The Pandemic: First Social Aftereffects and Prospects

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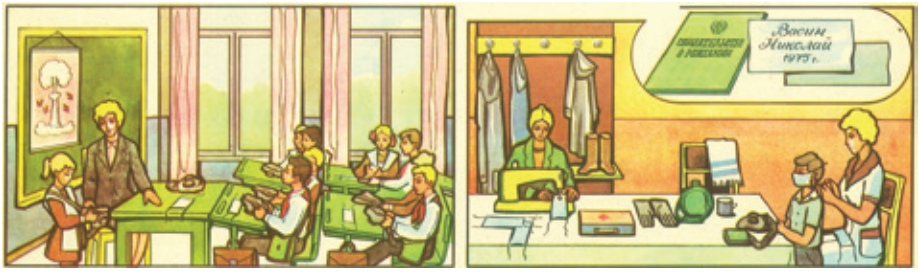
DOI: 10.31278/1810-6374-2020-18-2-33-40



Shortly after the end of World War II, American historian Clinton Rossiter authored a book entitled *Constitutional Dictatorship: Crisis Government in the Modern Democracies*. Well aware of the dictatorial nature of some aspects of Franklin Roosevelt's New Deal, Rossiter wrote: "Wars are not won by debating societies, rebellions are not suppressed by judicial injunctions, the reemployment of twelve million jobless citizens will not be effected through scrupulous regard for the tenets of free enterprise, and hardships caused by the eruptions of nature cannot be mitigated by

letting nature take its course" (cited by Kindle Edition, 2008, Rossiter Press, p. 6).

For many years and even decades such views remained highly unwelcome and many successful careers were built in the wake of yet another proof that democracy is superior to dictatorship. Today, however, it may seem that the course of life itself shows that the opponents of authoritarian, dictatorial forms of government are wrong. With a major threat looming on the horizon, the need for emergency measures looks ever more obvious, while procrastinations, inevitable in the case of generally long parliamentary discussions of what measures to take, appear far less acceptable. However, the ongoing debate over the future demonstrates that the forecasts can hardly be insightful. In fact, it is too early to discuss the future. Any attempts at making predictions today might be useful only for understanding present-day realities.

THE STATE OF EMERGENCY AS A CONSTRUCT

There are three points I would like to make with this regard.

Firstly, the common idea of dictatorship and of the state of emergency as an opportunity to disregard law is fundamentally wrong. Otherwise there would have been no laws on the state of emergency which describe the procedure of declaring it or its legal status, as well as the rules and deadlines for lifting it, which is no less important. However, it has become commonplace to say that many extraordinary measures are being taken in different countries without any formal declaration of a state of emergency and even without—or prior to—declaring a quarantine. In discussing the current situation, it has become nearly indecent to make references to such an authority on law as Carl Schmitt, who famously wrote: "Sovereign is he who decides on the exception." Or at least to quote modern philosopher Giorgio Agamben, whose attempts (see, for example, his book *State of Exception*, 2005) to refute Schmitt only have proven him to be his helpless epigone.

Schmitt postulates that the sovereign is he who has the power to proclaim the exception. Why? What for? Out of plain lust for power? Clear distinctions have to be made here.

When an obvious threat is on the doorstep and, consequently, resolute measures must follow right away, including those that run counter to

ordinary law, many are prepared to agree with this situation. This is to contrast with the cases where there is no such obvious threat and it remains unclear why a state of emergency should be declared, or why it is terminated or not terminated. In his well-known work *On Dictatorship* (dated 1921, that is, nearly a hundred years ago), Schmitt shows that there can be two types of dictatorship and, consequently, two types of the state of emergency.

One variety of the state of emergency, is when some top official (the sovereign) issues instructions to one of his generals to defend a besieged fortress, or dispatches a special commissioner vested with emergency powers, effective at a certain place during a certain period of time. There can also be a very different type of the state of emergency—the one that emerges during, say, a revolution, when all old institutions have collapsed and the old sovereign is out of office or, on the contrary, grabs enough powers to proclaim himself a new ruler. A totally new system of government is established, and old-time laws do not work anymore.

Russians know perfectly well how it happens. National history is brimming with examples. A state of emergency is imposed in such a way that it stays effective for a very long time, while all opponents are eliminated as enemies. There is nobody to ask when it will end or to demand the observance of rights. And, in fact, there are two kinds of common fears concerning the state of emergency. One is that the state of emergency, imposed only for a short time and with certain restrictions, may be accompanied by abuse and may not be lifted as soon as expected. The other kind of fear is that a state of emergency may be established from the very beginning as a sovereign dictatorship, with all rights, freedoms, guarantees and obligations abolished. Whereas the first type of dictatorship, established for the sake of addressing certain—local and temporary—goals, is understandable, the second one has no visible goal, it is an end in itself.

The proponents of dictatorship would say that it does not need any excuses at all. The opponents will retort that such a regime has no goal at all, so all the aims it may set, including combating all threats and all emergencies, are its own product. Incidentally, this is an easy way to go as far as asserting that the coronavirus pandemic is a social construct:

not in the sense that it was created at some laboratory, but that the risks involved lie upon the conscience of those who assume the right to decide what is dangerous and what is safe, and suppress all attempts at alternative interpretations. If one follows this logic, then one might even interpret death and life as a social construct, which of course is impossible for good reason. But it is possible, following this logic, to view all disease statistics, medical criteria for establishing the true cause of death, and many more things as a social construct. Behind all this—let us call a spade a spade—the critics can see only the results of actions taken by the self-obsessed authorities. Yet many, including Agamben, have noted with good reason that the exception is no longer exceptional, and "the suspension of laws within a state of emergency or crisis can become a prolonged state of being," which manifests itself at different levels and in different spheres.

Secondly, all hackneyed speculations about biopolitics have come in very handy during the pandemic. They should be understood as follows. The disease is a social construct by and large. Any intervention into the biology of the human body would be a political decision, incompatible with such values as freedom and the rights of the individual. The pandemic is merely a good occasion for making nakedly clear, at last, something that remains unnoticed by some. One of the arguments in favor of such radical criticism is that the legal status of the measures being taken is often undetermined. The measures already effective de facto are backed up by some references (not always convincing enough) to some legal acts only retrospectively. The advocates of such measures argue, possibly not without reason, that time is of the essence, that the situation is extraordinary, so an effective solution is far more important than its legal nuances.

In this particular case law falls way behind the current events. Measures are being taken in a situation of extreme urgency and bear an unmistakable imprint of haste, which, strictly speaking, by no means indicates they are illegal. But one should bear in mind that there can be a *normal state of emergency*, introduced and canceled according to some rules, and an *abnormal* one, imposed unexpectedly and inconsistently. The point at issue is not that businesses will be closed, the freedom of movement and assembly will be restricted, and discriminatory measures with account of age will be taken in peacetime and without sufficient reasons. Enforcing

such measures, the authorities are certain that war (or epidemic) will excuse everything, even if it has not been declared formally. The main weakness of such measures is that they are imposed in a police-like manner. It is presumed that the authorities express the wisdom of the state while the public express loyalty necessary for implementing the measures taken. It is further presumed that the measures are to enjoy not only general consensus of the people, but their reasonable and active involvement. This, in turn, requires precisely what is missing and cannot exist in such a situation: the unity of authority and reason, which enables the subordinates to take the commander's side by intuition, and not on orders.

And ***thirdly,*** this is a new type of situation, a new problem, which is impossible to solve by dictatorial techniques. Dictatorship implies the existence of one center of reasoning and decision-making: *Sic volo, sic jubeo, stat pro ratione voluntas* ("Thus I wish, thus I order, my will stands in place of reason"). However, this is not a dictator's formula, it is the credo of a despot unwilling to appeal to reason as a foundation of his actions. Meanwhile, awareness, promotion, persuasion and repeated references to scientists' opinions are being used to prove the correctness of what draws the strongest objections and to overcome the biggest doubts!

The measures against the pandemic are ad hoc ones. Behind them there is nothing but an allusion to the normal situation, where the trustworthiness of scientific expertise and medical measures would not have been called in question, as well as the *actual* lineup of forces—a state of affairs where everything is eventually decided by armed people. In other words, an inseparable link between scientific truth and supreme power is a relic of the past. And only temporary paralysis in the face of an undeniable threat can explain why it was not instantly destroyed by the fire of criticism.

Let me clarify my point once again. It is not that the virus, the pandemic, the disease and the deaths are used as a pretext for unlawful concentration of powers. In any real situation there remains room for coping with a number of issues, for instance, keeping the workload on the healthcare service in balance, achieving economic feasibility, reducing the epidemic's duration, and maintaining the loyalty of the masses. However, in each of these fields the decision made is not the sole possible

one, ostensibly prompted by virologists who never make mistakes. Each decision taken is only one of several sensible options. In other words, some very different decision might have been made. No decision is an inevitable consequence of the situation. It is picked out from a list of options, and this entails certain effects.

At this point it should be noted that Russia's latest (as of April 24, 2020) Federal Law No. 123-FZ "On Experiment to Establish Special Regulation for Creating Conditions for the Development and Introduction of Artificial Intelligence Technologies in the City of Moscow and on Introducing Amendments to Articles 6 and 10 of the Federal Law 'On Personal Data'" heralds an utterly new legal and political reality. It means that decisions can be made not by an authorized agency but by an artificial intellect, which contravenes many customary categories of the legal tradition.

SOCIAL DISTINCTIONS REVISED

Now let us take a look at the whole affair from a different perspective.

The pandemic has ruined one of the main factors that has long cemented modern society: the unity of wealth, health, comfort, enlightenment, and security. However, the unexpectedly great number of high-placed personalities, whose social status proved unable to protect them from the pestilence, and TV images of bunkers where the powers that be have to take refuge from the infection have revealed a sociological fact of paramount importance. The epidemic endangers the entire system of social stratification. The fundamental distinction between purity and dirt, danger and safety used to bind together wealth, power and purity. The environments of the rich and powerful were impeccably pure all along, and all systems of control worked to identify any impurity that was to be kept beyond the borders of a guaranteed security area. Now it is all over and will remain so for a long time. Yet there is much more to that.

The past few decades, marked by the "triumph of globalization," saw soaring interest towards a very remarkable phenomenon—an intricate combination of the global and the local. Generally speaking, in the era of modernity the traditional habitat of human beings is nation-states and big cities, where tight interpersonal links are severed. The family, neighbors, and the village community are no longer the natural habitation, the safe

haven they have been for centuries. They have been replaced by far looser bonds: the sense of solidarity is now not so much with fellow tribesmen as with fellow citizens. When modernity reached its prime, when it began to be called postmodernity, or high (or late) modernity, globalization challenged this state of affairs.

On the one hand, the nation-states no longer look like self-evident entities that should be taken for granted. Some claim that they have exhausted themselves and would soon vanish never to return. On the other hand, the global society, although keeping safe state borders, has opted for a different way of drawing them. Local matters, limited to campuses, business centers and techno parks, match perfectly with the world's largest cities, which are formally located within nation-states and their borders, but in fact are subordinate to transnational networks. The opportunity to establish instant electronic contact with someone thousands of miles away by no means cancels, but on the contrary, implies the creation of high comfort and security areas and a special situation of freedom where an unprotected body is exposed to no risks. The very demonstration of an open body has turned into a symbol of wealth and protection, while the literal presence of bodies next to each other (a situation invariably found in clubs for select few, orders, families and communities) has become a distinctive mark for the new elite, capable of traveling long distances for the sake of experiencing a very special sense of presence that the majority cannot afford.

It is this state of affairs that the new crisis is undermining. The key words of the day are self-isolation (that is, voluntary lockdown, in a sense reminiscent of ancient asceticism) and social distancing. Self-isolation works in a rather tricky way: it combines voluntarism and compulsion, spare time (an attribute of freedom) and lack of opportunities for spending it on various pleasant hobbies. Social distancing is also rather odd: distancing is required precisely where proximity is implied, be it shopping malls, restaurants or sports competitions. This means that a whole world of socially significant motives is sinking (or faces the risk of sinking) into oblivion.

Everything that has been the main factor motivating people's behavior and a surrogate of religious ways to create the meaning of life is falling apart. Entertainment, health, sports and tourism industries do not just go broke, they lose the ground because the human body, proclaimed as

paramount value, was supposed to enjoy health, longevity and ability to experience worldly pleasures only in conditions of guaranteed security.

This does not mean, though, contrary to what many say, that globalization is disappearing, and the good old nation-states are back again. States have already discredited themselves thrice: firstly, they failed to protect their populations from the global infection; secondly, they turned out unable to present a common front against the pandemic; and thirdly, they agreed to use international (or internationally recognized) expertise as a benchmark. This is tantamount to the destruction of what British sociologist Anthony Giddens described as the protective cocoon of trust towards institutionalized expertise. The global remains, but in a very deformed way. States will not restore their original potential but will be preserved as the sole institution that couples the resources of protection and violence with the potential of mobilization. However, this is very far from what could have happened without the pandemic.

The process of grasping the real meaning of the current events is just beginning. Possibly, we have an utterly wrong vision of the contours of a new world. Nothing can be worse than trying to extrapolate the unfolding realities beyond the horizons of the closest possible experience. However, rejecting such attempts altogether is inconceivable, either. It is our experience that we are obtaining here and now.