of Negri and others, 'foundationally' in terms of ontological commonalities originating in the nature of the body and communication (following Spinoza's understanding of the two attributes of substance, namely extension and thought, in his *Ethics*, and developing

Foucault's notion of "biopower" in his *History of Sexuality*). The autonomist strain of Negri and others begins with the ontologically 'originating' term of labor's generative power (Italian, *potenza*; French, *puissance*) lying in the commonalities of the body and language, and it views the capitalist State (*pace* Deleuze and Guattari's works) as an apparatus for the capture and exploitation of those expressive powers in capitalist class relations and the ideological and repressive state apparatuses of repressive power (Italian *potere*; French, *pouvoir*).

As is well known, what is translated as "violence" in Benjamin's essay is the term "*Gewalt*" in German, which more generally signifies a "force" or "power." The problem that Derrida (1990) raises is the origins for this force in law, a question that, in the context of deconstruction, pushes the question of the force of law to issues of justice, and not simply the order of laws ('Law') as instituted and deployed by, and as, the State. Tomba (2009) pursues this problem further, in a different direction than that of the topic of law, *per se*:

Only if we grasp the true nature of State *Gewalt* is it possible to pose the question of a different kind of violence. This *Gewalt* of a different kind is not the force that decides in a conflict between two equal rights, but, rather, that which is able to interrupt a permanent state of exception (*Ausnahmezustand*). It is the same as that which, in Marxian terms, is delineated as a perennial 'civil war' between the capitalist class and the working class to decide the length of the normal working day.

(Tomba, 2009, p. 128)

Tomba goes on to write:

If the compromise that arises from a conflict between equal rights is recorded on the register of violence, it is for good reason that, where a compromise is not possible, only *Gewalt* decides...

(Tomba, 2009, p. 128)

As we may recall, in Althusser's (2001) work ideology is the substantiation of class conflict in individual expressions. In 'normal times,' this 'compromise' between working classes and the imperial reason of the forces of capital does not require any further recourse to universal direct violence by the State in order to be maintained. But in less 'normal' times--when sovereign power finds it necessary to reappear from behind democratic mechanisms and the facades of such--that is, in times of a State of emergency—*Gewalt* settles affairs in the name of reason. The name of reason that is claimed is that of democracy--but it is through the forces of the sovereign State and it is toward the preservation of such that conflicts in states of affairs are solved.

Tomba accurately, and quite sensitively, touches upon the first symptom of this event as that of a crisis in 'freedom of expression' or 'intellectual freedom' through his appeal to the Lacanian concept of "*forclusion*," which as he notes, "means exclusion of an element outside of the symbolic field" (Tomba, 2009, p. 129). *Forclusion* from the ideological field signifies the tightening of the symbolic field, which is held together by social and cultural forces (including the media's manufacture of popular consent) and reinforced by the mere presence or the activities of the repressive state apparatuses. If, in 'normal times,' ideology appears



through normative statements that mask material contradictions, then the violence of language in the State of exception foreshadows the violence of physical repression in the State of emergency. (And, indeed, the violence of language is tied directly to physical repression in the civil courts, in police actions, and so forth, though again, during ‘normal times,’ largely through actions at the ‘margins of society.’) However, the tightening of the ideological sphere signals the larger advancement of the specter of the repressive state apparatus. Indeed, the ideological sphere and its ‘reason’ depend on this specter, whose shadowy presence connects ideology to the real, and, the subject’s expressions to the ideological coherence of the State. When all is said and done, this specter is the real description of the State’s state of affairs. (It is the “full speech”—using Lacan’s terminology--of ideology, which cannot be said in ideological speech itself.)<sup>6</sup>

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<sup>6</sup> “*Forclusion*” is the psychotic condition of violence that underlies the State as *stasis*. This psychosis creeps out in irrational acts and irrational trends of jurisprudence, in irrational and sadistic penal institutions and laws, in unending wars, in xenophobia, racism, and the people’s and State’s consumptive needs--upon other people, animals, and the earth itself—seemingly without satiation or end. In its essence, it is the insecurity of the ruling class toward not-being—a fear of historical movements and of the natural earth, which ignore a ruling class. It is a ‘need’ that drives the ruling class, and through ideology and production relations much of the nation with them, beyond neurotic self-security and toward psychotic hatred and the need to foster enemies and conceive of the state as a State of exception. It is a real political example of the Freudian death-drive at the behest of a pleasure principle, which consumes all out of egotism. All this is rationalized in the narrative of the State body, of the ‘national identity,’ as a State of exception to international, national, and even natural norms and laws. In a sense, the State as the State of exception is the psychotic form of the normal ‘neurotic’ conception of the State—i.e., as a State with national ‘identity,’ a fixed geographical ‘body,’ historical ‘fates,’ etc.-- and a tendency toward psychotic violence follows. Politics is sometimes psychology by other means, namely, that of organized power and fear.

The literature on the State of exception, of course, argues that all States, no matter the governing parties involved, claim to possess a monopoly upon a transcendental reason, which is made possible by a monopoly upon violence. The imagined coherence of the whole—that is, as a State, led or embodied by the sovereign—is achieved by consistent discharges of force against real and hallucinated others, both within and outside of the nation proper.

Foucault's works, foremost *Discipline and Punish*, show this historically, in the pre-modern and modern periods, as a transition between the direct use and threat of physical violence and discursive means for control—from “disciplinary” to “control” societies, an historical genealogy that is concurrent with the rise of ideology as a modern phenomenon. However, the overall proportional withdrawal of the ideological state apparatus and the increasing shadow or direct presence of the repressive state apparatus (signaled by a crisis in ‘free expression’ or ‘intellectual freedom’), is itself a sign of the collapse of the State understood according to Enlightenment values and popularly held democratic assumptions to the State understood as a sovereign governing body—a not surprising event from the aspects of a materialist analysis and *Realpolitik*, but nonetheless a momentous event from the aspect of universalist claims of justice and ethics in democratic modernity.

For here, in the seeming ‘liberal’ or politically ‘light’ preoccupations with issues of ‘free expression’ or ‘intellectual freedom’ lies a very thin, if at all existing, line between modern democratic States and the sovereign State. The collapse of the tower of ideological babble in everyday expression does not expose a hidden

structure of State 'ideology' as the force of the State, but rather, the force of potential and actualized violence as the structure of the State. And here, of course, as Agamben has argued (2005), we are led to understanding the permanence of the State of exception--i.e., the permanence of the sovereign State--in various 'types' of political State forms in modernity.

Further, in the farther reach of the sovereign State into the shell of the democratic State, ideology is subsumed by outright propaganda. The ideological utterances of the people are replaced by the direct proclamations of the State and its governmental and media figures (and increasingly, governmental figures become or arise from media 'stars'). 'Propaganda' does not simply refer to false information, but rather, to ideology as the explicit, rather than implicit, force of the repressive state apparatuses. The repressive state apparatuses can function legally or morally; they can function directly through the State or through secondary mechanisms (the media, hiring or firing, etc). They function by threats and physical and psychological violences, not only by symbolic *forclusion*. At its most discursive extreme, the repressive state apparatuses come to direct the ideological state apparatuses in the enforcement of ideology as a propagandistic norm.

### **Moral Orders and the Ethical**

How do morals relate to political states and to the ideologies and propaganda that maintain them? What is the relation of ethics to politics?

Let us first consider what is an action. Historical actions are exhibited in acts. Harré and Moghaddam have discussed the action/act distinction as such:

Positioning someone, even if it is oneself, affects the repertoire of *acts* one has access to. While *actions*, such as writing a letter to the *Washington Post*, are intended performances, something one does deliberately, acts are what such actions mean socially. One's letter might be a *plea* for the Catholic clergy to marry, for example. Another letter might be a *protest* against nighttime flights from Reagan National Airport. But each of these missives, in the category of actions, could mean something else, in the category of act. To whom is the letter addressed? When was it written? What else was happening at the time it was published by the *Post*? And so on.

(Harré and Moghaddam, 2003, p. 5)

"Positions" for Harré and Slocum (2003) are,

...clusters of rights, duties, and obligations to perform or to require the performance of specifiable kinds of acts. In psychological reality they exist as expectations, beliefs, and presuppositions.

(Harré and Slocum, 2003, p. 128)

"Moral orders" are types of socio-cultural positions that are seen as displays of character (Harré, 1984, p. 245). Foremost, they are actions that involve relatively high degrees of self-conscious *responsibility* in regard to some event or person through prescriptions and rules. Political acts are spurred by personal actions, focusing upon personal responsibilities in relation to the *polis* and to governance. Political acts thus involve moral and ethical judgments, prescriptions, and rules.

But, how shall we distinguish morality from ethics? First, morals are prescriptive to some rule. Obvious performative instances of this are moral sayings: “Honesty is the best policy” and “Do unto others as you would have them do unto you.” What characterizes moral acts is the following of social rules or norms for ‘good’ or morally ‘right’ behavior. Moral orders, as any type of socio-cultural positioning, are made up of social rules, cultural forms, and the roles that go with them.

Ethics, by contrast, are not prescriptive and are not necessarily made up of orders of rules. Indeed, even if we take a cursory overview of the nearly 2,500 year old tradition of ethics in Western philosophy we may be struck by the fact that so many of the discussions and cases in this domain are made up of unsolvable problems and indeterminate cases that are raised in regard to the questions of ‘what is good?’ and ‘what is just?’ Such questions are not necessarily questions as to what is ‘right’—in the sense of ‘correct’--in regard to some moral order. Simple prescriptions and rules are often inadequate for resolving many ethical questions, which take place in indeterminate spaces between moral orders. From this, we could suggest that specifically ethical decisions are quite rare in life, or at least, are rarely acted upon as ethical decisions, per se, since they may expose the actor to indeterminate social judgments and outcomes regarding his or her acts. On the other hand, there is a strong tradition, at least in modern Western cultures, of seeing such ethical acts as sometimes important challenges to dominant moral or political orders—orders that may have moral right, but are also unjust. Indeed, the ‘existential’ tradition of modern philosophy, such as the works of Kierkegaard, sees

the essence of human beings—their ‘freedom’—as actions in indeterminate ethical events. Philosophers such as Heidegger, saw such actions as sometimes leading to historically reconstitutive events. Heroic narratives of ethical action still occupy a leading position in Western ethical and sometimes political cultures.

The corresponding political sphere for tacit moral rules is ideological statements and prescriptions. Like moral expressions with moral orders, these political expressions retain and preserve political orders. The notion of individual actions conforming to political rules and prescriptions in a social order is particularly important in States of emergency (e.g., Nazi Germany, Fascist Italy, or indeed, in nearly any country about to engage in or engaging in war). Here, moral and political orders map onto each other quite tightly through social norms. While, in ‘normal times,’ in most States such is commonplace in certain traditional institutions, such as the military (for example, in regard to sexual actions, e.g., adultery), such a tight mapping on a national scale usually occurs as an exception, limited to some particular aspects of political-moral life. (So, to use a contemporary example in the United States, the moral prohibition upon viewing soldiers as being instruments of war—that is, of being trained killers—rather than being seen as just patriotic citizens ‘doing their job,’ as has been said since the Reagan era.) These political-moral spaces of exception indicate direct political powers that are relatively immune to critique, and they may indicate the degree to which the State depends upon such institutions for maintaining its power.

The question that we now encounter is: what is the nature of an ethical-political action, which is not necessarily understandable, expressive, or judgeable in

a moral-political order? And, how does the State position this in relation to its hegemony and how does such an agent theorize or explain this, particularly within both ideological state apparatuses and repressive state apparatuses?

### **Understanding Ethical Political Acts**

The political philosopher and activist Antonio Negri's trial and record of that trial in his book, *Diary of an Escape* (Negri, 2010; Italian title: *Diario di un'evasione*) provides rather fascinating remarks on the above issues composed during his trial on charges of terrorism. Negri was part of what was known as the 'April 7' (1979) trial--the date of his and others' arrests under what would become changing charges of insurrection and terrorism. Negri and other defendants were held in detention from 1979 until their trial in 1983, a trial that was condemned by Amnesty International. Negri fled in 1984 to France after a brief stint as a member of parliament (the election to which had granted him immunity to prosecution until this was stripped of him by a subsequent narrow parliamentary vote). In 1997 Negri returned to Italy, was imprisoned, and eventually released in 2003. Negri was a political science professor at the University of Padua before his arrest, taught at universities in Paris before and during his exile, and is a widely recognized national and international author.

The story of the April 7 trial has been well documented and it is not the purpose of this article to go into the details of it any further.<sup>7</sup> What interests us here are certain comments in the beginning of Negri's *Diary* regarding there being two distinct "worlds" and discourses at the trial: that of the State prosecution and that of the trial defendants. In Negri's *Diary* there seems to be a tension between his understanding of the appearance of the two worlds: whether they appear out of two different autonomous ethical commitments or whether they appear as two different ethical positions as portrayed by the State's argument during the trial. While in the very beginning of Negri's *Diary* the first seems to be Negri's position, this position becomes more ambiguous as the *Diary* continues.

In Rebibbia prison on February 24, 1983, Negri wrote:

But what is truth in a political trial? On the one side—the stage-setting, the machinery, the dramatization. On the other—this wounded humanity of ours. Four years of preventive imprisonment. A great heap of memories, passions and suffering. And, first and foremost, a revolutionary passion lived to the limit, the joy of transformation. Two worlds. This trial is pitting two worlds against each other. It is recomposing life in the form of legality. No, this cannot be done...'*Cheese, cheese.*' [I.e., presumably, the presence of the journalist cameras.] They, too, know that it's not possible. That's the reason why nothing surrounding this trial has any rationality to it. The courtroom cages, the handcuffs, the hours and hours of waiting in the cells. No, they

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<sup>7</sup> For English language sources on the trial, see, Portelli, 1985, and Murphy in Negri, 2005.



don't want the truth. They want the ritual. They want a sacrifice. Legality is restored in the symbolic, not in the rational.

(Negri, 2010, p. 3)

In the entry for February 28, 1983 Negri continues to develop this notion of a political-ethical struggle occurring along lines of the legal-symbolic:

How is it possible of an ethical totality—like the one represented by us, the defendants in this trial—to constitute itself in the presence of another figure, which also presents itself as a totality. Logic excludes the co-presence of two totalities. Such a relationship can exist only if one of the two totalities is a nothing, is unreal. But I cannot accept this—I claim the ethical totality of our project, of our existence. Our adversary is power. But power cannot accept to be stripped of its value either. In this clash there is no possibility of transcendence. So how can there be any meeting point here, how is any dialectics possible in a trial...? I think of the trial, of how this ethical content of ours has rendered our language—within the trial—entirely specific and untranslatable; and of how, in consequence, no dialogue will be possible. Thus our trial will be a rolling-out of life and of its truths one against the other, but with an impossibility of finding a middle way, a mode of confrontation. The passages become invisible—mine to them, and theirs to me. The determinations become impossible to define—mine to them and theirs to me. Perhaps this tragedy of ethics that we are living is no longer resolvable: neither in ourselves nor in the globality of the drama.

(Negri, 2010, p. 6-7)

The very beginning of Negri's *Diary* seems to ally itself in a strange manner with the State's framing of the trial—namely, as a mixed moral and legal trial within a binary logic of contradictory positions and guilt or innocence. The result in the book is a narrative of a drama that seems to become increasingly more complex and even undone as it goes along, as the *political* context of the symbolic struggle is increasingly revealed through entries that discuss the forms of language and representation by the State and the mainstream media.

In the next passage of the book, an entry from March 1-3, Negri remarks upon his being called the *cattivo maestro* in the popular press—the evil genius or evil teacher, a reference to the prosecution's charge that he, a university professor, was the intellectual leader of an extra-parliamentary mass movement who was also the secret leader of the terrorist organization, the Red Brigades. The "ethical" position that Negri is discussing must thus be seen not just in terms of the legal charges, but just as much, the *moral* charges held against him by both the State and the mainstream media. For Negri, however, this ethical position is a product of mass movements: "I believed, and still believe that only a great mass awakening can lead us out of a situation in which justice is restoration rather than truth—not an allocation of responsibility but a repetition of power" (Negri, 2010, p. 8).

The site where personal ethics and social politics meets is language—in the sense of discourse. Discourse is the site where words gain their meaning by their relation with other words and other types of actions in social contexts. In discourse,

the meaning of a linguistic grammar is tied to social grammars (thus resulting in a notion of 'grammar' as Wittgenstein used the term—that is, as meaningful word use). In acute political situations, social grammars are tightly tied to political grammars.

No matter how personally directed the Italian State and the mainstream media's charge were, no matter how personal Negri's experience is expressed in his *Diary*, the social and political form that is the site of contestation and production for these different "worlds" is that of language. In the trial, the defendants' language arose out of shifting political movements and the shifting discourses therein, which attempted to reach toward an uncertain future. The State's case was conducted according to political assumptions of totality and conspiracy—the very form of the State—in the form of a legal discourse of statements and binary arguments. And perhaps there is no more traditional discourse than legal discourse. (And, indeed, the Italian State's claim to power in this time of emergency powers and the State of exception lay, beyond claims of necessity, in its claim of being a 'voice of tradition'—transcendental to political vicissitudes and even necessity—whether these 'voices' be legally, morally, or mythically asserted.)

On March 5, 1983, Negri wrote:

...it is true that I have a soft spot for Babel—but language, and our pursuit of it in what it produces, is indeed what introduces us into the phenomenology of this divided and plural world. They on the other hand, would like language to be, like norms and command, in the form of a narrow and wretched

unity—whereas in fact there are many languages and norms and commands. And yet here in Italy this is not expressed. Dull tradition is rather conjugated with a timid realism, which is ideological and from the start impoverished.

(Negri, 2010, p. 10-11)

Portelli's (1985) account of the trial and its relation to oral history suggests that the two political "worlds" were created in the State's presentation of the case. The State's case was structured according to what became known as the 'Calogero theorem.' Named after the Padua state attorney for the trial, Pietro Calogero, Calogero asserted that Negri was the intellectual leader of an organized political movement—Potere Operaio (Worker's Power)—that was joined with the violent Red Brigades. Negri refutes that charge in the *Diary* as he did in trial and elsewhere (for example, Negri, 1980; Negri, 1988).<sup>8</sup> As Portelli (1985) argues, the prosecution drew the evidence for this theorem not only from testimony—foremost of informants granted clemency and immunity, the well-disliked 'pentiti' (repentants who traded testimony for clemency or reduced sentences)—but also from Negri's

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<sup>8</sup> Negri's argument for a revolution 'from below' corresponds to a change of the constitution of power in a State. (That is, in the language of this article--a change in the state of a State as a reflection of class power.) For example, from Negri, 1988 (Negri's response to the judges' inquiries, April, 1979): "The fundamental problem is indeed one of destabilizing the political system, but through the dismantling of the social system of exploitation. This is the revolutionary process as I understand it....In autonomist thinking, the problem of the state is seen as a subsidiary indicator, subsidiary to the immediate needs of the proletariat. It is a moment to be destructured—but via a struggle against exploitation and through a fight to liberate proletarian struggle needs" (pp. 262-263).

theoretical writings. The 'two worlds' of the trial both span across the social and discursive. Not only that of the 'free world' in the State form versus the prisoner-defendants, not only that of bodies of laws and persons organized institutionally versus in-motion mass movements and the persons that compose these, but that of a prosecution that read theoretical writings as factual descriptions and moral prescriptions and theorists for whom 'theory' contained speculative elements which were not meant to be read simply as practical rules or descriptive representations. The ritual activities that Negri writes of are the attempts of the State at the trial to depict coherent wholes out of contingent, conditional, and speculative phenomena—literarily, social and discursive *movements* positioned not toward the past, but toward various potential futures. In short, the '*differend*' that characterized the trial was due to the overriding claim of the State to hold the trial on its terms, namely, as a conflict involving *states*.<sup>9</sup> As the Italian State perceived

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<sup>9</sup> The term "differend" comes from Jean François Lyotard's *The Differend: Phrases in Dispute* (Lyotard, 1988) and refers, generally, to sets of irreconcilable statements, one of which is largely voided in an argument by the primacy of a greater rationality that governs the resolution of the difference. Lyotard (1988) writes, "I would like to call a *differend* [*différend*] the case where the plaintiff is divested of the means to argue and becomes for that reason a victim. If the addressor, the addressee, and the sense of the testimony are neutralized, everything takes place [in the court litigation] as if there were no damages..." (p. 9). In the Negri case (and has been the argument throughout this article), political 'plaintiffs' are neutralized by the State in the realm of public opinion and the ideological state apparatuses, and if they break through these then the State attempts to neutralize them by means of the courts and other institutions of the repressive state apparatus. The extension of means of the latter domain for acts in the former domain—for example, in the prosecution of linguistic expression as acts of 'terrorism'—is one indicator of a 'state of emergency.' From the State's perspective in the realm of popular opinion, a return to the illusion of normalcy—i.e., legal justice—requires that the cycle of struggles be escalated, so that it at least appears that advocates have become or have been allied with those individuals and groups that may compete with the State's monopoly upon violence (and so, requires that the advocates be dealt with by the repressive state apparatus, that is, as 'terrorists' and 'traitors').

itself under threat as the controlling class of the nation, it increasingly foreclosed marginalized political discourses and agents and characterized their political and social movements as ‘terrorist.’

In short, the story of the Italian State during the 1970s and later, and of other, similar, events involving other modern States, is the story of reformists and revolutionaries for a different state of the nation being increasingly defined by a ruling class as State terrorists. In terms of political philosophy, what this represents is a collapse of the Enlightenment claims that *logos*—reason, discussion, and communicative communities, that is to say, democracy—is the privileged political form for national politics and government. The replacement of the nation and its institutions of government by a class State crushes political advocacy beneath the grasp of sovereign reason and sells out the national state to international class alliances (as often can be seen in the alliances of democratic to non-democratic States).

### **Positioning Political Expression**

Political expression is an important index as to the degrees of democracy and sovereign power in a State. Freedom of expression is not an issue for States alone, but it is an issue of Enlightenment values in international human rights, which transcends States.

But, there is also a tactical issue of expression in political struggles that we should not lose sight of. The issue applies to ‘information’ at the level of expression and at the level of genre or document. It is an issue of the timing and placement of

rhetorical presentation—in rhetorical terms, the *kairos* or occasion of political expression.

As we have seen, considering the timing and placement of rhetorical actions in political situations is paramount for considering their act-effects in social and political spaces upon the author and upon others. The meaning and effects of certain genres—jokes for example—can be very different in acute political situations than normally. This is true with ‘theory’ as well. According to both Portelli (1985) and Negri’s own *Diary*, in Negri’s trial a selective reading of his theoretical writings was presented as evidence of intentional causes of empirical acts. Althusser’s comments on Machiavelli’s *The Prince* are suggestive of the more general issue of the *kairos* of political expression, particularly ‘theoretical’ expression, in a sovereign State:

The unusual character of the text [Machiavelli’s *The Prince*] consists first in the fact that although it is laden with theory, it is not a theoretical text like any other, but one in which the traditional theoretical space (traditional designates a certain ideological representation of what such a text is) is distorted, inflected, and rendered unrecognizable by an arrangement and dispositive that are connected not only with politics, not only with the historical conjunction and its tasks, but also—and above all—with *political practice* and the *class viewpoint* it involves. This reference profoundly affects the classical modality of theory, shatters its dispositive, dismembers it, and reconstitutes it in a specific form that makes it impossible for the traditional categories of philosophy to grasp it.

(Althusser, 1999, p. 28)

The 'cycle of struggles' that the text immerses itself (and thus the author, as well) within is a crucial question with any political expression. At times of heightened tensions with a sovereign power, at least three characteristics of oppositional expression emerge: the increasing impossibility of a 'merely theoretical' intervention, the increasing so-called 'utopian' or speculative nature of the *movements* and their expressions (not the least, linguistic) as they become positioned literally against the State and its *static* and binary expressions, and the increasingly ethical rather than moral, justice-concerned rather than simply legal, nature of the movements and its agents' expressions. In other words, the movements may become more universal, rather than simply local, in their claims during their struggles. They are expressive *movements*, not reducible to a single, permanent *state*. The inverse of these speculative, but real movements, is the transcendental *stasis*--the "mystical" (Derrida, 1990) groundless ground that a ruling class claims as the nation's essential being and which it uses as its claim for possessing and expressing regulative and violent repressive forces against what it defines as its opposition. This can be found in the national myths of States and as the foundational 'glue' that holds together their ideological structures. National myth is theology for political ends, and the State's self-legitimation as an 'exceptional State' is the ideological underpinning for the State of exception and a permanent State of emergency.



## **Conclusion**

'Advocacy' in political space first of all involves expression. Expression takes various critical forms depending on the state of the State, as a function of class relations. In 'normal' times, the State maintains a level of cultural and social hegemony that allows it to maintain control upon the tensions of these class relations through what Althusser termed its "ideological state apparatuses," with comparatively targeted use of its "repressive state apparatuses." In more extreme times of States of emergency, the range and scope of ideological expression narrows and the repressive state apparatus and State sovereignty become more active and apparent, foreclosing freedom of expression across various spheres by means of media compliance and control, the courts, prisons, police, and other threats, agents, and institutions of repressive force. 'Advocacy' is increasingly pushed from marginal and non-subject positions within the State ideology and the mainstream media to a social and political position as 'terrorist' agents and events, which then allows the sovereign State to morally and legally punish the agents by direct force. At the same time, 'advocacy' movements may then assume more ethical, rather than simply moral, dimensions, and their struggles and claims for 'justice,' and not just State sponsored 'rights,' may become more universal.

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