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Marx's emancipatory reason and the teaching of law in Cuba from a critical pedagogy perspective.

The reason emancipatoria of Marx and the teaching of the right in Cuba from the critical pedagogy

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Abstract: With the purpose of improving the professional profile of the undergraduate student of the Law career, through the approach of critical pedagogy and transdisciplinary, historical-logical and deductive-inductive methods, a theoretical systematization is carried out in the liberating aspect of Law from the emancipatory reason of Karl Marx (1844). In contrast to the monodisciplinary teaching of Law as an instrument of class domination, which impoverishes the rational perspective of students as future professionals.

Keywords: Marxian critical pedagogy; Emancipatory reason; Hegemonic instrument; Legal discourse; Philosophy of education; Marxist education.

Abstract: The fundamental reason of this study resides in the necessity vindication to young Marx's approach, regarding the law as superstructural phenomenon of social control, and its apparent impossibility of being constituted in an effective tool of social emancipation, to be an instrument of control of the dominant class. Aspect that has defended systematically for many Marxists and non Marxists, and that it has become in reason of isolation of the law regarding the rest of the social sciences, and the positive teaching in the law schools, avoiding, from the pedagogical point of view, the recuperation of the historical subject.

Key words: Marxiana Critical pedagogy; Emancipatory reason; Domination instrument, Juridical speech; Education Philosophy; Marxism Education.

Introduction

The subject of Philosophy of Law, which is vital for the deep understanding of the legal phenomenon and its intra-extra normative validation and critical analysis, after disappearing for many years from the training program in the career, did not emerge with the required strength given its importance in the training of legal professionals.

According to the rationale stated in Plan E of the Philosophy of Law course regarding its purpose of developing critical thinking from a Marxist perspective, little is approached and little depth is given to this viewpoint, leaving out the

Marx's own conceptions of freedom and Law, going deeper into the vision of some of his followers. The way in which Marxism-Leninism and the Philosophy of Law is approached in Theme X does not allow the deepening of its analysis from Marx's original position on emancipatory reason and its necessary practical applicability to Law at present.

Fernández (2005) in the basic textbook of the subject of Philosophy of Law, when referring to the reductionist positions within the juridical vision of Marxism, the political and the economic, did not delve into the most important: its emancipatory proposal, thought for the individual, then for the working class and then for a reconciled humanity in a universal dimension. What a Marxist position of Law could not fail to analyze with a view to the creation, interpretation and application of the same.

This may cause that the analysis of Law itself and its teaching are not developed with rigor with respect to the levels of analysis that Law should include, nor with respect to the content of the socio-political categories that Law presupposes and that have to be understood and analyzed critically in practice. And with it the new disappearance of the subject of the study program of the career, for its apparent uselessness according to the immanentist criteria.

In this work, we delve into those aspects ignored in the Marxian socio-legal approach, in order to open new dimensions in its transdisciplinary and philosophical-pedagogical analysis, with the aim of contributing to the purpose of training integral jurists who approach the socio-political reality in all its complexity and know how to provide viable solutions and make the most of the teachings of the classics of Marxism.

Development

Philosophy of education and Marxism

Niskier (2001), starting from the axiom: the truth will set you free, proposes as a function of philosophy of education its emancipatory mission, both individual and institutional, making possible through reason an openness to knowledge and a critical examination of

the foundations of our convictions, preconceptions and beliefs about the natural and social world.

Marxist philosophy, consistent with historical and dialectical materialism, cannot account for a static and one-dimensional world, which transcends education by generating a critical and descriptive thinking that does not contribute to change the world and the relationships that constitute it. In the field of law teaching, this must be translated into creating awareness of the permanent conflicts between the search for individual and social freedom and the institutional, international and local restrictions of the same, which this area of knowledge is called upon to question and resolve in the most humane way possible.

In other words, it must be rethought from a critical or social conflict pedagogy, a teaching of law that allows the most harmonious operable connection between freedom and its possibilities of realization at the cognitive and normative level.

Moral connectedness in learning the law

In the positivist teaching of law, morality, as a self-regulating phenomenon of society and a system of shared values stabilizing the emerging properties of society and transcendent for law, is ignored, generating an incomplete knowledge and a mutilation of the pedagogical process with respect to its interactive context with the micro and macro social phenomenon (Pulido, 2010), which ends up negatively impacting the institutional and social environment.

Karl E. Marx (1818-1883) wrote his *Contribution to the Critique of Political Economy* (1989) where he states that, although he had studied law, for him it was only a subordinate discipline, unlike history and philosophy. And that his inquiries into the Hegelian philosophy of law (Hegel, 1844) led him to conclude that juridical relations and forms of state cannot be understood by themselves, but have their roots in the material conditions of life, so that their anatomy must be sought in the political economy, on which the juridical and political superstructure is erected, and to which correspond certain forms of social consciousness, determinants of the individual.

In this statement, Marx's reticence with respect to bourgeois law, not law in general, is useful (Mondelo, 2018), as well as his criterion on the connection of the latter with respect to other regulatory phenomena of the social system.

But the transdisciplinarity necessary pedagogically to organize a teaching that makes it possible to understand Law as a subordinate discipline, as Marx called it, is not exhausted in its economic mediations, since Marxism also starts from a vision of society divided into classes that are in permanent collision product of the difference of interests between them, and this ethical-moral polarity in the search for emancipation to achieve their own objectives, is reflected in Law in its theoretical, normative and practical dimension.

Therefore, any symbolic function of bourgeois Law as integrator and stabilizer of social relations, or mediator of coexistence in the reproduction of social life seems absurd to Marx, because a capitalist morality corrupted by commodity fetishism, generates a sick Law that does not foster social relations, but individualism and apathy among the members of a society, whose links would be increasingly competitive and therefore less collaborative.

Human and political emancipation from Marxian pedagogy.

A critical pedagogy for the teaching of law is not only possible, but necessary, on the basis that it is connected with the very liberating mission of pedagogy (Niskier, 2001), or else it would incur in a scholasticism that would do little to help modern man in his mission to liberate himself and the society in which he lives.

Fernández (2005) in the basic textbook of the subject of Philosophy of Law, when referring to the reductionist positions within the juridical vision of Marxism, the political of Vichinsky and the economic of Pashukanis and Stucka, did not go into the most important thing: its emancipatory proposal, thought for the individual, then for the working class and then for a reconciled humanity in a universal dimension.

In Marx there are two educational moments or stages where his pedagogy of liberation is gestated, according to Ortega (1973): the first (1818-1845) characterized by liberation

The second (1845-1883) was marked by praxis as the transforming force of reality and the axis of social formations.

Marx (1844), had referred in *The Jewish Question*, that Bruno Bauer only subjects to criticism the Christian State and not the State itself, and does not investigate the relation of political emancipation with human emancipation, but confuses political emancipation with human emancipation in general.

Marx admits a distinction between these two closely related emancipatory forms, and adds that part of human rights are political rights, which can only be exercised by citizens in community with others: "Their content is participation in the community, and precisely in the political community, in the State. The category that comprises them is political freedom, political rights" (Marx, 1844, pp. 17, 29 and 30).

Thus, from the Marxian critical pedagogy, the object of study of emancipatory Law would be referred, more than to the normative architecture or to guessing the will of the legislator deified later in the State, to helping to discover and question the content of political-social relations at increasingly broader levels with respect to the category of freedom in the inter-subjective sphere and not in the individual one.

His objection to Law as an emancipatory tool lies in the individual rights that atomize man through the consecration of private property, and not in the political rights that presuppose the citizen as part of a community (Marx, 1844), allowing his humanization in the relationship with others, even if in principle from a legal fiction, but making a reality of that fiction.

For Marx all emancipation consists in reabsorbing the human world in its relations and situations; therefore he expresses that:

Only when the real, individual man reabsorbs in himself the abstract citizen and, as an individual man, exists at the level of species in his empirical life, (...); only when, having recognized and organized his "own forces" as social forces, he no longer separates from himself the social force in the form of political force; only then, human emancipation will have been accomplished (Marx, 1844, p. 37).

This implies at least three propositional levels of emancipation in the teaching of law, which would form a triadic structure of emancipatory reason:

A macro-determining abstract universal reason, which defines what is just, what is accepted as universal law by all at any time, which in this era of globalization is becoming increasingly real and less abstract. For the universalization of morally valid practices constitutes a necessary, though not sufficient, condition for establishing their full moral value.

Another particularized level or micro-determining concrete universal reason, which has a concrete and universalizing structural function with respect to social sectors or regionally isolated communities in a concrete way with the rest of their fellow human beings in a diversified plane of equality at a social or national level, which is considered as the good in a concrete time and place that may, or may not, be universalizable.

Finally, a level of self-emancipation or liberation of man from himself and from his fetishized relationship with private property that objectifies him and isolates him from his fellows, which is what Marx refers to when he speaks of self-forces and distinguishes it from political emancipation, which implies the indissoluble union of self-forces and social forces, and their elevation or sublimation to political forces.

Freedom as a universalizable pedagogical product

Marx states that man is the supreme essence for man, so that all relations in which man is a humiliated and subjugated being must be discarded. And distinguishing the related total man, above the real man, atomized, he declares as valid theory, that radical weapon that attacks the root evil, as is the case of religion or any ideology that is not anthropocentric and places as its center another value, above the social man.

In Marxian critical pedagogy, the individual man is a fictitious abstraction, since from his origins he was always a collectivity, as in Socrates and Aristotle, his self is redefined by his belonging to a species or class that recognizes him and grants him transcendence.

This radicalization is the first step in the social acceptability of a legal, pedagogical or philosophical theory, and its possibilities of becoming concrete, of transforming itself into praxis and transcending historically. Therefore, its adequate epistemological and ethical-pedagogical configuration is crucial in the conformation of a more humane society in the midst of a globalized and asymmetrical world.

From this perspective of seeing man as a social subject and of transforming regional history into universal history, the context is incorporated into the epistemic-pedagogical apparatus, enriching it, since the universal is not an empty abstraction, and the social being implies and gives meaning to the individual.

Marx's ideal is human emancipation at the universal level and not only particular in a purely political sense; so that a class undertakes from its special situation, the universal emancipation of society, a moment in which it fraternizes as praxis and merges with society in general, and its aspirations and rights make transparent those of the whole society. For only in the name of the universal rights of society could a class arrogate to itself universal dominion.

In the same way the classics maintain, referring to the transformation of local history into universal history, that the liberation of each individual as a historical and not mental act is imposed to the same extent that history becomes totally universal history, since in this way they can free themselves from national and local shackles, because omnipotent dependence also has historical-universal dimensions.

Marxian critical pedagogy is *sui generis* because of its breadth of vision and the inclusion of the category of practice from its very genesis, because equality is not a given condition, as capitalist economic ideology makes it appear, it must be conquered through the class struggle, and it starts from the need for the emancipation of man as an individual towards the social being, his reconciliation with the species that universalizes him because it transcends him to extend him to a whole class at the world level; as opposed to an individuality that incommunicates him with respect to his collectivity in a given region or culture.

Marx exercises a dialectical vision between individual and society by means of which the emancipation of the nation through the individual is not possible if the individual is not closely connected to society, if he lives alienated or in a kind of divorce with respect to it.

The above has everything to do with a pedagogical approach also based on the theory of complexity, if we take into account that Morin (1981) states that for the principles of social knowledge to be pertinent, its education must evidence: The context, the global, the multidimensional, and the complex.

This, from the point of view of a Law with transcendental emancipatory pretensions, would also imply the contrastable theoretical analysis of principles, categories and norms of universal character, and not only the political-axiological transcendence of the Constitution or the pertinence and efficacy of the norms of territorial character.

Conclusions

With the theoretical systematization carried out, it is clear that Marx does not distrust Law, but the status of man for bourgeois Law, which refers him intensely to the relationship with his goods and isolates him from the rest of men, highlighting his individual being above his social being.

The proposal of a critical pedagogy from the direct perspective of Marx, rescues the essence of the human in an emancipating ethical-legal sense, above the derivative and unidimensional visions of some of his followers.

In order to develop critical thinking from a Marxist perspective, and to improve the professional profile of the undergraduate law student, it is necessary to extract from Marxian critical pedagogy the transdisciplinary aspect, which must be sought by the teaching of law in all its sectorial branches.

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