

Democracy, Socialism, and Post-Revolutionary States: Problems in Theory and Reality

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Socialism is not to be identified simply with the socialization of production, for it entails not merely the social organization of production, but the democratic organization of society as well. *Socialism as a means to the emancipation of the proletariat, without democracy, is unthinkable.*[1]

Karl Kautsky, the 'St. Peter' of the Golden Age of Marxism: 1890s to 1920s

Democracy is of great importance for the working class in its struggle for freedom against the capitalists. But democracy is by no means a limit one may not overstep; it is only one of the stages in the course of development from feudalism to capitalism, and from capitalism to Communism.[2]

V. I. Lenin, Bolshevik leader

... the socialist system of society should only be, and can only be, an historical product, born out of the school of its own experiences, born in the course of its realization.[3]

Rosa Luxemburg, opponent of Kautsky and Lenin

The galloping events of June 1989 will be an intriguing subject for future students of world communism. The movement which began with the October revolution has now entered its most critical phase since the death of Stalin. The extra-ordinary ballot box victory of solidarity in Poland gives some hope for peaceful reform; the Chinese repression suggests the opposite; Mr. Gorbachev hopes for a middle way. Whatever route is taken, change is at the Marxist gate.[4]

The Times, independent British newspaper

Every new vision of improving institutions has seemed utopian to those who took the established order for granted.[5]

Karl Mannheim, German social scientist

The spectacle of people's soldiers backed by armor opening automatic fire on protesting citizens is one which properly belongs to the 1930s perhaps or even as late as the 1950s when Soviet leader Joseph Stalin was still very much at the helm of power. That same spectacle was played out before the

eyes of the world through the prying and unforgiving magic of electronic mass media as the Chinese leadership finally found troops who were ready to obey orders to clear by whatever means the central square of Tiananmen occupied by thousands of students and citizens raising the banner of democracy, borrowing even some from the West with the

styrofoam statue--the 'Goddess of Democracy'.

The bloody Chinese tragedy is the most recent illustration of the problems of post-revolutionary polities--how should dissent and political disagreement be managed without endangering the post-revolutionary state itself? As it is, the Chinese problem had induced a paralysis of sorts at the highest state levels, evidenced by a schism between alleged 'hardliners' led by Premier Li Peng and the 'moderates' led by Party chief Zhao Ziyang, and the apparent reluctance of troops earlier tasked to disperse the crowds off Tiananmen.

Viewed in a strategic sense, the Chinese problem illustrates the fragility of socialist polities--that political dissent of several thousands of Chinese students enjoying the support of an undetermined section of the population could put the existence of the socialist regime itself into question. To be sure, the striking students were not calling for a replacement of the socialist regime but rather a democratic reform of the same. On the other hand, the authorities who ordered the crackdown justified the same by characterizing the students' action as a counter-revolutionary ac-

tion designed to cause the socialist state's downfall. One can only recall how Marx and Engels dismissed the so-called dangers of dissent in a post-revolutionary state--that if such a regime falls when the people complain, then that so-called revolutionary regime deserves to fall.

At the same time that the Chinese tragedy was unfolding, the independent Polish union Solidarity was poised to win big in the country's first freely-contested general elections in forty years. [6] The elections were held after historic talks between the ruling Polish United Workers Party and the opposition labor union Solidarity headed by Lech Walesa (who stands a good chance of becoming Poland's president replacing Gen. Wojciech Jaruzelski). The said talks recognized the right of Solidarity to exist as an independent opposition union and likewise created a 100-seat Senate. The senate can veto legislation proposed by the existing 460-seat Sejm, the Lower House, which is relatively controlled by the ruling party. These developments come after some eight years when the Solidarity was declared illegal, its leaders subjected to house arrest, their followers hounded on the streets, and martial law was declared by the Polish

government headed by Gen. Jaruzelski. In due recognition of Solidarity's smashing electoral triumph, the ruling party offered to organize a coalition government with the former.

Elsewhere in the Soviet Union, Communist Party maverick Boris Yeltsin nearly missed being proclaimed a member of the Supreme Soviet even after capturing almost 89% of the popular votes cast in his district last March 1989,

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the backing of more than 50 percent of the members of the Congress of People's Deputies (the newly-created 2,250-strong parliament) and endorsement of the Party rank and file. Paving the way to Yeltsin's selection to represent the Russian Republic in the House of Nationalities, one of the two houses of the Supreme Soviet (a legislative body due to sit for eight months per year, considered the inner parliament), was the withdrawal of another member, Aleksei Kazannik, in his favor.[7]

These contrasting examples cited above are the very ones invoked by *The Times* of London which predicted gale winds of change for Marxism. As it is, these winds of change will blow their hardest on the exercise of socialist state power, identified by Ralph Miliband as early as 1970 to be the "Achilles Heel of Marxism". [8] This article seeks to examine the question of the exercise of state power in avowedly socialist societies, the experience and problems associated with the same as best illustrated by the examples above, and the efforts being taken by various regimes towards the resolutions of such questions and problems. It will be necessary to examine the claims of classical Marxism (of its golden age, the 1930s to the 1920s) regarding the socialist state and the exercise of state power. If such examination may help lead to revision of well-entrenched dogma or to new theory, one can only assume a so-be-it stance. For indeed, these June 1989 events invite the winds of change.

What follow are discussions on the difficulties involved in the theoretical specification of socialism, what with contrasting tendencies of idealizing it or apologizing for so-called 'actually existing socialism'. An examination of classical Marxism's discourse on the central problem of human alienation and bondage and how it could be superseded by the socialist project through an eventual unity of state and civil society follows with serious questions being raised whether civil society can indeed be the real political state (with its attendant ramifications) or whether the political state continues to exist during the socialist transition to mediate between fractions of civil society, whether organized as political parties or movements or as popular organizations. What is in question here is the claim that the

state as such will eventually disappear along with politics (understood as the governance of men) to be replaced simply by "administration of things" in communism. Alongside the idea of the eventual withering away of the state is that of the strategic abolition of the social division of labor in communism which is again examined critically in the light of recent assertions that state and social division of labor, especially between manual and mental labor, nurture each other, that the full emancipation of labor from the prevailing social division of labor not only requires a long period of cultural and intellectual development, which in turn must be managed by a body such as the state or any other revolutionary change agent, such as the Party or any other entity; and that the state has non-suppressive, socially necessary functions which could and should be exercised in the period of post-revolutionary socialist construction. The last theoretical section discusses the problems of democratization and citizens' participation in socialist politics focusing attention on the familiar 'free rider' problem endemic in all collective endeavors and how it could be resolved.

The last section of the article deviates from the pattern established in the earlier ones as it is essentially an empirico-theoretical discussion of the practice of 'actually existing socialist societies' in the field of political democratization and promotion of human rights. This section highlights the weight of received ideas (e.g. Stalinist political practice) on the political practice of these societies and the diverse changes being wrought in this area. The final outcome of the change processes going on in various socialist societies is indeterminate and is best an empirical question.

This article does not go into the debate whether indeed these societies are genuinely socialist. Another longer work in progress tackles this complex question in the case of the Soviet Union. Likewise, the relationship between the fact that socialist experiments so far have been carried out in relatively underdeveloped societies of the world and the quality of their politics is another question that is not addressed here. Hints as to the beneficial relationship between horizontal, market relations and democratic politics are made.

Scholars, analysts and partisans of the current century have approached the question of socialism, of 'actually existing socialism' in three ways. One is to *idealize*, to compare societies which claim to be socialist with the specifications in the sacred texts and dismiss them outright as non-socialist considering the distance they exhibit from scriptural attributes. For instance, an 'analyst' treading this path will note with genuine horror the non-congruence of the state in actual post-revolutionary societies and the specifications in Marx's *Class Struggles in France* or even Lenin's *State and Revolution*. A basic problem of this approach is that the scriptures themselves do not say much beyond generic prescriptions and specifications of the future desiderata.

The second path is to *apologize*, to explain away deviations from the textual ideal as the product of the historical experience, of the enormous difficulties, of the uncharted nature of the entire process of building socialism. The partisan would then see nothing fundamentally wrong with 'actually existing socialist societies' and that deviations will eventually disappear as the revolutionary agents (be it the party, state or the working people) get to learn how to better build socialism.

Obviously, the scientific approach is to *analyze* these societies; it may be true that the two earlier approaches were set up as straw men. Nevertheless, it remains the task of social scientists and social revolutionaries alike to subject the matters at hand to rigorous analysis using 'actually existing' socialism as raw material and sacred texts as among several guides available to the serious analyst.

The founders of classical Marxism consistently resisted demands from followers that they specify the details of post-capitalist society. Bengelsdorf (1986) offers several reasons why Marx was reticent to do so. Among them:

... Marx's refusal to "compose the music of the future"[9] is consistent both with his theoretical premises and with his specific political objective. Any discussion of the future had been defined to conflict with the basic premises of his thought, which inherently denied the validity of notions rooted in the minds of individuals, rather than in actual historical circumstances. For Marx, the nature of the transition could be determined only by the

Yet Marxists today already have at least 70 years of 'actually existing socialism'. Can this historical experience be used, and is it adequate to specify what the socialist formation is? It should indeed be used; contemporary Marxists, therefore, should be in a better position than the founding fathers in this theoretical project.

The Yugoslav Marxist social scientist Branko Horvat was quite emphatic that the socialist tradition of openly denouncing any attempt at a design of the socialist society as utopian and anti-scientific (a tradition started by Marx and Engels themselves, refusing to compose the 'music of the future') may have disastrous consequences.

Horvat cites three historical examples to buttress his arguments. In 1891, when the German Social Democratic Party was formulating its Erfurt Program, some of the party members asked that the party program contain a political and institutional transition program. The party's principal theoretician, Kautsky, refused to heed these requests arguing that the time was not yet ripe. Horvat argues that two and half decades later in 1918 when the time was indeed ripe, the German party had no action program whatsoever. In the process, it muddled through the post-war chaos, lost power, antagonized various segments of the working class, and plunged Germany into galloping inflation which doomed the Weimar Republic. The ensuing social and economic instability, massive unemployment, and bitter intramurals between socialists and communists, paved the way for Hitler and his boot-clicking Nazi minions. The history of Austrian socialism was almost identical. The Bolsheviks in 1917 almost had nothing to guide them in building the first workers' paradise on earth except for Lenin's generic *State and Revolution*. The haphazard social and political processes after Lenin's death, according to Horvat, ultimately led to Stalinist 'order'. While he would not argue that a scientifically worked-out action program and institutional design for the morrow of the proletarian revolution would have prevented Nazism and Stalinism, Horvat maintains that the absence of any meaningful long-run program of some detail enormously aided the counter-revolutions and aberrations in the cited cases.[11]

While we may concede at this point that a fuller specification of socialism is extremely necessary at this juncture, especially concerning the question of exercise of state power in a socialist polity, the task of social design is a daunting one. Theoretically, social design may be technically similar to civil engineering and design. However, the former is vastly different as it affects the social values, ends for which people, parties, movements are willing to kill and get killed. It is also different because reality includes the very volatile human consciousness and will. Unlike the design of civil works, the building blocks of social engineering themselves are variable, making the enterprise even more complex and difficult. Furthermore, the proposed new society becomes part of the social reality that is to be transformed as it may animate supporters and enemies alike.

Needless to say, some theories proposing the desired design of socialist societies have been forwarded by Marxists and Communist Parties especially since 1917. However, much of the 'theory' drawn from actual experience has resulted in elevating particular cases into universally applicable models. This brings to mind the appropriate warning of Rosa Luxemburg about the dangers of "freezing into a complete theoretical system" tactics necessitated by "fatal circumstances". [12]

The worst case is offered by Stalin where Marxism-Leninism developed to justify and render positive judgment on actual Soviet practice, and worse, to prescribe the Soviet example as the only correct road to socialism. Thus, scientific socialist theory degenerates into ideology, defined in a negative or pejorative sense, as illusion or false consciousness.

Yet, as one writer recently reminds us: "These tensions on the terrain of the Marxist tradition are real.... Marxism as science vs. Marxism as critique; economism vs. voluntarism; reductionism vs. 'culturism' (for want of a better term); leadership vs. mass action. *The great strength of the Marxist tradition is that, at its best, it forces Marxists to live self-consciously on the knife-edge of these contradictions, to conceive reality not in items of 'either-or' but dialectically. Unfortunately, this is far more easily said than done....*" [13]

In the realm of theory, dogmatism and revisionism are strange bedfellows in the Marxist tradition. In keeping with its thoroughgoing materialism and dialectical outlook, the practitioners of Marxism should be the last to hesitate discarding obsolete theory. In this sense, 'revisionism' is endemic to the tradition which recognizes that material reality is in a state of flux and that theory must but reflect such change. On the other hand, Marxism is seen by its disciples as a scientific and internally consistent theory, the components of which can not be discarded casually to give way to new ones at the risk of becoming an eclectic catch-all caught in the web of internal contradictions. The 'dogmatists' or 'keepers of the faith' would rather keep tried and tested formularies (for instance, the state is the executive of the ruling class) rather than embrace heartily untested new ones. Likewise, they are suspicious of formulations which run counter to the so-called 'kernel' of Marxist thought—the irreducible and permanent Marxist concepts and constructs— which simultaneously proclaim fidelity to the tradition.

Alienation and social formations

At the core of Marx's specifications of post-capitalist society is the problem of human alienation and how it could be supplanted or, to use the language of the time, superseded.

Marx recognized that the principle *bellum omnium contra omnes* or war of all against all, (from Hobbes) in bourgeois society splits man into a public citizen and a private individual and separates man from himself, and from other men. Thus, the split between civil society and political society is completed in the bourgeois social formation. Redressing this split is one of the fundamental objects of the socialist transition, as seen by classical Marxism. The problem remains if indeed this divide could be healed by the socialist project.

Meszaros [14] identifies four aspects of Marx's notion of alienation: 1) man is alienated from nature; 2) he is alienated from himself (from his own activity); 3) from his species-being (from his being as a member of the human species or the man- mankind antimony); and 4) man is alienated from man (from other men, that is).

Marx clearly realized that the practical supercession of alienation is inconceivable in terms of politics alone, in view of the fact that politics is only a partial aspect of the totality of social processes, no matter how centrally important it may be in specific historical circumstances.[15] In this sense, human emancipation is not only political emancipation but freedom from everything that enslaves him, from all that alienates himself from his true self, from his fellow men, and from the world which is his natural abode, workplace and laboratory.

In Marx's *The Jewish Question*, Colletti (1975) finds the contrast between 'political society' as a spiritual and heavenly community and 'civil society' as society fragmented into private interests competing against each other. The moment of unity or community has to be abstract (the state) because in the real, fragmented society, a common or general interest can only arise by dissociation from all the contending private interests. But on the other hand, since the resultant general interest is formal in nature and obtained by abstracting from reality, the basis and content of such a 'political society' inevitably remains civil society, with all its economic divisions. Beneath the abstract society (the state), real estrangement and unsociability persist.[16]

Marx's thesis is that which sees the modern (bourgeois) state, the political state as a hypostasized abstraction, an abstraction in reality, a real abstraction. The political state, the 'state as such' is a modern product because the whole phenomenon of the detachment of state from society (of politics from economics, of public from private) is itself modern, i.e., bourgeois.

In ancient Greece, the state and the community were identified within the polis: there was substantial unity between people and state. The 'common interest', 'public affairs', etc., coincided with the content of the citizens' real lives, and the citizens participated directly in the city's decisions ('direct democracy'). There was no separation of public from private. Indeed, the individual was so integrated into the community that the concept of 'freedom' in the modern sense (the freedom of private individualism) was quite unknown. The in-

dividual was 'free' only to the extent to which he was a member of a free community.

In medieval times, there was if possible even less separation of state from society, of political from economic life. The medieval spirit could be expressed, as Marx says, as one 'where the classes of civil society were identical with the Estates in the political sense, because civil society was political society; because the organic principle of civil society was the principle of the state! ("Critique of Hegel's Doctrine of the State", EW, 137) Politics adhered so closely to the economic structure that socio-economic distinctions (serf and lord) were also political distinctions (subject and sovereign). In the Middle Ages, principality or sovereignty functioned as a particular estate which enjoyed certain privileges but was equally impeded by the privileges of other Estates. ("Hegel's Doctrine", EW, 138) It was impossible therefore that there should be a separate sphere of 'public rights' at that time.

The modern situation is utterly different. In modern 'civil society' the individuals appear as liberated from all social ties. He is integrated neither into a citizen community, as in ancient times, nor into a particular corporate community (for example, a trade guild as during the medieval ages). In civil society—which for Hegel as for Adam Smith and Ricardo was a 'market society' of producers—individuals are divided from and are independent of each other. Under such conditions, just as each person is independent of all others, so does the real nexus of mutual dependence (the bond of social unity) become in turn independent of all individuals. This common interest, or 'universal' interest renders itself independent of all the interested parties and assumes a separate existence; and such social unity established in separation from its members is precisely, the hypostasized modern state.

The movement from unity of the state and civil society, nay, from non-distinction between state and community, to that of divorce is the movement from ancient social formations to bourgeois modern state and society. The non-separation of the political from the economic in pre-bourgeois societies is reflected in their non-separation in thought—in philosophy and social theory—from the Greeks to the medieval Scholastics led by St.

Thomas Aquinas. The alienation of the state from the civil community, itself a historical process, was likewise reflected in the process of the development of political economy, of economics, as a distinct theoretical system.

The practical problem, in fact, the alternative that representation of the people has to be done through 'agents' or deputies or else 'all as individuals' would have to participate in the decision of all public affairs-- is a problem addressed by Hegel in his *Philosophy of Right*.

Marx objects that the choice is a false one; the problem is likewise false. What he suggests is that either:

1) there is a separation of state from civil society, and so a division between governors and governed (deputies and electors, parliament and the body of society) which represents the culmination of the class division within civil society;

2) OR ELSE, the separation does not exist because society is an organism of solidarity and homogeneous interests, and the distinct 'political' sphere of the 'general interest' vanishes with the division between governors and governed. This means that politics becomes the administration of things, or simply another branch of social production.

And it would no longer be true that 'all individuals as single individuals' would have to participate in all of this activity; rather some individuals would, as expressions of and on behalf of the social totality, just as happens with other productive activities which are socially necessary.

That is, if civil society is the real political state, it would be senseless to insist on a requirement which stems from the conception of the political state as something existing apart from civil society. (*Critique of Hegel's Doctrine of the State, EW, 189*)

Colletti argues that Lenin and Engels "tended noticeably to attribute [such] characteristics to the state in general". What characteristics? The characteristics of the modern bourgeois state; of its being detached from civil society such that it can exist over and above society, as a kind of external body dominating it.

He complains: "They fail to grasp fully the complex mechanism whereby the state is really abstracted from society--and hence the whole organic, objective process which produces their separation from one another. Because of this, they do not perceive the intimate connection between such separation and the particular structures of modern society. The most obvious consequence of their confusion is their marked subjectivism and voluntarism, based on their conception of the state as a 'machine' knowingly, consciously formed by the ruling class in deliberate pursuit of its own interest. [17]

Writing in 1970, Ralph Miliband considered the Marxist desiderata of the ultimate disappearance of the state (or at least, the post-revolutionary emasculation of the state as such, i.e., the armed dictatorship of a minority over a disenfranchised and enslaved majority as envisioned by Lenin in his *State and Revolution*), of the political as amounting to unmediated class rule, a notion he characterized as much more associated with anarchism than with Marxism. [18]

The English political scientist was reacting to the Leninist prescription for the post-revolutionary dictatorship of the proletariat, the transition political form prior to stateless communism. Foremost among Miliband's concerns is that of the political mediation of the revolutionary power. He argued that the dictatorship of the proletariat is obviously inconceivable without some degree of political articulation and leadership, which in turn implies political organization. [19] This means that while the nature of the post-revolutionary state may have been transformed, it is not about ready to wither away for the duration of the socialist transition.

The problem of political mediation becomes even more acute in the case of one-party states where the tendency for state and party to be one is greatest. In this case, the party has the tendency to be an apologist for the ruling regime and will prove to be incapable of a thoroughgoing critique of society. Furthermore, it is quite clear that unless alternative channels of expression and political expression are provided, all talk about socialist democracy is empty, hot air. But as it is, single party rule excludes by definition the provision

of such alternatives. The real problem is, while single party rule postulates a unified social or class will in existence, this is not axiomatically so. Political mediation is in fact necessary to forge a single popular will in given post-revolutionary polity--which



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one would reasonably expect to be cacophonously noisy and plural given that previously marginalized sectors of society are now empowered and politically enfranchised.

Writing thirteen years later, Miliband dwells on the same themes and further prescribes that the relationship between the working classes and the state in a socialist society should not be one where class power is manifested through the agency of the state. He sees a necessary co-existence of class and state power: the achievement of real power by organs of popular representation in all spheres of public life, from the factory to local government and the strengthening of popular control over the state system; and the continued existence of a state, the only entity capable of acting as a mediator between the 'fractions' of a reinvigorated civil society. In conclusion, Miliband correctly notes that this post-revolutionary state shoulders much of the responsibility of safeguarding the personal, civic and political freedoms that are prerequisites of socialist citizenship.[20] Subject to democratic controls, therefore, the socialist state is an essential component of class and popular power in post-revolutionary societies rather than its antithesis. The general contours of democratic control over state agencies are more or less specified by the experience in the West. The specificities of democratization in individual 'actually existing' socialist societies will be the product of their actual experiences.

The developments in the Soviet Union and Eastern Europe merit serious attention.

The state and the social division of labor

Central to the classical Marxist notion of the supersession of the state-civil society divide is that of the

strategic abolition or disappearance of the social division of labor. In this case, the structural distinction between mental and manual labor, between industry and agriculture, between town and country, and between nations will be abolished by the progress of technology, the expansion of productive capacity, and the full flowering of socialist consciousness and conduct. To be sure, classical Marxism is silent about the abolition of sexual division of labor though it is assumed that women will be equally liberated in the communist nirvana.

According to Meszaros [21], Marx stressed that the social soil that corresponds to the 'superstructure of a centralized state power' is the 'systematic and hierarchic division of labor', thereby indicating the strongest possible determination and mutual support between the two.

The objective and subjective requirements of a socialist transformation--the full emancipation of labor--stipulate a political form (e.g., the proletarian state) under which the advocated transition from the old to the new society should be accomplished, while this transitional state itself is called upon to act simultaneously as both master and servant of the long-drawn-out process of human emancipation. Such a state is said to have no intent of its own to defend, despite its unquestionably strategic function in the division of labor whose continuation is unavoidable (even if progressively

diminishing) for the whole period of radical social restructuring. There seems to be no contradiction in asking the new political form to work out the economic emancipation of labor, since the working class is said to be in complete control of the political process in a social framework in which the interests of those who directly control the transitional state machinery and that of society as a whole fully coincide.

To be sure, Marx would reasonably be well aware of the fact that the changes required for superseding the inherited division of labor can only result from a highly complex historical process of transformation. Indeed, he insists that the working class "will have to pass through long struggles, through a series of historic processes, transforming circumstances and men".[22]

Yet, as Meszaros complains, he has to resort to equivocation in order to reconcile the contradiction between the fact that the task of "transforming circumstances and men" is far from accomplished, and the assumption that the communist consciousness of the working class is already given. He turns some vital historical imperatives (whose realization depends upon the full articulation of "communist consciousness" on a mass scale) into the affirmatives of already developed and effectively self-asserting social forces through statements which begin with: "The working class knows...."[23]

Meszaros also complains of another of Marx's equivocations on the matter of the state. In praising the fact that under the Paris Commune, "the state functions [were] reduced to a few functions for general national purposes"; there is no hint that an extreme state of emergency (as the Commune of necessity had to be) cannot be the model for the future development of the proletarian state and of its complex internal and international functions under normal circumstances. If the working class has the historic mission to work out through the 'new political form' [the transitional post-revolutionary state] the full emancipation of labor, and thus the emancipation of society as a whole from the social tyranny of the inherited division of labor, how could a task of such magnitude, intricacy, and long-time scale be carried out on the basis of the reduction of the state functions to a simplified ab-

solute minimum when, at the same time, one has to achieve also that "harmonious national and international coordination of production and distribution" obviously representing a problem of the highest complexity--of which Marx spoke? He observes correctly that: "In reality the state can only be laboriously 'dismantled' (in the process of the political 'de-alienation' and 'communalization' of society) to the extent to which the inherited division of labor itself is correspondingly changed, and thus the social metabolism as a whole is effectively restructured". [24]

Together with Milliband and other observers, he likewise scores the Marxian perspective for underestimating the fragmentation of the working class. But, Marx himself points out in *The German Ideology* that: Labour itself can only exist on the premise of this fragmentation. This underestimation is at the base of perspectives attributing communist consciousness to a 'universal' proletarian class. One must also face, as Meszaros puts it, the fragmentation within labor itself as a major problem for the proletariat both before and after the conquest of political power.

Meszaros thus points out correctly that since the inherited division of labor is not and cannot immediately be superseded, the state has a key role to play throughout the transition period to communism. The problem at hand therefore is to specify what that role is and what problems and contradictions are engendered by such a role.

Draper (1977) offers support to the above position. He first asserts that the state is not a 'class plot' or not solely an instrument of one class to suppress other classes. Working against vulgarizations of this stripe, Draper reminds us of Engels' earlier discussion that some functions of the state are functions carried out previously by a 'proto-political authority'[25] in the early historical period when and where the human communities were stateless.

The functions of the 'proto-political authority' are functions on behalf of and beneficial as well as necessary for the entire community. Aside from class suppression, the state takes on these here to fore class-neutral functions of the 'proto-political authority' that

preceded it. In this sense, the state has non-class tasks. But, as Draper cautions us: "...it carries them out inevitably in class-distorted ways, for class ends, with class consequences".[26]

Following the same line of thought, we can posit the proposition that the post-capitalist state likewise has non-class suppression functions to perform; and which precisely explains why it has to be there apart from its dictatorial task of suppressing capital and all other sources of reaction.

To use the language of several observers (Milliband, Bengelsdorf, etc.), the post-revolutionary state must not only rule, but must likewise govern. Or to use Maoist language, the state must not only handle antagonistic contradictions between the people and the class enemy but also the non-antagonistic contradictions among the people.

This again re-introduces the problem of political mediation in the post-revolutionary society alluded to earlier. Bengelsdorf sees and complains of an inadequacy in classical Marxism--the tendency to reduce all contradictions to the category of class, e.g. class reductionism, such that:

...if the political arena is defined as the stage upon which one class enforces its will upon another, then the end of class domination effectively means the end of politics. The beginning of 'real history' was to be marked by the reabsorption of political society by civil society. Therefore, questions of political society--of the form and nature of political institutions--are almost by definition no longer relevant. [27]

Rattansi (1982)[28] offers another tack when he argues that Marx, in his mature works (e.g. *Capital*) abandons the 'romantic' notion of the eventual abolition of the social division of labor, which he also saw as a prerequisite for the full realization of socialism. Marx was able to do this by decoupling the notion of 'social division of labor' and 'class' implying that while an 'old' social division of labor based on class disappears with the abolition of classes, a newer one will obtain which will not be class-based. To be sure, there was no insinuation in classical Marxist theory that occupational specialization will disappear in socialism. The Marxist line about the socialist citizen fishing in the morning, hunting in the afternoon, conducting an orchestra in the eve-

ning, and critiquing a poem before bedtime without meaning to be an angler, hunter, conductor or literary critic should be seen as an assertion of liberated man's potential. What is quite important is that socialism affords citizens the opportunity and training to be able to do these diverse activities in their 'realm of freedom'--their free time when they are unencumbered by the business of making a living.

The new social division of labor will be based on natural and environmental factors, differences in individuals' interests and aptitudes, and the like. In this sense, the distinction between town and country may not be entirely erased though it will be necessary to put some 'country' into the town basically for environmental concerns and some 'town' into the country to rid it of superstition and ignorance. This last point is even true for the poorer sections of the town populated by recent arrivals from the country.

For a long transition period during which the working class struggles to raise its intellectual and cultural level, the distinction between manual and mental labor may persist and will be the basis of relatively wide pay differentials. The Leninist prescription (which Lenin got from Marx's discussion of the Paris Commune's political practice) that government officials and administrators be paid salaries equivalent to the ordinary working man's wages is clearly utopian. Roemer (1982)[29] is the latest observer who notes that wage differentials in a society where there are marked differences in the training and expertise of working people are socially necessary. If the head of the State Planning Commission, who spent several years in the university and government service to build up his expertise, is just going to be paid ordinary worker's wages, why will he ever bother to learn and excel except under compulsion? And we all know that people do not give their best when they are told to do so against their will.

On the other hand, it is quite clear that these differentials should not be too wide so as to induce strong feeling of social jealousy and disrupt the fabric of social unity. The practice of existing socialist countries to enlarge the 'social wage' component of ordinary citizens' incomes (as in publicly provided schools, health care, parks and cultural facilities) is a step in the right direction.

The biological distinction between sexes cannot be superseded though socialist societies may devise new arrangements for (births?) rearing of children and household chores so that these are not primarily the responsibility of females.

The persistence of a social division of labor, albeit of a new type not based on class, suggests that the market and exchange relations will likewise play a continuing role in the post-revolutionary society. A social division of labor presupposes exchange; if a social division of labor is deemed existent and socially necessary in socialism, then exchange is similarly needed. The chaotic experience of the Soviets' 'War Communism' when the Bolsheviks abolished money and the peculiar irrationalities of absolute and punitive central planning (as in the tendency of the manager to understate plant capacity so that he will receive an 'easy' plan and the system's inherent hostility to innovation as it disrupts production and threatens plan fulfillment, among others) also indicate the continued necessity of market relations.

Selucky (1975)[30] argues that in fact exchange relations have a beneficial relationship with socialist democracy. In his essay on self-management, he submits that:

...rejection of the market is, by definition, incompatible with the concept of a self-managing socialist economic system. If the market is abolished, horizontal relationships (i.e. exchange) among economic units also disappears. If the market is abolished, the information coming from the consumers is either fully cut off or at least quite irrelevant for producers. Then, the central plan is the only source supplying producers with relevant information. If this is the case, the structure of the economic system must be based on the prevailing vertical type of relationship (i.e. subordination and superiority) with decision-making centralized in the planning board, without any outside control of central decisions.... Since any workable model of self-management or workers' participation requires decentralization of microeconomic decisions, an indicative rather than a command central plan... control of macro-decision-making from the bottom and real autonomy of enterprises and self-managing bodies, it is quite clear that any concept of the self-managing socialist economy would require a revision of the Marxist rejection of the market socialist economy.

While Selucky may have overstated his case (as the market is not the only avenue for democratization and accountability), it is quite

clear that the enlargement of genuine popular control over economic decisions is impossible without some form of market, even if this was secondary and subject to an over-all central economic plan. In the realm of politics, the parallel of the market is pluralism where fractions of civil society debate on how and why a particular path to socialism is best under existing circumstances, both domestic and international. The function of the socialist state, as prescribed earlier, is to mediate and help unify the people around a socialist programme.

Problems of democratization and citizens' participation

On the relation between the post-revolutionary state and society, Draper observed that: "Indeed in a general way, Marx's socialism as a political program may be most quickly defined, from the Marxist standpoint, as the *complete democratization* of society, not merely of political forms." [31]

The complete democratization of society requires a politically active citizenry, either in its totality and amongst its individual members. How about Elster's 'prisoner's dilemma' counterpart for the ordinary citizen of a post-revolutionary society? How does he avoid the costs of acting alone without the rest of the working class or larger society not doing so and suffer the risk of such 'aloneness' and unilateralism? At the same time, how does he avoid the costs of not acting at all to help revolutionize society? The same dilemma confronts all members and 'fractions' of post-revolutionary civil society.

It is the familiar 'free rider' problem endemic in all collective activities-- the problem of motivating individuals to contribute to the 'public good' that benefits everyone regardless of his actual contribution such that even opponents of the effort could benefit from its success. Elster himself describes the dilemma of the socialist citizen as follows: "Clearly, whatever anyone else does, it is my interest to abstain. If all others engage in collective action, I can get the free rider benefit by abstaining, and if everyone else abstains I can avoid the loss from unilateralism by abstaining too. Since the reasoning applies to each... all will decide to abstain and no collective action will be forthcoming" [32]-- to the detriment of the socialist project.

The literature on collective action suggests several ways by which the free rider problem is 'solved': individuals may be moved through incentives (moral or material, it does not really matter) and/or sanctions; they may act according to habit or to established routine; or they may change their perception of what is desirable not only for themselves but for their immediate community in order to result in socially desirable behavior.[33]

To be sure, the Benthamite view that man is a creature capable only of self-love and moved only by a pain-pleasure calculus is one which could not be accepted by even Adam Smith himself. That is to say, man is capable of acts not entirely motivated by egoistic ends but are of selfless, socially emphatic nature. The empirical problem may be to investigate the circumstances, material or otherwise, which could precisely induce such behavior-- that which is most desirable and necessary in socialist societies.

Elster suggests that 'conditional altruism' on the part of socialist citizens can surmount the 'free rider' dilemma. Again, the idea behind 'conditional altruism' is simple and quite similar to the logic of the problem it seeks to solve. People do not want to be suckers; but they would prefer cooperation over free-riding. Thus, they will contribute to the public good if they are assured that others will also do so.

What conditions or circumstances can enhance 'conditional altruism'? For one, Elster argues that leaders may play a particularly important and necessary role in this regard:

Obviously, leaders are always necessary, regardless of the motivation of individuals to coordinate collective action. If the motivations are also such that individuals must be assured of each other before they act, leadership takes on the additional function of providing such assurance. If one individual knows and is trusted by one hundred people, he can create the information conditions by two hundred transactions-- first asking each of them about their willingness to join the collective action and then telling each about the willingness of everyone else. By contrast, bilateral communications between the hundred will require about five thousand acts of communication. The information gains from leadership can be quite substantial.[34]

Levine, Sober and Wright correctly point that what Elster says about leaders (above) as individual persons would also apply to or-

ganizations of all sorts such as political parties and movements, neighborhood associations and state agencies.[35] In the socialist transition, the beneficial role of such political entities and independent organizations of civil society can likewise be tapped to promote socially beneficial behavior of citizens. As it is, even the most altruistic citizens of the future socialist polity will still need coordination of social action which state and non-state political agents can provide. They would still require some rules for guidance which are not only of mere administrative (that is, the administration of things and not the governance of men) nature. One can reasonably expect that anti-social and deviant behavior will not disappear altogether in a socialist society even up to the morrow of the communist paradise. If one accepts this, then he must likewise accept the need for laws which are not only regulative but also punitive. Consequently, he must likewise accept the continued necessity of a state, the only agency which can enforce rules of this sort.

How about this problem: Should a government permit activities, even such as are sanctified by democratic rights, which may result in its own overthrow? Draper reports that Marx's and Engel's answer would be: If the exercise of the people's rights endangers the government then so much the worse for the government.[36] Will the people populating that government take such a laid-back attitude? The recent Chinese experience suggests otherwise.

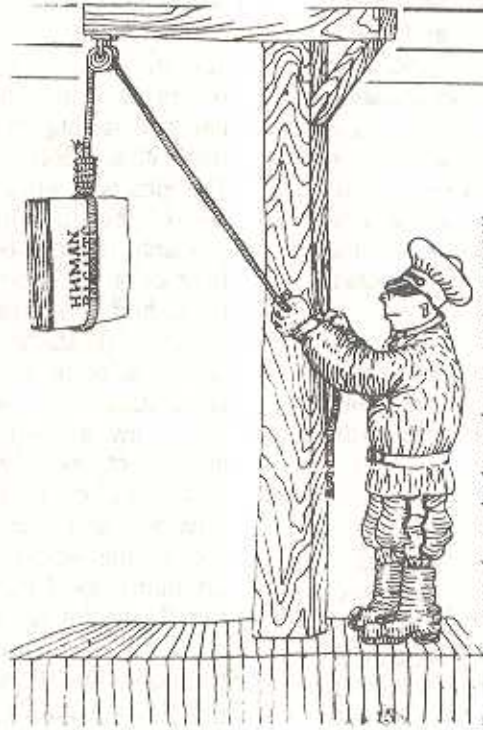
Socialism and human rights

Let us turn our attention to the actual experience of avowedly socialist countries on such questions as democratization and the exercise of and control of state power. For purposes of focus, let us examine the socialist record on human rights. One may immediately say that the record is dismal considering that free elections are a rarity in these societies. But democracy and human rights are not only confined to suffrage; people would equally care that they be free from arbitrary arrest or persecution and be safe in their homes as they would with the right to choose or unchoose their leaders every four or five years.

The area of human rights is likewise an appropriate one for investigation since

socialism as espoused by Marx and Engels promised the full liberation and realization of every human being's potential and the thoroughgoing democratization of every aspect of social life on the basis of the principle: "The free development of each is the condition for the free development of all" found in the 1848 Communist Manifesto.

Actual experiments at socialism since the 1917 Bolshevik Revolution have failed miserably in this department with the worst exemplified by the Stalinist terror. It is quite true, however, that prevailing conditions in socialist Europe are a vast improvement compared to Stalin's time when 'socialist legality' was largely a myth. Yet, improvement in their record of the protection and promotion of socialist citizens' civil and political rights remains to be done. This appears to be the agenda of Mikhail Gorbachev's *glasnost* and *perestroika*.



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Socialist Conception of Human Rights

It would greatly help us understand the socialist record in the protection and promotion of human rights if we are acquainted with their basic conceptions of human rights. Such an examination will reveal striking differences with the Western conception of human rights and would help explain differences in treatment and behavior. Needless to say, we must caution ourselves, as the Polish professor, Roman Wieruszewski does, that it is better to speak of the conception realized in different socialist countries than about one coherent socialist concept of human rights. [37]

Nevertheless, one can still speak of common fundamental principles underlying the socialist concept of human rights of different socialist states. Needless to say, these fundamentals have their roots in Marxism. In addition, we must add that much of these views

were shaped in the context of bitter confrontation with the West during the post-war period.

Kartashkin (1982) notes that while the socialist concept of human rights does not reject the idea of inalienable natural human and citizen's rights, Marxism deduces human rights not from the nature of man but from the position of an individual in society and, above all, in the process of public production. It proceeds from the premise that social opportunities and rights are not inherent in the nature of man and do not constitute some sort of natural attributes. Rights and freedoms in any state are materially stipulated and depend on socio-economic, political and other conditions of the development of society, its achievements and progress. [38]

As such, the state cannot guarantee the realization of rights whose real ensurance is not prepared by the course of the economic development of a given society. Human rights accordingly mature deep inside the socio-economic structure of the state and are a product of its development. Their fundamental source is the material conditions of society's life. It goes without saying that the state may proclaim any rights and freedoms but it cannot implement them unless appropriate material prerequisites exist. Some socialist theorists would insist that a state which proclaims certain rights and freedoms even with the knowledge that the material conditions obtaining are insufficiently developed to ensure their implementation is engaging in a sham.

Consequently, the socialist theory of state and law recognizes that all citizens' rights are subjective, that is, personal and inalienable rights guaranteed by the conditions of social life.

Wieruszewski (1988) echoes the same idea when he notes that the fundamental socialist thesis stipulates that the fulfillment of the happiness of an individual is made possible by

guaranteeing happiness to the whole society. This conception of human rights was defined as a *collective* one as distinguished from the liberal Western conception of human rights, an *individualistic* one. The socialist conception stresses the principle of the interdependence of civil rights and duties and the importance of economic and social rights.

In practice, the socialist states actually put greater importance to economic and social rights than to the traditional civil liberties. For example, Article 40 of the 1977 USSR Constitution accords Soviet citizens the right to work, a right provided for by the Universal Declaration of Human Rights (Art. 23) and the International Covenant on Economic, Social and Cultural Rights (Art. 6). The charters of the other socialist states would invariably contain this same provision.

The rub is a de-emphasis or even derogation of the traditional civil liberties. The Soviet philosopher Leonid Ionin aptly summed up the thinking:

Freedom of speech? What on earth for? There can be no discontented as the state takes care of everyone. Hence, don't interfere. Either say nothing or praise us (i.e., the state) while we build cloudless happiness for you. The state takes care of its citizens as a doting father cares for his beloved children, demanding, however, in reply implicit obedience and tolerating no expression of will. [39]

The chief of the socialist legality department of the USSR Academy of Sciences' State and Law Institute, Professor Valery Savitsky offered two Soviet examples of according low priority to traditional personal liberties and rights. In 1961, the Soviet Union passed and promulgated the Fundamentals of Civil Legislation, a national law. It provided for the adoption of a special law entitling anyone to material compensation for illegal imprisonment, conviction or deprivation. [40] This special law was adopted only after twenty years in 1981. Another example is offered by the provisions of the 1977 USSR Constitution. Savitsky's institute drew up a programme to bring laws in force in conformity with the new charter. First on the list was the law on the procedure of appealing in court against actions by officials that contravene the law and infringe upon the citizens' rights. This law was adopted only ten years later in 1987 and had to have the intercession of Gorbachev who

told the 27th CPSU Party Congress to do so as soon as possible. In contrast, all the other laws named in the 1977 charter were adopted within two to four years. [41]

International Protection of Human Rights

Another dimension of the socialist 'neglect' of civil and political rights concerns the question of 'international protection' of these same rights. Observers have noted that in the West after the post-war period, a belief that governments ought to be accountable and subject to international supervision for the way they treat their citizens began to be shared increasingly. The idea was while state sovereignty will still be respected and governments are still primarily responsible for the protection and promotion of their respective constituents' rights and freedoms, such sovereignty would no longer be absolute and the actions of states would, at some point, be subject to international supervision, scrutiny and accountability. This new aspect, labelled 'international implementation', was accordingly given an integral position in the global strategy for the advance of human rights protection. Concretely, this would mean that a state party to an international human rights treaty such as the Covenant on Civil and Political Rights agrees to the promotion of domestic change through international action. That means further that if a state's practice is found deficient of the treaty standard by an appropriate international body (e.g., the UN Human Rights Committee), it must reform its practice in conformity with its treaty obligations. [42]

Again, though signatories to international human rights treaties, the socialist states differed on this account. Nowak (1988) appropriately sums up the socialist attitude on the matter:

...that international measures of a judicial or quasi-judicial protection of human rights— in contrast with mere measures for this promotion, such as the so-called advisory services— as inadmissible interference with domestic affairs. For this, it (the socialist doctrine of international law— ammj) bases itself above all on the domestic jurisdiction clause of the UN Charter (Art. 2(7)— ammj). According to this conception, the violation of human rights constitutes an international affair only when it is practiced in a systematic and wholesale manner and tends to endanger universal peace and international security. Only in this case— apartheid, for instance— should the community of states be permitted to intervene with binding sanction and other measures

recognized in the UN Charter in the interest of human rights.

The socialist states represent as much as ever the conception that the implementation of human rights treaties which are binding according to international law is a domestic affair.[43]

Kartashkin (1982) reiterates these views in an even stronger manner and speaks of international protection of human rights with reference to the universal struggle against aggression, fascism, colonialism, genocide, apartheid, radicalism, and other gross and mass violations of fundamental human rights and freedoms. He particularly calls attention to an entire category of crimes defined as 'international crimes' by the Charter of the International War Tribunal in Nuremberg (Art. 6) which merits international supervision: crimes against peace, war crimes, and crimes against humanity.

Jhabvala (1985) traces the development of the Soviet bloc's view of the implementation of international human rights accords and sees a consistent resistance to the notion of 'international accountability' under the rubric 'inadmissible interference in internal State affairs' since the early years of the United Nations.

At a certain point in time, the Soviet bloc had argued that there are different interpretations of human rights depending upon the socio-political system concerned. According to this view, human rights could only be viewed in the context of a particular social system and that countries with divergent social systems inevitably would implement human rights differently. This argument, if accepted, would bar the UN Human Rights Committee from questioning the domestic practice of state parties. In addition, the HRC is believed to be unauthorized to go beyond the formulation of general comments addressed to all state parties. In particular, the HRC could not address its comments to individual states.[44]

In 1975, the Soviet Union and her allies entered into an agreement with the United States and other Western European states at the Helsinki Conference on Security and Cooperation in Europe (CSCE). The said agreement became known as the Helsinki Agreement or Act and involved some 35 state

parties. The agreement was actually a peace treaty between the Western and the Eastern blocs and had the ultimate effect of recognizing the post-World War II European state boundaries and thus conferred legitimacy to the East European states' existence. Prior to the Helsinki accord, the East European states were not recognized by the West as full-pledged states with equal rights within the world community. They were rather seen as the illegitimate creations of Soviet 'expansionism', 'subversion', and 'evil designs'. Recapturing them therefore for the West's side was seen as a legitimate Western objective and activity-- an ideology which animated most if not all of the 'free world' participants of the Cold War. The Soviet Union and her allies responded in kind to a hostility premised on ensuring the socialist states' negation denouncing the West as 'imperialist' and a 'war-monger'; the post 1945-conflict is thus joined. And the contest spilled over to the rest of the world making it a global one.

The Cold War was fought both with force and without force (but rather the threat to use of force). Actual combat was avoided between the main parties of the opposing alliances; however, proxy wars were fought involving peripheral partners. In the odd 30-year 1945-1975 period, the West made skillful use and exploited to the hilt the Stalinist aberration in the propaganda war against the Soviet bloc, putting the latter on a defensive in the field of human rights. In this atmosphere, it would be perfectly understandable why the Soviet bloc developed the various arguments mentioned above to deter international supervision and scrutiny of its human rights record.

While the Helsinki Act was essentially a peace pact which sought to normalize relations between West and East, the accord also featured the so-called 'third basket' provisions which pertained to human rights. Aside from upholding the freedom of all peoples to self-determination and the principle of non-interference in state parties' internal affairs, it drew the state signatories to cooperate in humanitarian and other fields including human contacts [45] between citizens of states belonging to the two blocs, and information.[46]

Implementation of the accord's 'third basket' provisions proved to be very conten-

tious with the Soviets resenting Western linkage of human rights and other matters as in trade and technology transfer and the West going to town with propaganda blasts against the Soviet Union and its allies on the question of Jewish migrants to Israel and dissidents, best exemplified by Alexander Solzhenitsyn. Detente, ushered in by the Helsinki process, came to an end in 1979 when the Soviet Union intervened in Afghanistan on behalf of a friendly regime.

Western assessment of the Soviet implementation of the Helsinki Act, especially its 'third basket' provisions-- is that of a 'paper' implementation. The Soviet Union and her allies were periodically criticized (and rightly so) for suppressing dissidents who tried to get their governments live up to their Helsinki vows-- which includes guaranteeing the freedoms to travel, emigrate, practice religion, and spread and receive information.

The Impact of Glasnost and Perestroika

The Soviet leadership of Mikhail Gorbachev which assumed power in 1985 stood on a commitment to perestroika (restructuring and reform) and glasnost (openness). At the 19th CPSU National Conference held June-July last year, he reaffirmed the new Soviet commitment to the democratization of Soviet society and protection of human rights. His report to the party conference reveals certain changes in the Soviet conception of human rights as well as retains some elements of the older conception as he declared:

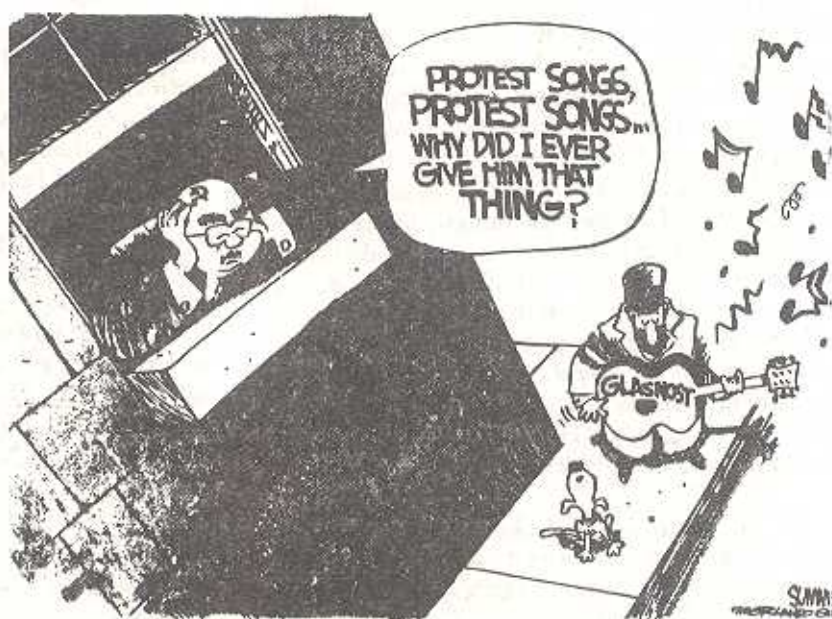
The ultimate goal of the reform in the political system and the main yardstick of how effectively we manage to carry it out are the all-round enrichment of human rights and people's greater social activity. This is central to the theory and practice of socialism....*

Human rights in our society are not a gift from the state or a boon from someone. They are an inalienable characteristic of socialism, its achievement. The individual and society, the citizen and state, a person and the collec-

tive are all different aspects of one and the same problem. How it is solved reflects the nature of a political system and goes a long way towards shaping the results of the peoples' activities and the entire mode of social life. The socialist solution of this problem consists in closely integrating the collectivist and the personal principle. Our philosophy in this key aspect of the organization of society follows from the famous formula in the Manifesto of the Communist Party: 'The free development of each is the condition for the free development of all.' It is important for us to understand, comrades, that it is a person's standing in society, the rights conferred upon him and his duties that ultimately determine his activity in society, at work, and in political affairs. Moreover, we must not just understand this, but act in this direction in carrying out the economic reform and the reform of the political system....

The problem of human rights also has an important international aspect. We are deeply convinced of the correctness of our socialist choice and, while eliminating all distortions and deformations, firmly intend to enrich the rights of the individual on a precisely socialist footing by acting within a framework and by methods that are in keeping with the nature of our system. But in contemporary conditions, human rights, and, above all, the right to life, become the concern of the entire world community; they are internationalized, like many other aspects of social life.

We are prepared to cooperate actively with all other countries, to compare notes and scrupulously honor our commitments. [47]



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The same party conference supported the concept of a state governed by law. The creation of the legal socialist state is to crown the reform of the Soviet political system after years of the Stalinist deformation and Breshnevian stagnation. The ideal is the establishment of, in the words of Professor Savitsky of the USSR Academy of Sciences' State and Law Institute socialist legality department, a "socialist legal state... which makes laws, bases itself on laws and is governed by laws of its own making".[48]

Elsewhere in the Soviet bloc, important strides in the field of human rights are being made in Hungary. Under new rules adopted last year, Hungarian citizens can travel freely all over the world except, ironically, the Soviet Union. Early this year, the Hungarian National Assembly adopted for the first time in the country's history, laws on the right of free assembly and the right of free association.[49] By this time, Hungary already had some 7000 associations which did not enjoy legal status; in that case, law just caught up with life. Under the new legislation, the Hungarian associations can engage in any activity that are not contrary to the constitution and the laws, the only restrictions applying to the creation of armed units and entrepreneurial associations.[50]

Very recently, the Hungarian Communist Party and opposition groups announced plans to hold elections for a new parliament similar to the Polish experience.[51]

What Remains to be Done

Despite the progress made, much remains to be done. An interview with Vladimir Terebilov, chairman of the USSR Supreme Court, reveals several other areas of concern and reform:[52]

a) The principle "assumption of innocence until proven guilty", previously derided as a bourgeois notion, must be strictly observed in the Soviet Union.[53]

b) A law must be passed regarding attempts to pressure judges in deciding cases. Towards this end, Prof. Savitsky proposed that judges, which are currently nominated by the Soviets (local councils) for a definite term, must be

appointed by appropriate bodies for life subject to specific provisions for their removal or dismissal.[54]

c) The accused must have access to his lawyers during preliminary investigation from the moment he is charged. The current practice is for him to get to his lawyer only after the investigation has been completed, affording opportunities for abuse on the part of investigating and prosecuting authorities. This suggestion is likewise shared by Savitsky.

A related matter is the question of increasing the number of lawyers and legal professionals in the Soviet Union. According to Terebilov, there were only more than 25,000 members of the College of Lawyers and 70-80 thousand legal consultants, who are in effect staff lawyers of their organizations giving legal assistance to industrial and office workers at enterprises-- all serving a population of about 250 million. The Soviet official also said that the Soviet Bar must be strengthened, qualifications of lawyers must be upgraded, their salaries must be raised, and a national lawyers union should be set up.

d) A clearer definition of the position and rights of the procurator (the prosecutor or fiscal in Western judicial systems) in court is needed. Terebilov observed that part of the Stalinist legacy is the concept of 'supervision by the procurator' in court being made part of Soviet legal theory. He notes that this concept, to a certain extent, contradicts the most important principle of justice-- that the examination of a case in court is a fair contest. On one hand, it is maintained that the prosecution and the defense lawyer are on an equal footing in court, with the judge having the final say. Yet at the same time, it is also maintained that the procurator, one of the opposing sides in court, is simultaneously entitled to supervise the legality of court decisions. He suggested that supervision and, consequently, the right to revoke a court's decision belonged only to a higher court.

The Soviet Union still has to adopt the equivalent of the Western writ of habeas corpus, which provides that the detainee face the court within three days of arrest to determine if the arrest is justified. The writ is already available to citizens of Poland, Czechoslovakia, and Cuba.

The current provision in the Soviet Union is as follows: the Procurator General can give his consent to keep a person in detention for nine months before his trial, after which the law does not envisage an extension of this period. In practice, however, there are cases where people have spent a whole year, two or even three years in prison before standing trial. Terebilov was suggesting that the procurator be given the right to sanction an arrest for six months, after which it would be the prerogative of the court to extend this period for a limited term-- a further three to six months. In such cases, the investigator, with the consent of the procurator, before these six months are up, must submit his evidence to the court which will then decide whether there are any grounds for keeping the accused in prison any longer. A further suggestion concerns the case when one is brought to trial. The court that conducts the trial must not be the same court which sanctioned the defendant's continued detention.[55]

The Soviet Union likewise passed the Law on Procedures for Appeal Against Actions by Officials which took effect on January 1, 1988. The law governs procedures of appealing in court against actions by officials that contravene the law and infringe upon citizens' rights. This is the same law provided for by the 1977 USSR Constitution which took ten years to be adopted. However, the law, as passed, applies only to unlawful acts decided by an individual official and does not cover acts decided on a collegial or collective basis. The law as such is not of much use since most decisions affecting the lives of Soviet citizens are decided by committees. Obviously, there is an immediate need to repeal the law for it to be of better use.[56]

In contrast, the principle of state responsibility for damages caused by unlawful actions of state officials was introduced into Polish law on the basis of the Act of November 15, 1956, later incorporated into the 1964 Polish Civil Code.[57]

The Soviet lawyer, Stanislav Borodin, also notes several weaknesses of the new criminal code provision regarding the mental treatment of socially dangerous individuals. Included among them are the non-provision of a limited term of hospitalization. In addition, the

provision fully relegates the decision of placing a person in a psychiatric hospital without his or his relatives' or legal representative's consent to the competence of psychiatrists. Borodin opines that these legal infirmities run counter to Arts. 54 and 57 of the USSR Constitution, which guarantee personal immunity and the rights of citizens to the legal defense of their personal freedom.[58]

Perhaps, the best direction for the future was summed up by the most famous Soviet 'dissident', academician Andrei Sakharov, who went all the way in his proposals for Soviet political reform. Aside from asking that Soviet criminal codes must state precisely that criminal prosecution for one's convictions or for non-violent action related to beliefs and religious convictions is intolerable and that the right to choose one's country of residence must be unrestricted, he said that Soviet citizens must be given the right to control and supervise state decisions, say the decision to intervene in Afghanistan. But most important of all, the Soviet Union must learn to live with its 'dissidents' and accept the truth that dissent is socially necessary in any society.[59] Perhaps, Sakharov's exhortation is best directed at the current leadership of People's Republic of China.

Conclusions

Our present survey of available theory and experience of 'actually existing socialism' and socialist democratization is not exhaustive. However, it already suggests that several Marxist orthodoxies on the state and its relation to civil society, on the possible abolition of social division of labor, on the undesirability of exchange relations in post-revolutionary societies, among others, need serious revision in the following directions: that the post-revolutionary state will not wither away since it is essential in any developed and complex society though it must be subject to democratic control and delimitation of its powers; that any form of socialism which is to realize the promise of liberty and egalitarianism must be based on a clear differentiation between state and civil society; that social division of labor based on individual differences, natural, geographic and technological factors, and gender will continue to obtain and any attempt to abolish it will result only in inefficiency or dysfunctionality; that

exchange, horizontal relations in socialism, are not only socially necessary but are also promotive of democracy. This effort has apparently been seriously attended to by post-Marxist theoreticians, like Andre Gorz [60] who argues that the class struggle cannot be the only arena of political activity in today's advanced capitalist countries and socialist states alike, as well as 'orthodox' Marxists such as Ronald Aronson [61] who argued that the historical materialist method can be validly used for the study of and strategizing for con-

temporary class and non-class struggles.

The survey of the contemporary political practice from the Soviet Union to Poland and China reveals sources of hope and despair. But one thing is quite clear. Even before the first century of 'actually existing socialism' is over, significant changes in the economy and polity are forthcoming and bear careful watching. This seems to be an activity more worthwhile than the defence of vulgarized Marxist orthodoxies on the state and the like.

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3. Cited in Pierson: 1986, 72.

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5. Quoted in Horvat: 1982, xviii.

6. "Solidarity winning, early returns show", *Philippine Daily Globe*, June 6, 1989, p. 3.

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18. Miliband: 1970, p. 157.

19. *Op. cit.*, p. 159.

20. Miliband: 1983, pp. 76-77.

21. Meszaros: 1987, p. 86.

22. *Civil War in France*, Peking, p. 73.

23. Meszaros: 1987, pp. 87-88.

24. *Op. cit.*, pp. 88-89.

25. Draper's terminology to distinguish it from a state.

26. Draper: 1977, p. 260.

27. Bengelsdorf: 1986, p. 201.

28. Rattansi: 1982, pp.163-197.

29. Roemer: 1982, pp. 191-216.

30. Selucky: 1975, pp. 57-58.

31. Draper: 1977, p. 282; emphasis supplied.

32. Elster: 1985, p. 360; quoted in Levine, Sober and Wright: 1987, p. 80.

33. Levine, Sober and Wright: 1987, p. 81.

34. Elster: 1987, pp. 366-367.

35. Levine, Sober and Wright: 1987, p. 82.

36. Draper: 1977, p. 293.

37. Wieruszewski: 1988, p. 29.

38. Kartashkin: 1982, p. 631.

39. Ionin: 1988, p. 23.

40. Art. 9 (5) of the International Covenant on Civil and Political Rights provides that: "Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation."

41. Yelin: 1988, p. 19.

42. Jhabvala: 1985, pp. 461-465.

43. Nowak: 1988, p. 85.

44. Jhabvala: 1985, pp. 477-483.

45. Includes contacts and regular meetings on the basis of family ties, reunification of families separated by war and bloc divisions, marriage between citizens of different states, travel for personal or professional reasons, improvement of conditions for tourism on an individual and collective basis, meetings among youth, sports, and further expansion of human contacts.

46. Includes the improvement of the circulation of, access to, and exchange of information, cooperation in the information field, and improvement of working conditions for journalists.

47. Gorbachev: 1988, pp. 42-46.

48. Yelin: 1988a, p. 19.

49. Provided for by Arts. 21 and 22 of the International Covenant on Civil and Political Rights subject to restrictions provided by law.

50. Shakina: 1989b, pp. 32-34.

51. *Philippine Daily Inquirer*, June 12, 1989, p. 2. It is quite significant to note that Hungarian party chief Karoly Grosz was the first and only ruling party head so far to condemn the Chinese repression at Tiananmen Square.

52. Yelin: 1988c, pp. 25-28.

53. This right is provided for in Art. 14(2) of the International Covenant on Civil and Political Rights.

54. Yelin: 1988a, p. 20.

55. Yelin: 1988c, pp. 26-27.

56. Yelin: 1988a, p. 20; Didusenko: 1988, p. 26.

57. Wieruszewski: 1988, p. 33.

58. Borodin: 1988, pp. 42-43.

59. Sakharov: 1988, p. 33.

60. Gorz: 1982, *Farewell to the Working Class*, London: Pluto Press.

61. Aronson: 1985, "Historical Materialism: Answer to Marxism's Critics", *New Left Review*, No. 152, July-August 1985, pp. 74-94.

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