Badiou's ethics and the Free Software Revolution

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Abstract

The paper relates Badiou's critique of present-day ethics with the question of intellectual property in the Internet era. The aim is to emphasize the difference between normative conceptions of human rights and the concept of knowledge, as well as to analyze common conceptions of human rights as limited by the ethics of capitalist-liberalism. The paper will elaborate on the Free Software Revolution that emerged from development of production forces (development of digital media and the Internet) as one of the deepest conflicts within capitalism today. Although Badiou doesn't elaborate on any technologies as possible impellers of the revolution, the paper argues that such interpretation is possible, at least from the stand point of revolutionary Marxism. The paper will examine the idea of free software using the concept of "general intellect" introduced in Karl Marx's *Grundrisse*.

Introduction

This paper relates Badiou's critique of present-day ethics with the questions of intellectual property that have intensified with the Internet, and the possibilities it brings of sharing and modifying products of cultural industries. The aim is to emphasize the difference between a normative concept of human rights and the concept of intellectual property, and to analyze common understanding of human rights as limited by the economy of capitalist-liberalism. In his work *Ethics: An Essay on the Understanding of Evil*, Alain Badiou (2001) stands against the ethic of stodgy conservatism, manipulation of human rights, miserable moralism, humanitarian expeditions, and charitable legionnaires - all names of discursive procedures that are prevailing way of the world and its absolute injustice. Badiou demarcates the problem of economic necessity as underlying factor of present condition. Economy is neither good nor bad, but it simply 'runs' more or less well as neutral exteriority. It is common situation in Western democracies, writes Badiou, that doctors have no difficulty in accepting the fact that particular person is not treated at the hospital, and accorded all necessary measures, because he or she is without legal residency papers, or does not contribute to Social Security. "Once again, 'collective' responsibility demands it!" Badiou bitterly concludes (2001: 14-15).

The absence of an altruistic behavior in the world that defines itself as world of human rights is the result of a logic of Capital that rules as its ultimate necessity. Is it not the same thing with cultural heritage, knowledge and information in the broadest sense? *The Universal Declaration of Human Rights*, adopted by the United Nations General Assembly in 1948, states in Article 27: "Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits" (*The Universal Declaration of Human Rights: 1948-2008*). However, it seems that the universalism of intellectual property rights cannot be questioned. The profit orientation is an imperative that is at the same time in conflict with the idea of universal participation in heritage, knowledge, culture and art. As the

Hippocratic oath today, *The Universal Declaration of Human Rights* remains ignorant of antagonism structurally present in the informational capitalism.[1]

The fundamental force behind Badiou's critique of ethics is that it elaborates present conflicts and inconsistencies not as exceptions or minor violations of humanitarian discourse, but constitutive of this discourse. Those exceptions in conflict with the Hippocratic oath or UDHM are not situations in which moral imperatives are overthrown (only) because of the greedy capitalist corporations, or corporation led by intellectual property rights, but a dominant profit orientation is constitutional model of a world in which false moralist perspective assures *status quo*. In other words, UDHM is here exactly to provide a context for accepting the "way of the world and its absolute injustice" (Badiou, 2001: v).

Badiou provides the framework for questioning such legitimation. He lists three reasons for questioning the present-day ethics. Firstly, the problem is *the status of victim* as an imperative of ethics today. Status of victim is equating man with animal substructure, reducing him to the level of a living organism pure and simple, while it is forgetting "the active subject, the one that intervenes against barbarism"(2001: 10). Human is something other than a mortal being, writes Badiou. Secondly**,** "ethics is conceived both as an a priori ability to discern Evil... and as the ultimate principle of judgement" (Badiou, 2001: 8). Such consensual and quasi-self-evident principle blocks every "effort to unite people around a positive idea of the Good" (2001: 13). Ethical 'consensus' regarding human rights is today founded on the blocking of the ideas that are, at their best, dismissed as utopian. Finally, Badiou states that ethics today is "preventing thinking the singularity of situations as such" (2001: 14). "There is no ethics in general" (Badiou, 2001: 16), although today some rights have been treated as self-evident.[2] On the matter of intellectual property rights,

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[1] The problem of sophistry presented in *The Universal Declaration of Human rights* regarding the openness of heritage, knowledge, culture and art have been already noticed. See for example Leon Tan's article "The Pirate Bay. Countervailing power and the problem of state organized crime".

[2] Badiou rejects ethical postulates that emerge from Kant, but more directly from Emmanuel Levinas's ethics, that Badiou discerns as logic of the Same, which is incapable of recognizing Other.

is it not the case of Aaron Swartz, an activist who made JSTOR academic journal articles publicly available, the illustration of the tragic destiny awaiting an active subject who confronts the common understanding of knowledge? Swartz was prosecuted with two counts of wire fraud and 11 violations of the Computer Fraud and Abuse Act, charges carrying a cumulative maximum penalty of $1 million in fines plus 35 years in prison (Wikipedia). Prosecution led Aaron Swartz to commit suicide in January of 2013.

Acting against copyright was dismissed not only because a laws, but also because of the universality of the profit argument. In a public debate companies disavows the profit they make on authors, and the fact that the role of residual industries in the new mode of production is only to parasite between authors and users (Mitropoulos, 2007: unpaginated). Although corporation are profiting the most, the institutional fight against piracy is legitimated through the victimized ethics i. e. fight for authors and their rights. Aaron Swartz's case showed how intellectual property regime is blocking affirmative approach to the question of knowledge, informations and participation in scientific community, and how profit orientation serves as ultimate principle of ethics. The case showed that there is (are) an individual(s) (in Badiouian term *immortals*) who act(s) against the laws, presenting ethics as active, and not victimized ontology. The actions against open culture demonstrate also that the blocking of positive idea of Good is not only problem with copyright as such, but with the mode of production and reproduction of relations in production, which are protected as ultimate modes of progress. Blocking of the positive idea is a systematic class tendency, a result of a economic-political exclusion of an underprivileged class. On the level of intellectual ideas, discourses that are prevailing collective consensus, that are preserving the base (in classical Marxist sense) are legitimated by its self-evidence, an unquestionable ethics of the negative, and exclusion of a possibility to act. It is often repeated over the last fifteen years: every revolutionary project stigmatized as 'utopian' turns, we are told, into totalitarian nightmare.

There are other examples that illustrate an impossibility to rethink active participation on the matter of knowledge. Conservative understanding of copyright does not leave the space for debating on the positive motivation that is present in the act of book sharing on the open platforms such as it was the Gigapedia which (with the Ifile platform) created an open library with more than 400,000 e-books available for downloads (Taylor, 2012: unpaginated). In 2012, academic publishers, including Cambridge University Press, Elsevier and Pearson Education and led by Booksellers Association (Börsenveiren) and the International Publishers Association (IPA), organized an action against copyright infringement as a criminal business, and brought down the sites. It was academic publishers who truly acted as "the enemies of science" (Taylor, 2012: unpaginated). Shooting down piracy sites was nothing less than shooting down horizontal networks for the distribution of knowledge.[3] Is the privatization of knowledge a necessity?

An example of self-management socialism in Yugoslavia (1945-1990), and other socialist countries shows that open access to knowledge, as well as to education, would not necessarily endanger scientific progress. In formal Yugoslavia, and even till recently in neoliberal successors of Yugoslavia, education and knowledge were completely open (with widely networked public libraries and free schooling). The diachronic dimension of access to knowledge in the Western democratic societies indicates that what is today understood as self-evident fact, was radically different in the past. Approach to knowledge and education was modified in the process of restructuring capitalism that started in 1980s. During its restructuration informational capitalism radicalized closure of commons, including the informations as intellectual commons (Castells, 1996: 5-13).[4] As a result of the clash of welfare state and publishers, academic publishers became owners of knowledge. Motivated by the logic of profit, publishers not only

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[3] It should be noted that motivation of Ifile was commercial, but such motivation of Ifile does not diminish the idea of open sharing. In relation to omnipresent commercialization of culture and heritage, by industries, commercial motives of several open platforms are minor, and it only straightens the problem of commercialization of knowledge.

[4] The period after the Second World War was a period of economic stabilization, Keynesian model of optimal capitalist growth that established unprecedented economic prosperity and social stability (Castells, 2000: 18). On the other hand, informational capitalism entered the world stage with economic crisis. During the early 1970's with the growth of oil prices (in 1994. and in 1997.) the Western societies were facing the privatization of public goods and braking of the social contract between capital and work. After the contemporary crises starting in 2008, all main goals of that capitalist restructuring again intensify.

distribute books under copyright rules, but also frame the scientific process of "consuming" knowledge. Such framing does not leave space for active doing.

Ethics regarding knowledge and information turn into cases for such blocking, and the singularity regarding the specific possibilities of the Internet's sharing and distributive connection between two computers without hierarchy is diminished. The whistler-blower cases showed such preservation of the *status quo* and preventing thinking the singularity of situations as such. The most radical revelation of this was demarcated by the discourse of "preventing the world to see Americans in negative context" – what was the common critique of Wikileaks when they published *Collateral Murder* video showing the American solders murdering civilians. Ethics today blocks discussions of alternative models of defining knowledge and information in the context of the Internet as decentralized media.

Discourses of law as such are reassured by an ethical nihilism that stigmatizes every revolutionary project as 'utopian'. Badiou in *Ethics* writes that such nihilism formulates public opinion and broader contemporary subjectivity (2001: 31). From the beginning, the ethics of conformism ensures the absence of emancipatory politics, or any genuinely collective cause. Utopian ideas are, paradoxically, considered to be the most dangerous. Ethical nihilism rejects such ideas (in advance) because history, as we are told, shows that every utopian project soon or later turns into totalitarian nightmare. In order to propose fundamental questions on knowledge, in realms apart from those of profit, it is necessary to leave aside that paradigm, even if that gesture is only for the imagination.

Free Software Revolution

The fundamental force behind Alain Badiou's critique of ethics and democracy is his rehabilitation of truth against the hegemony of 'freedom of opinion'. Badiou claims that modern democratic societies have

devalued truth. Decisions about limitations of politics of plurality and possibilities of debating create the ground for common sense and "doctrine of consensus", that Badiou proclaims as the "dominant ideology of contemporary parliamentary States" (2005: 18). What every emancipatory project must do, what every emergence of hitherto unknown possibilities must do, is to put an end to such consensus (2001: 32). The case of the Free Software Revolution is an example of a concrete singularity, an ethical situation that has to be re-thought in a new occasion, and not valued by the ultimate principle of judgment. The battle against piracy exposed an interruption within consensual democracy and the hegemony of freedom of opinion, which is, according to Badiou, **"**the banner of the legionaries of Capital" (Badiou, 2012: 6). The Internet radically decentralized production and distribution of information, as it is the only media that directly interlinks two users without a hierarchical mediator. When a user distributes any kind of data (visual, audio, textual), another user becomes an owner of that data. As a structural concept, primary TCP/IP protocols allow direct peer-to-peer communication between two computers. The rhizomatic structure reconstitutes social structures, and not institutional structures. Media, in the traditional sense, is communicative in an inter-personal sense (telephone, telegraph) or a mass-media sense (radio, television, newspaper). The Internet is the first media to be at same time inter-personal and mass-media. Thus, Manuel Castells describes the Internet as the first *mass-self communication* (2009).

New institutional modalities that could provide legitimation on matters of profit meant new forms of oppositional culture emerged. But it is not a completely new fight. The history of capitalism and copyright are connected, since copyright reproduces the relations in production (Söderberg, 2002: unpaginated). The need for copyright was created through the emergence of a bourgeoisie class. Economy and politics of copyright is founded as imperative to define every object, experience and person in the manner of its many equivalents, their exchange values. In order to reproduce relations of production, property regimes developed systems of manufacturing authentic originals with copyright limitations. Is it possible that existing relations in production are threatened by the Internet, and Internet's tools, as new means of

production? Obviously, the question of copyright is much broader than the question of p2p file sharing since the history of capitalism and accompanied democracy that legitimate the system is a history of fights for autonomy over skills and knowledge, a trend whose origins can be traced to industrialization. From that perspective, stressed by Johan Söderberg, the fight for open information is only a contemporary variant of historical fight in earlier types of societies.

This fight was initialized technologically, but, at the level of *intellectual representations*, it emerged with the Free Software Movement. Free software was, before anything else, a pragmatic solution for scientific and technological development. Richard Stallman, a founder of the Free Software Foundation, was working in the MIT in the early 1980s, and reacted to the companies' natural right to own software. Stallman decided to develop a non-proprietary software. A version of licensed Unix, program's name was GNU (acronym for GNU's Not Unix). GNU project was accompanied with GNU Public License that enables free use and modification of the software, as long as it is distributed "under the same conditions". Free software norms later applied to various cultural artifacts: music, design, literature, etc.

Stallman insisted on a pragmatism that allows for the maximization of progress. Although GPL still requires the enforcement of copyright law, it contains implications that break with the existing order in significant ways. GPL far from negates copyright law. The free software subversion, if anything, was the subversion within a system. Early implementers may not have had the political and economic consequences in mind. However, the idea of free software was to become one of the most conflict-ridden ideas in technological history. The Internet's conflicted response to the matter of intellectual property opened the site of revolution. Stalman and GNU Public License opened up Pandora's Box. As Campbell has shown, the Free Software Governance Model "introduces a break within the existing norms of managerial driven governance in the dominant capitalist world order" (Campbell, 2012: 95).

Ideas of free software, using the distributive technology of the Internet, initialized new definitions of progress. For the first time in recent technological history, scientists reacted to profit-oriented rules of technological progress. Richard Stallman, in his article "Did You Say 'Intellectual Property'? It's a Seductive Mirage" (2004) writes about seductiveness of such term, and that it would be better to use a term "legislative colonization". In his article, Stallman insists more on the polymorphism of this term (of the tossing together copyright, patents and trademarks), but he clearly states that legislative colonization is an economic *overgeneralization*, and that as such, it certainly simplifies the process of creation. Such simplification "encourages an 'economistic' approach to all these issues...", while "freedom and way of life" are left out from those assumptions (Stallman, 2004: unpaginated). Is it possible to reconcile Stallman's pragmatism with the radicalness of free-sharing culture? Approaching free software ideas with deterministic conclusions is clearly a dead end. The one cannot escape the fact that the idea already started from proprietary presumptions, and that one of the consequences could be infliction of the same *openness* of free software culture. Stallman himself is starting from an engagement with intellectual property rights. For example, when he is referring to Free Software Foundation's support of Geneva Declaration (declaration that tried to modify demands of World Intellectual Property Organization), his support is already reconciled with the fact that "A World Intellectual Property Organization *will always*, understandably, lean towards applying the pre-selected tool-set of monopolization that it refers to as Intellectual Property" (FSFE, 2004: unpaginated). Therefore, in order to avoid the false binary between identifying free software ideas as false or to embrace the necessity of proprietary presumptions as fundamental, we must embrace the neo-Marxist interpretation of the structural dynamic of culture.

The fundamental force behind the neo-Marxist interpretation of hegemony (Antonio Gramsci's notion of hegemony, followed by Louis Althusser's theory of ideological state apparatuses) is exactly an accentuation of the consensual character of hegemony and of the dynamic relations between opposed cultures. Hegemony is created and distributed through discursive economy and processes of negotiation. "The

'spontaneous' consent", a consensus of the masses is the ultimate reassurance of the status quo, and of class positions. This understanding of social battles over ideas is far from deterministic. Raymond Williams, prominent British leftist theoretician, proposed a formula for social dynamism that enables us to describe

how authentic alternative ideas can be simultaneously conflictual and consensual. Although Badiou does not refer to Raymond Williams, the social dynamism of base and superstructure is nevertheless his theoretical heritage from the new left (for this, Badiou leans towards Althusser). Therefore, we can appropriate Williams' model for the purpose of differentiating cultures included in new media social dynamism.

Williams differentiates two types of culture - residual (traditional) and emergent cultures. Within emergent cultures he distinguishes two types – oppositional and alternative. Cultural conflicts are not only conflicts between dominant and emergent cultures, but within emergent models where there is difference between alternative and oppositional cultures. While alternative culture creates "a different way of life" in order to "be left alone" (1980: 49), oppositional emergent culture constantly creates "new meanings and values, new practices, new significances and experiences" to change the social order and gain power. While the alternative culture offers completely different forms of culture, oppositional culture aims at overthrowing the dominant, residual culture. But, regardless of the degree of internal conflict between the oppositional and the dominant cultures, the oppositional culture will never "go beyond the limits of the central effective and dominant definitions" (1980: 49). The process of co-option and appropriation of emergent forms of culture is fundamental to any understanding of the class struggle in capitalism. Paradoxically exactly alternative ideas, translated (or distorted) into oppositional emergent models, are the crucial pivot of constant capitalist innovation.

In order to illustrate a twofold clash inside Free Software, Williams' model can be applied to new media forms of cultural production. The first clash occurs between dominant but traditional cultural industries

and emergent economic models which introduce new forms of immaterial production and distribution. The second is more complex form of a cultural battle between emergent oppositional media models of immaterial production and distribution, present in serial and heterogeneous forms (from social networks, digital e-readers, to mobile phones applications) and emergent alternative cultural p2p practices that jeopardize the foundations of cultural industry, namely copyright laws. Such conflict is not static, and the result of such conflict is not determined. However, the openness of newly-established cultural industries (such as Rat Hat) should not be confused with radical p2p free software culture. While mainstream-inclusive Free Software models offer the illusion of openness, alternative peer-to-peer gift economies radical oppose neoliberal models of production, consumption and distribution.

Campbell describes the commercial "viability" of open-source, and demonstrates this primarily through Red Hat's service model built around the GNU/Linux operating system and Netscape's move to release a major commercially-developed software project as open-source, the first attempt by a major player to do so (Campbell, 2012: 106). The sixty-nine current licenses that have obtained open-source compliance demonstrate how open-source initiative can be appropriated by the dominant models, and how such efforts leaves open a possible return to old models(Campbell, 2012: 106). Campbell shows how the Open Source Revolution could be treated as an example of a Badiouian *event* which "disrupts a normal situation by not revealing the elements that make up its composition" (Campbell, 2012: 97; Badiou, 2005: 181). Such dynamism is also present in several examples pertaining to free software.

The legal battle against piracy, through the postponed SOPA and PIPA Acts, illustrates the dynamic field of cultural battles. The aim of these laws was to re-define the fundamental decentralized structure of the Internet and to reaffirm residual cultures, and capitalist logic of centralized production and distribution. The fact that laws were not implemented in full is indicative of the power of the present conflict. But the conflict also shows the dynamic structuration of the battle. The legal acts were initiated by two dominant

mastodons: MPAA (Motion Picture Association of America) and RIAA (Recording Industry Association of America). However, the laws were resisted by other forces than alternative cultures (in Williams's sense), although users and non-governmental parties (Electronic Frontier Foundation, and others) played an

important role. At November 15th 2011, a group of nine huge Internet and technology companies (AOL, Mozilla, eBay, Facebook, Twitter, Google, Yahoo, Zynga and LinkedIn) have ran a full-page ad in *The New York Times*, stating: "We stand together to protect innovation" (Doctorow, 2011: unpaginated). What this alliance of the profit-oriented industries shows is that not only that alternative proponents of p2p share a stance against residual cultures, but that there is an legal variation (or distortion) of openness that emerging cultures are fighting for. Forms of openness that are promoted as innovations must be understood literally in the ad – they are innovations of capitalist means of production and relations of production. The legal battle is clear evidence of the conflictual character of the Free Software Revolution, and the evidence of the fundamental force behind such idea that is devastating for the residual cultural industries.

Why it is, then, important to interpret Free Software as a revolutionary idea? Is it not another innovation that will only straighten contemporary capitalism in an ongoing process of redefining modes of production? From the point of view of dynamic relation of base and superstructure, proposed by Williams, it is important to pose another question. How is it possible that in capitalism today that such a highly conflictual idea not only emerges, but also 'innovates' production? Is it not at the same time a crucial proof that capitalist modes of production do not have full consensus and determinate form?

The Marxist View

The collapse of revolutionary Marxism, and of all the forms of progressive engagement that it inspired, is one of the reasons Badiou gives for ethical nihilism and lack of any positive ideas. The nonexistence of any emancipatory idea is reassured through casting Marxism out, after the failure of its political

implementation in communist states. Communism (and consequentially Marxism) has been labeled as the "criminal utopia" (Badiou, 2010: 2). One reason for taking historical materialism as a theoretical frame for the matter of intellectual property stems from the need to engage with different perspectives. The common approach towards the matter of intellectual property is *a priori* negative – it aims at limiting, prohibiting and blocking information. From the point of view of revolutionary thought the most important fact is the conflict that emerges with new technologies and that "created room for a new thinking about intellectual property" (Campbell, 2012: 107). If we define Free Software through Marx's notion of the means of production and relations of production, such idea seems as potentially disturbing for the regime of the intellectual Right.

In a narrow sense, the need for a Marxist view also emerges from the fact that Free Software falls into the Marx's concept of "general intellect". In *Grundrisse*, Marx introduces concept of "general intellect", which stress the intrinsic connection "between relative surplus value and the systematic tendency for the scientific-technical knowledge to play an increasingly important role in the production process" (Smith, 2013: 23). As capital continuously aims at maximizing productivity, it invests in "general intellect", which is responsible for progress in scientific knowledge. In *Grundrisse*, Marx explains the paradox of capital, and presents a solution:

> "Capital itself is the moving contradiction, [in] that it presses to reduce labour time to a minimum, while it posits labour time, on the other side, as sole measure and source of wealth. Hence it diminishes labour time in the necessary form so as to increase it in the superfluous form hence posits the superfluous in growing measure as a condition "question of life or death" for the necessary..." (Marx, 1973: 706)

> "The more this contradiction develops, the more does it become evident that the growth of

the forces of production can no longer be bound up with the appropriation of alien labour,

but that the mass of workers must themselves appropriate their own surplus labour."

(Marx, 1973: 708)

Capital allows for an increase in the free time necessary for the growth of the general intellect. But capital allows it only in order to maximize profit. In short, "at certain stage of their development, the material productive forces come into conflict with the existing relations of production" (S. Žižek, 1998: 33-34, cited in R. Barbrook, 2000: unpaginated). The important reason for approaching Free Software from the perspective of historical materialism is the fact that classical Marxism offers the precise definition of complexity of both possibility for change and retroactive settling of the existing order. In other words, classical Marxism offers a theory for the "fettering of the general intellect" (Söderberg, 2002: unpaginated). Marx explained that capital fetters emerging forces of production, and that such fettering is the main flywheel of Capitalism. This can be taken as an indication of how the productive forces are undermining established relations of production (Söderberg, 2002: unpaginated). On the one hand, Free Software has mushroomed spontaneously and entirely outside of previous capital structures of production. On the other hand, intellectual property regime has become a development fetter to the emerging forces of production (Söderberg, 2002: unpaginated).

So what decides the outcome of this battle? The crucial moment comes when capital is forced to create disposable time: non-labour time, free time. As it depends on appropriation of surplus labour time, it must reduce labour time for personal development. Marx offers a solution that is utopic, since he imagines a society in which progress is not driven by the profit. Marx writes:

"If the entire labour of a country were sufficient only to raise the support of the whole

population, there would be no surplus labour, consequently nothing that could be allowed to

accumulate as capital." (Marx, 1973: 709)

According to Marx, the paradox located in the term "general intellect" inevitably leads capitalism to its end since the contradiction between the creativity of general intellect and the orientation towards capital profits intensifies through time. In such context "even though production is now calculated for the wealth of all, disposable time will grow for all." (Marx, 1973: 708)

Marx's anticipation of a transition from capitalism to communism has been widely criticized. This unfulfilled prophecy came under heavy attack by sociologists, such as Anthony Giddens (1995). On the other hand, Marxists Paolo Virno and Carlo Vercellone claimed that Marx only made a mistake in calculating the duration of this transitional historical period and that "'collective appropriation of knowledges' has in fact occurred" (Smith, 2013: 6), mostly in the form of digital democratization of media and the Internet.[5] Neo-Marxist thinkers, including Badiou, insist on a dynamic interpretation of such conflicts. Such understanding rejects determinism present in Marx's position on the transfer from Capitalism to Communism. Neo-Marxists, including Badiou, did not abandon historical materialism, but they broaden our understanding of the dynamic between base and superstructure.

The Third Communist Hypothesis

Alain Badiou is one of those rare intellectuals who hold an affirmative definition of philosophy in accordance with Marx's project (summarized in that well-known sentence from *Theses on Feuerbach* about *philosophers* who have *only interpreted the world, in various ways*, when *the point* is *to change it*). In his studies, *The Meaning of Sarkozy* (2008/2007) and *The Communist Hypothesis* (2010/2008), he elaborates in detail two great

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[5] Virno's core term "multitude" is partially elaboration of the uses of general intellect in public good (2004:27). Also Virno's and Vercellone's discussions on general intellect can be found in two articles from Historical Materialism: Virno, P. (2007), "General Intellect", Historical Materialism 15/3.; and Vercellone, C. (2007) "From Formal Subsumption to General Intellect: Elements for a Marxist Reading of the Thesis of Cognitive Capitalism", Historical Materialism 15/1.

sequences in history that we should look to from the point of view of historical materialism, or from the point of view of what Badiou names "the communist hypothesis". The first sequence runs from the French Revolution to the Paris Commune, from 1792 to 1871, and the second sequence runs from 1917 (the Russian Revolution) to 1976 (the end of the Cultural Revolution in China). The second hypothesis ended in the militant movement that arose throughout the world around the years 1966-76, with May 1968 in France as its epicenter (Badiou, 2008: 107).[6] These are controversial and conflictual historical moments which nevertheless open up a site for a revolution. In his description of those historical moments, Badiou stresses the reasons for taking into account the communist hypothesis by contrasting it to the culture of human rights "which combines the cult of freedom (including, of course, freedom of enterprise, the freedom to own property and to grow rich that is the material guarantee of all other freedoms) and a representation in which Good is a victim." (2010: 2). In the end, Badiou concludes "the communist hypothesis remains the right hypothesis" (2008: 115).

However a possible third communist hypothesis, remains uncertain. "What will come will not be, and cannot be, a continuation of the second sequence", writes Badiou (2008: 113). Badiou's only suggestion is a kind of paradoxical historical necessity. "This second sequence", writes Badiou, "ran for just over half a century". "We should also note that it was divided from the first by a break of nearly the same length "more than forty years" (2008: 107). So if we follow this calculation, in a manner of (oxymoronic) communist eschatology, we end up with the third sequence that should come between 2016 and 2026. What if we take such eschatology not only as an outcome of the lack of concrete forms and concrete implementations of communist hypothesis, but as a positive impulse? Is it not a paragraph from Badiou that describes the foundation for re-definition of private property and for implementation of the Free Software idea in full?

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[6] In *The Communist Hypothesis*, Badiou writes about "three examples": May '68, the Cultural Revolution and the Paris Commune (Badiou, 2010: 7). In *The Meaning of Sarkozy*, May '68 is described as an element of the second communist hypothesis.

"The decisive issue is the need to cling to the historical hypothesis of a world that has been freed from the law of profit and private interest - even while we are, at the level of intellectual representations, still prisoners of the conviction that we cannot do away with it, that this is the way of the world, and that no politics of emancipation is possible. That is what I propose to call the communist hypothesis." (Badiou, 2010: 63)

So, what we should do in order to reformulate the emancipation hypothesis in contemporary terms? Badiou simply answers "we have to be bold enough to have an idea. A great idea" (2010: 66). The most important question to ask is what is preventing the third communist hypothesis from activating? Badiou answers that, with new ideas, the problem is "the specific modality in which the thought prescribed by the hypothesis presents itself in the figures of action" (2008: 114). It is impossible to return to old forms and movements. Neither the workers movement, nor the (Communist) party are the holders of the communist hypothesis any longer. Badiou has high hopes that philosophy, as the field of praxis (in Marxist sense), could prescribe the duration of hypothesis, to "re-establish the hypothesis in the field of ideology and action" (2008: 116). A philosophical task, and even a *duty*, claims Badiou, is to help a new modality of existence of the hypothesis to come into being (2008: 115).

Reading Badiou – and the question is imposing - is it possible for philosophy today to identify new modalities of the hypothesis? Does philosophy have a potential for identifying new modalities of thinking? The case of the Free Software movement shows that philosophy has barely begun to identify it, or relate this moment to the communist idea, although there are some attempts. The rear leftist commentators recognized the potential of new conflicts in capitalist economy, and relate those conflicts between the alternative modes of reproduction to mainstream forces of production with Marx's concepts. Why did the Free Software movement not take up Marxist theory? Following Badiou, it follows the problem of all new

movements, namely the modality in which those are presenting themselves as a thought.

There are several modes (from truly authentic oppositions to models co-opted by emerged neoliberal economic models) that are all initiated in a form of progressivist pragmatism. I refer not only to the described relation between the conflictual character of Free Software and its implementation, but also other forms of modalities, from contra-reformist moment in the Internet history, differences between authentic solutions of early Internet social groups, commercialization of Web 2.0 and the forming of commodified social networks. Following early enthusiasm, reformist modes acted in effort to expand the market economy of the Internet. Such commercialization is described in details in *The Internet Galaxy* where Manuel Castells notes the important role of entrepreneurial culture in later development of the Internet. This culture worked together, but also modified the aims of other cultures included in the development, such as techno-meritocratic culture, hacker culture and the virtual communitarian culture (Castells, 2001: 36-64). So-called "Facebook revolutions" indicate the gap between initial definitions of the Internet: between using the Internet as public space and limitation of the Internet as a form of implementing commercial platforms. The conflict in the Free Software movement itself already softened its revolutionary potential.

Not recognizing the Free Software movement as new modality of communist hypothesis also continues internal conflicts in the Left – between Marxists receptive to the era of cognitive-capitalism, and more traditional Marxists demanding a re-affirmation of classical Marx's elaboration of capitalism. Alain Badiou himself in several studies elaborated why he is pessimistic about new forms of cognitive capital. In *The Rebirth of History,* Badiou criticizes Negri's optimistic position on capitalism on the eve of its metamorphosis into communism (2012: 10). Badiou thinks that we are witnessing a retrograde consummation of the essence of capitalism, of a return to the spirit of the 1850's and the primacy of things and commodities over life and machines of workers (2012: 11-14). New awakenings of history

happen not from capitalism itself, writes Badiou, but rather from "popular initiative in which the power of an Idea will take root" (2012: 15). In *The Meaning of Sarkozy*, Badiou dismisses a few forms within an "alter-globalists movement" that presents itself in "a multiform [of] movement inspired by the intelligence of the multitude (elaborated by Negri and the other alter-globalists)" (2008: 114). It cannot be disputed that a lack of systematic political-economic theory behind the movement is one of the major problems of Free Software and its successors. However, it is also problematic not to recognize the conflictual character of Free Software and the possibility of popular initiatives in which the power of an Idea takes root.

Marx himself elaborated the relation between production forces and class struggle. In the chapter "Machinery and Large Scale Industry" from *Capital*, Marx considers the class conflict to be determined by the progress of machinery. "It would be possible", Marx observes, "to write a whole history of the inventions made since 1830 for the sole purpose of providing capital with weapons against working class revolt" (Marx, 1977: 563). Dyer-Witheford presented numerous passages in Marx where he stresses the relationship between scientific work (discoveries and inventions) and capitalism, Babbage's search for mechanical means to automate labour being but one example. In "Machinery and Large Scale Industry", Marx also describes how the factory owners' relentless transfer of workers skills into technological systems gives class conflict the form of a "struggle between worker and machine" (Dyer-Witheford, 1999: 4). (Is it not similar to today's primitivism, which live on even in the Left? Žižek pinpoints Evio Morales's speech as an example of such simplistic narrative, when Morales is stating: "Under Capitalism mother earth does not exist" (Žižek, 2009: 97)). Further, in *Grundrisse* Marx writes about the progress of machinery in the hands of capitalists who aim to instrumentalize machinery in order to "depend less on labour time and on the amount of labour employed" than on "the general state of science and on the progress of technology" (Dyer-Witheford, 1999: 5). This understanding of the relation between scientific progress and the class struggle today takes its form in the struggles over information technology. Progress in the "machinery" is at the same time the result of scientific work initiated by capitalism, and a potential of emancipatory

struggle. Machinery is instrumentalized for capitalism to depend less on labour time and employed labour, but at the same time progress is always a potential for an emergence of a *new modalities* of hypothesis.

Unfortunately, although there are theoretical works of the new Left oriented towards technology, hackers and Marxists mostly write about the same problems, without explicitly cross-referencing each other (Söderberg, 2002: unpaginated). Is it not the case with *The Rebirth of History*, where Badiou opens with a critique of new, technological progress, modernization and reformation? What to say about the paragraphs in *Manifesto for Philosophy* dedicated to technology? Among Badiou's best works, *Manifesto* is written in 1989, a year of great optimism about new technologies. In this book, Badiou stated:

> If I had to give my opinion on technology, whose relation to the contemporary demands of philosophy is fairly scant, it would much rather be to regret that it is still so mediocre, so timid. So many useful instruments do not exist or only exist in heavy and inconvenient forms! (Badiou, 1992: 53-54).

Only a year from this pessimistic statement on technology, Richard Barbrook, expanding on Marx, writes about "cybercommunism" (Barbrook, 1999), and the revival of leftist praxis. In his article, Barbrook reminds us of the role of scientific progress in the emancipatory struggle and towards final political and cultural freedom. He also stresses the clash between information progress, initiated by silicon capitalism, and gift economy, as the accidental outcome of such capitalist progress. However, Badiou's thought on technology is not in conflict with Barbrook's interpretation. Barbrook, with Andy Cameron, precisely dated and described the nineties as decade of "the Californian ideology", an era of establishing flexible economic network models (Barbrook/Cameron, 1995). Both initial revolutionary impulse and retrograde tendencies of a new virtual class aimed at restructuring technology towards profitable ends were already a part of the new modality of this communist hypothesis. On the level of common understanding in this

progress, initial optimism was soon to be replaced with skepticism as capital penetrated the Internet. In the interpretation of Marxist hackers, from the very beginning the Internet confronted ideas about progress that are relevant for class conflict and relation of such conflict to scientific progress. These different interpretations of the digital technology are to be understood as related, or a part of what would Badiou defines as *hypothesis*. While it is difficult to agree with Badiou that technology is "very rudimentary", Barbrook and Badiou would agree (were such dialogue initiated) on the fact that "the reign of Capital bridles and simplifies technology whose 'virtualities' are infinite" (Badiou, 1992: 54). But if so, if the reign of technology is infinite, then who is to blame for its simplification? Badiou has no answer.

Conclusion

Badiou's dismissal of technology is not Badouian only. It is a common attitude in contemporary philosophy towards informational technologies and hacker's ethics, which are more-or-less unrecognized as a new mode of Idea. Slavoj Žižek remarks, in his chapter, "The Communist Hypothesis" in *First as tragedy than as farce* (2009), that there is fundamental difference between conflicts related to the notion of "commons" and conflict that separates *Excluded* from the *Included* (2009: 91).[7] For Žižek the difference between conflicts related to intellectual property ("the inappropriateness of the notion of *private property* in relation to so-called "intellectual property" (2009: 91)) and the specific notion of the Excluded is a difference that reveals a class fight. For that reason, although he agrees with perspective, of commons, whose privatization "must be resisted with violent means", he notices the qualitative difference between conflicts within commons, and other type of antagonism – "the creation of *new forms of apartheid*, new Walls and slums" (2009: 91).

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[7] Žižek differentiates three types of commons (commons of culture, commons of external nature, and commons of internal nature - the biogenic inheritance of humanity), but here for the purpose of an argument, I only refer to his elaboration of commons of culture.

In the leftist theory of commons there is also a tendency of differentiation of what is defined as "common goods" from information and knowledge. Commons like Silvia Federici, prominent leftist feminist, make such differentiation. Although at first Federici agrees that a fight for commons is unified, collective fight ("...mainers are fighting to preserve their fisheries and waters"... while "open source and free software movements are opposing the commodification of knowledge and opening new spaces for communications and cooperation" (Federici, 2010: 285-286)), she concludes with differentiation of types of commons.

Žižek defined the central problem of the Free Software Revolution. "One can sincerely fight to… define a broader notion of intellectual property… without ever confronting the antagonism between the Included and Excluded" (2009: 98). However, is it not a *class fight* within intellectual property right that is forming a conflict itself? Is there a difference between exclusion of the powerless class and privatization of commons since the same privatization of commons is what determines exclusion? It is true that such cases as Aaron Swartz's case, as any other case of violation of intellectual property rights, are not usually elaborated as class struggles. However it is not because it is not a class struggle, but because it is not understood as such. In other words, is it not the central problem of intellectual property rights regime the problem of the Excluded, the problem of *not* participating in the *cultural life of the community*, and not *enjoying the arts and sharing in scientific advancement and benefits*?

The reluctance to identify with the Free Software movement is partially understandable from the point of view of Marxist analysis, which cannot start from the prediction that the Internet and digital forms of production and reproduction are imposing completely new means and forms (and the problem of newness is often related to new media studies). If Free Software wants to be a political project for social change, it has to articulate itself in terms of class struggle. Mostly theoreticians are reluctant to identify with communism. Such animosity is a result of the collapse of revolutionary Marxism, a degrading process described in details in Badiou's work.

However, the Marxist's perspective on hacking, technology and copyright (present in the works of Richard Barbrook, Nick Dyer-Witheford, Johan Söderberg and others) starts from the presumption that to relate the Internet to long standing fights is formal and intellectual necessity (the same necessity that Badiou ascribes to relation of philosophy and communism). Such perspective starts from the class struggle as crucial in understanding today's conflicts. What Barbrook and others saw is initial conflict in the technology, in 'economy of gifts' as opposed to profitable exchange and "market competition at the cutting-edge of modernity" (Barbrook, 1999: unpaginated). If a different perspective can emerge, it could detect communist hypothesis within movements that are opposing the fundamental notions of capitalism (with or without theoretical elaboration of their fight) and recognize the emergent resistants as new forms of nesting of the Idea inside the existing economical rules. If nothing else, what unites hackers and Marxists is a slogan: "think of a progress and not profit".

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