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CAN A MARXIST BELIEVE IN HUMAN RIGHTS?

Steven Lukes

This question might seem absurd for either of two opposite reasons.

On the one hand, one might counter with the question: *Can anyone believe in human rights?* This question might be asked from a utilitarian perspective, in the spirit of Bentham's view of natural rights as "simple nonsense" and of natural and imprescriptible rights as "nonsense upon stilts."¹ It was in this spirit, for instance, that Sir George Cornewall Lewis saw expressions such as "original rights, natural rights, indefeasible rights, inalienable rights, imprescriptible rights, hereditary rights, indestructible rights, inherent rights, etc.," as having

taken their origin from the theory of the state of nature and the social compact; but they are frequently used by persons who have never heard of this absurd and mischievous doctrine, and would perhaps reject it if they knew it. All that these persons mean is, that in their opinion, the claims which they call *rights* ought, in sound policy, to be sanctioned by law. It is the duty of such persons to show that sound policy requires what *they* require; but as this would require a process of reasoning, and as reasoning is often both hard to invent and to understand, they prefer begging the question at issue by employing some of the high sounding phrases just mentioned.²

Many modern Anglo-Saxon political philosophers still see utilitarianism as the major alternative to rights-based moral and political theories, which are often defended by contrast with it.³

Alternatively, the counter-question might be asked from a non-utilitarian perspective. So, for example, Alasdair MacIntyre, in developing a "social ideological," quasi-Aristotelian view, observes that it would be

a little odd that there should be such rights attaching to human beings simply qua human beings in light of the fact ... that there is no expression in any ancient or medieval language correctly translated by our expression 'a right' until near the close of the middle ages: the concept lacks any means of expression in Hebrew, Greek, Latin or Arabic, classical or medieval, before about 1400, let alone in Old English, or in Japanese even as late as the mid-nineteenth century. From this it does not of course follow that there are no natural or human rights; it only follows that no one could have known that there were. And this at least raises certain questions. But we do not need to be distracted into answering them, for the truth is plain: there are no such rights, and belief in them is one with belief in witches and unicorns.⁴

"Natural or human rights," he holds, are "fictions" – as is "utility" (but not, it seems, the "human *telos*" or "the common good").

I do not propose here to try and answer this counter-question. I will merely observe that belief in human rights appears to be very widespread, as do actions motivated by such belief, not only among politicians, statesmen, and international lawyers, but among activists for civil and political rights at home

and against oppression and repression abroad. Of course, such commitments are, in many cases, significantly selective and even hypocritical. But it seems unduly cynical to regard them as always wholly so. Here I simply wish to observe that they are particularly in evidence on the left and, within the left, among Marxists.

Which leads me directly to the second, diametrically opposite reason for thinking my initial question absurd. For one might counter with the question: Why shouldn't a Marxist believe in human rights? Plainly, many do, and do so sincerely, and act on their beliefs. Consider, for example, the following observations of G. A. Cohen:

The language of natural (or moral) rights is the language of justice, and whoever takes justice seriously must accept that there are natural rights. Now Marxists do not often talk about justice, and when they do they tend to deny its relevance, or they say that the idea of justice is an illusion. But I think that justice occupies a central place in revolutionary Marxist belief. Its presence is betrayed by particular judgments Marxists make, and by the strength of feeling with which they make them. Revolutionary Marxist belief often misdescribes itself, out of lack of clear awareness of its own nature, and Marxist disparagement of the idea of justice is a good example of that deficient self-understanding.⁵

Interestingly, Marxists in the contemporary world are not reluctant to use the language of "human rights" – especially in struggles against reactionary regimes.

I do not doubt that Marxists across the world, especially since the Resistance to the Nazis, have been in the forefront of struggles against all kinds of tyranny and oppression, often in the name of human rights. Indeed, I would argue that the establishment and protection of basic civil and political rights often depends on the existence of a strong and well-organized labor movement, and that Marxist parties and groups have often played a central role in achieving this.

So the question is not whether those whose beliefs and affiliations are Marxist in fact believe in human rights. It is, rather, whether they can consistently do so. But the question thus formulated is still not adequate. For I am certain that many of those who are called, and call themselves, Marxists and who believe in human rights hold a consistent set of beliefs that do not contradict their belief in and actions for human rights.

The question should therefore be reformulated thus: can those whose beliefs and affiliations are Marxist believe in human rights and remain consistent with central doctrines essential to the Marxist canon – by which I mean the ideas of Marx, Engels, and their major followers, including Lenin and Trotsky, in the Marxist tradition? Putting the question this way of course inevitably raises the issue of how "the Marxist tradition" is properly to be identified and interpreted, who are the "true Marxists," and so on. Fortunately, it is my belief (grounds for which I will indicate below) that, in this area, there is a well-defined and unambiguous unity of view in the mainstream Marxist tradition which can be identified both at the level of explicit statement and implicit theory.

But the question still needs further refinement. What is it, after all, to believe in human rights? It is, I take it, to believe that there are such rights and to be prepared to act on that belief. Indeed, the sincere holding of such a belief is precisely tested by the putative believer being so prepared, when the occasion

arises. Believing that there are human rights, it should be noted, involves a lesser commitment than believing that there are natural rights: the latter belief involves attributing to such rights epistemic properties and a metaphysical status about which a believer in human rights may remain neutral.

Here I shall follow Feinberg in defining “human rights” as “generically moral rights of a fundamentally important kind held equally by all human beings, unconditionally and unalterably.”⁶ They are sometimes understood to be “ideal rights,” or rights that are not necessarily actually recognized but which ought to be so, that is, ought to be positive rights and would be so in a better or ideal legal system. Sometimes they are understood to be “conscientious rights,” that is, the claim is to recognize them as valid by reference to the principles of an enlightened conscience. Are they absolute?

To be absolute in the strongest sense, they would have to be absolutely exceptionless in all circumstances and thus never vulnerable to legitimate invasion: they must *always* trump other reasons for a policy or action, including rights of other kinds, and other rights of the same kind. But this is an impossibly strong requirement. It would rule out virtually all the rights specified in the U.N. *Universal Declaration of Human Rights* and, in particular, active negative rights (rights not to be interfered with) and positive rights (rights to be done in certain ways). These latter – for instance, the so-called “social and economic rights” and, in general, rights to be given the means of living a decent life, or even a life at all ⁷ – depend for their implementation on the availability of resources and, therefore, they cannot be absolute in this sense. Perhaps the only completely absolute rights are rights not to be degraded and exploited, or, more generally, the right to be treated with equal concern and respect. But what this last means is hard to specify in concrete terms, and one may suspect that its claim to absoluteness may derive from this very fact.

It is therefore perhaps better to say that human rights are strongly *prima facie* rights which, in general, are justified as defending people’s vital interests and which, in general, outweigh all other considerations bearing on some policy or action, whether these concern goals and purposes or the protection of other, less central rights. They thus have a “trumping” aspect:⁸ to believe in them is to be committed to defending them, even (or rather especially) when one’s goals or strategies are not to be served, and indeed may be disserved, by doing so.

To put this another way, talk of rights is a way of asserting the requirements of a relationship of justice, from the viewpoint of the persons benefiting from it: it involves adopting “the viewpoint of the ‘other(s)’ to whom something (including, inter alia, freedom of choice) is owed or due, and who would be wronged if denied that something.”⁹ Talk of *human* rights is to do this, while emphasizing the fundamental and *prima facie* overriding status of this viewpoint with respect to certain matters, specifically those central to the flourishing of human beings. Proof that such talk is serious is being prepared to abandon goals and policies and strategies, except in rare and extreme cases, when the claims such rights invoke conflict with their implementation.

To put this yet another way, rights might, following Robert Nozick, be seen as “side constraints” – moral constraints upon goal directed behavior. This way of viewing rights (rather than building the minimization of the violation of rights

into one's goals, in a kind of calculating "utilitarianism of rights") reflects the basic Kantian principle of treating persons as ends and not merely as means, of ruling out certain ways persons (or the Party or the State) may use others. It is not hard to see how these could exclude murder, physical aggression and injury, psychological manipulation and intimidation, the denial or distortion of information, preventing free association and dissent from the existing order, the use of terror, arbitrary arrest and detention, the deliberate punishment of the innocent, discrimination on the basis of ascribed characteristics, and the denial of access to the means of life, labor and the cultural resources of a community. In citing Nozick, I do not, however, subscribe to his so-called "libertarian" account of what violation of rights thus understood involves, such as, for instance, taxing people, without their consent, to benefit others. I do, however, endorse his analysis of rights (and thus by implication human rights) as side constraints, as well as his view of their basis. They

express the inviolability of other persons. But why may not one violate persons for the greater social good? Individually, we each sometimes choose to undergo some pain or sacrifice for a greater benefit or to avoid a greater harm: we go to the dentist to avoid worse suffering later; we do some unpleasant work for its results; some persons diet to improve their health or looks; some save money to support themselves when older. In each case, some cost is borne for the sake of the overall good. Why not, *similarly*, hold that some persons have to bear some costs that benefit other persons more, for the sake of the overall social good? But there is no social entity with a good that undergoes some sacrifice for its own good. There are only individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more. What happens is that something is done to him for the sake of the others. Talk of an overall social good covers this up. (Intentionally?). To use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has. He does not get some overbalancing good from his sacrifice ...¹¹

So believing in human rights involves accepting side constraints upon the pursuit of one's goals for Kantian reasons. Nozick believes that they are absolute and timeless applicable in all social contexts, but it seems much more plausible to see them as strongly *prima facie* (for the reason already suggested), and as applicable only in certain kinds of social setting (at least, where there is a minimum level of subsistence and framework of social order). I shall not here go further into the questions of (1) under which stringent conditions *prima facie* rights might be overridden, (2) in which kinds of social setting they are relevantly applicable or (3) upon what characteristics of persons the constraints are based. All these are, of course, fundamental questions which must be answered in any adequate account of human rights.

So our initial question has now been specified as follows: Can one believe in human rights (in the manner defined above) and remain consistent with the canonical Marxist tradition? I propose to seek an answer to this question in two ways: first, by citing what the Marxist canon explicitly has to say on this topic; and second, by stating what I take to be the "deep theory" underlying its explicit statements.

In the *German Ideology* Marx and Engels wrote: "As far as *Recht* is concerned,

we with many others have stressed the opposition of communism to Recht, both political and private, as also in its most general form as the rights of man.”¹² This is an accurate statement about all their writings, from “On the Jewish Question” onwards.

In that work, Marx wrote of “the so-called *rights of man*” as “simply the rights of a *member of civil society*, that is, of egoistic man, of man separated from other men and from the community.” Liberty “as a right of man is not founded upon the relations between man and man, but rather upon the separation of man from man. It is the right of such separation. The right of the circumscribed individual, withdrawn into himself;” its practical application being the right of private property. *This* right, the “right of self-interest,” Marx saw as forming “the basis of civil society,” leading “every man to see in other men, not the *realisation*, but rather the *limitation* of his own liberty.” In general,

None of the supposed rights of man ... go beyond the egoistic man, man as he is, as a member of civil society; that is, an individual separated from the community, withdrawn into himself, wholly preoccupied with his private interest and acting in accordance with his private caprice. Man is far from being considered, in the rights of man, as a species being; on the contrary, species-life itself – society – appears as a system which is external to the individual and as a limitation of his original independence. The only bond between men is natural necessity, need and private interest, the preservation of their property and their egoistic persons.

The *political community* is “a mere means of preserving these so-called rights of man.” “Human emancipation” contrasts with these rights of man (or human rights): it

will only be complete when the real, individual man has absorbed into himself the abstract citizen; when as an individual man, in his everyday life, in his work, and in his relationships, he has become a *species-being*; and when he has recognised and organised his own powers (*forces propres*) as *social* powers so that he no longer separates this social power from himself as *political* power.¹³

Marx and Engels always wrote disparagingly about the language of rights and justice. It is true that in 1864 Marx helped draft the *General Rules of the International Working Men’s Association*, whose members were enjoined to acknowledge “truth, justice and morality, as the basis of their conduct towards each other and towards all men, without regard to colour, creed or nationality,” and the principle of “*no rights without duties, no duties without rights*,” while “the struggle for emancipation of the working classes” is described as a struggle “for equal rights and duties, and for the abolition of all class rule.”¹⁴ Moreover, in his *Inaugural Address*, Marx urged workers to “vindicate the simple laws of morals and justice, which ought to govern the relations of private individuals, as the rules paramount of the intercourse of nations.”¹⁵ On the other hand, he explained these unfortunate phrases in a letter to Engels of November 4, 1864: “I was obliged,” he wrote, “to insert two phrases about ‘duty’ and ‘right’ into the preamble, ditto, ‘truth, morality and justice,’ but these are placed in such a way that they can do no harm.”¹⁶

In *Capital*, Marx scorned Proudhon’s appeal to an ideal of justice. What opinion, he asked,

should we have of a chemist, who, instead of studying the actual laws of the molecular changes in the composition and decomposition of matter, and on that foundation solving definite problems, claimed to regulate the composition and decomposition of matter by means of ,eternal ideas,' of ,naturalité' and ,affinité'? Do we really know any more about ,usury' when we say it contradicts justice éternelle,' ,équité éternelle,' ,mutualité éternelle,' and other ,verités éternelles' than the fathers of the church did when they said it was incompatible with ,grace éternelle,' ,foi éternelle' and ,le volonté éternelle de Dieu'?¹⁷

And in the *Critique of the Gotha Programme*, he once more made clear his rejection of moral vocabulary:

I have dealt more at length with . . . “equal right” and “fair distribution” . . . in order to show what a crime it is to attempt, on the one hand, to force on our Party again, as dogmas, ideas which in a certain period had some meaning but have now become obsolete verbal rubbish, while again perverting, on the other, the realistic outlook, which it cost so much effort to instill into the Party but which has now taken root in it, by means of ideological nonsense about right (Recht) and other trash so common among the democrats and French socialists.¹⁸

As for the moral bases for human rights claims, whether they be “conscientious rights” or “ideal rights,” he was no less uncompromising. Morality, like “religion, metaphysics, all the rest of ideology and their corresponding farms of consciousness” had “no history, no development, but men, altering their material production and their material intercourse alter – along with these – their real existence and their thinking and products of their thinking.”¹⁹ Moreover, the working class has “no ideals to realize, but to set free elements of the new society with which the old collapsing bourgeois society itself is pregnant.”²⁰

Engels argued similarly. Justice, he remarked, attacking Proudhon, is “but the ideologized, glorified expression of the existing economic relations, at times from their conservative, and at other times from their revolutionary side.” The “idea of equality, both in its bourgeois and its proletarian form” was “anything but an eternal truth.” As he wrote in *Anti-Dühring*:

We therefore reject every attempt to impose on us any moral dogma whatsoever as an eternal, ultimate and forever immutable ethical law on the pretext that the moral world, too, has its permanent principles which stand above history and the differences between nations. We maintain on the contrary that all moral theories have been hitherto the product, in the last analysis, of the economic conditions of society obtaining at the time. And as society has hitherto moved in class antagonisms, morality has always been class morality; it has either justified the domination and the interests of the ruling class, or, ever since the oppressed class became powerful enough, it has represented its indignation against this domination and the future interests of the oppressed.²¹

The subsequent mainline Marxist tradition is, on this topic, quite consistent, though emphases shift, as the revolutionary struggle intensifies. Thus Kautsky echoed Marx's and Engels' criticisms of Proudhon and Lassalle, speaking with scorn of “Ethical Socialism” as “endeavours . . . in our ranks to modify the class antagonisms, and to meet at least a section of the Bourgeoisie half way,” the

“historical and social tendency” of the Kantian ethic being “that of toning down, of reconciling the antagonisms, not of overcoming them through struggle.” For Kautsky, moral tenets “arise from social needs,” “all morality is relative,” and what is “specifically human in morality, the moral codes is subject to continual change.”²²

Lenin held that there is in Marxism “not a grain of ethics from beginning to end.”²³ As he told the Komsomol Congress in 1920,

We say that our morality is entirely subordinated to the interests of the proletariat’s class struggle . . . Morality is what serves to destroy the old exploiting society and to unite all the working people around the proletariat, which is building up a new, a communist society . . . To a Communist all morality lies in this united discipline and conscious mass struggle against the exploiters. We do not believe in an eternal morality, and we expose the falseness of all the fables about morality.²⁴

As for Trotsky, his pamphlet *Their Morals and Ours* clearly shows his view that “morality more than any other form of ideology has a class character.” As for “norms obligatory upon all” – whose “highest generalisation . . . is in the ‘categorical imperative’ of Kant” – these are vacuous and appeal to them is “a necessary element in the mechanics of class deception,” since

in all decisive questions people feel their class membership considerably more profoundly and more directly than their membership in ‘society.’ The norms of ‘obligatory’ morality are in reality filled with class, that is, antagonistic content. The moral norm becomes the more categorical the less it is ‘obligatory upon all.’ The solidarity of workers, especially of strikers or barricade fighters, is incomparably more ‘categorical’ than human solidarity in general.

Indeed, Trotsky comes to the heart of the matter in stating that such norms “become the less forceful the sharper the character assumed by the class struggle. The highest form of the class struggle is civil war which explodes into mid-air all moralities between the hostile classes.”

What, then, of “lying, violence and murder:” are these “incompatible with a ‘healthy socialist movement’ „? Trotsky answers this question with another:

What, however, is our relation to revolution? Civil war is the most severe of all forms of war. It is unthinkable not only without violence against tertiary figures but, under contemporary technique, without killing old men, old women and children.

But, he goes on to ask, do such lying and violence in themselves warrant condemnation?

Of course, even as does the class society which generates them. A society without social contradictions will naturally be a society without lies and violence. However there is no way of building a bridge to that society save by revolutionary, that is, violent means. The revolution itself is a product of class society and of necessity bears its traits. From the point of view of “eternal truths” revolution is of course “anti-moral.” But this merely means that idealist morality is counter-revolutionary, that is, in the service of the exploiters.

But is not civil war a “sad exception”: can it not be held that “in peaceful times a healthy socialist movement should manage without violence and lying” ? But this,

according to Trotsky, is “a pathetic evasion. There is no impervious demarcation between ‘peaceful’ class struggle and revolution. Every strike embodies in an unexpended form all the elements of civil war.” Lying, violence, and murder are therefore “an inseparable part of the class struggle even in its most elementary forms.” But “‘Just the same’, the moralist continues to insist, ‘does it mean that in the class struggle against capitalists all means are permissible: lying, frame-up, betrayal, murder, and so on?’” „ Trotsky’s answer is clearcut and specifically excludes the notion of moral side constraints. He sees the problem as one of revolutionary morality and thus as inseparable from „revolutionary strategy and tactics“:

Permissible and obligatory are those and only those means, we answer, which unite the revolutionary proletariat, fill their hearts with irreconcilable hostility to oppression, teach them contempt for official morality and its democratic echoers, imbue them with consciousness of their own historic mission, raise their courage and spirit of self-sacrifice in the struggle.²³

I cited above a passage from the *German Ideology* in which Marx and Engels make clear their view of *Recht* and thus of the rights of man:

As far as *Recht* is concerned, we with many others have stressed the opposition of communism to *Recht*, both political and private, as also in its most general form of the rights of man.

What are the deep reasons for communism’s rejection of *Recht*?

“*Recht*,” like “*droit*” and “*diritto*,” is a term used by continental jurists for which there is no direct English translation. As Hart has observed, these expressions

seem to English jurists to hover uncertainly between law and morals, but they do in fact mark off an area of morality (the morality of law) which has special characteristics. It is occupied by the concepts of justice, fairness, rights and obligation (if this last is not used as it is by many moral philosophers as an obscuring general label to cover every action that we ought to do or forbear from doing).²⁶

Gierke defined *Recht* as meaning: “(a) a system of law existing objectively as an external norm for persons, and (b) a system of rights enjoyed by those persons, as ‘Subjects’ or owners of rights, under and by virtue of that norm.”²⁷ In short, *Recht* identifies that branch of morality concerned with determining when one person’s freedom may be limited by another’s and thus which actions should be made the subject of the positive laws of any actual legal system.

How did Marx, Engels, and their followers conceive of *Recht*? Marx wrote of juridical relations (*Rechtsverhältnisse*) that “like forms of state [they] are to be grasped neither through themselves nor through the so-called universal development of the human spirit, but rather are rooted in the material conditions of life, whose totality Hegel comprehended under the term ‘civil society.’”²⁸ And Engels wrote that “social justice or injustice is decided by the science which deals with the material facts of production and exchange, the science of political economy.”²⁹ In short, the principles of *Recht* are not to be understood as

objective norms, as a set of independent rational standards by which to assess social relations, but must themselves always in turn be explained as arising from and controlling those relations.³⁰

This suggests the first Marxist reason for opposing *Recht*, namely, that it is inherently ideological. It claims to offer “objective” principles specifying what is “just” and “fair” and defining “rights” and “obligations;” it claims that these are universally valid and serve the interests of all members of society (and perhaps all members of any society); and it claims to be “autonomous” of particular partisan or sectional interests. But from a Marxist point of view all these claims are spurious and illusory. They serve to conceal the real function of principles of *Recht*, which is to protect the social relations of the existing order, a function that is better fulfilled to the extent that the claims are widely accepted. Marxism, in short, purports to unmask the self-understanding of *Recht* by revealing its real functions and the bourgeois interests that lie behind it.

It does not, of course, follow from this that communists should all become “immoralists” violating every bourgeois right and obligation. That would, in any case, be poor tactics. What does follow is that the principles of *Recht* should have for them no rationally compelling authority. And it follows from *this* that it makes no sense to criticize capitalism for failing to live up to such principles, for being unjust, violating the rights of workers, etc. (except as a tactical move).

But there is a further and deeper reason for communism’s opposition to *Recht* which can be unearthed if we ask the question: to what problem are the principles of *Recht* a response? To this question jurists and philosophers give different answers, but these answers have in common a view of human life as inherently conflictual, and potentially catastrophically so, thus requiring a framework of authoritative rules, needing coercive enforcement, that can be rationally justified as serving the interests of all. *Recht* is a response to what one might call the “conditions of morality,” inherent in the human condition, and these may be more or less acute, just as the response will take different forms in different societies.

Consider David Hume’s summary account of the conditions of morality: for Hume “tis only from the selfishness and confin’d generosity of man, along with the scanty provision nature has made for his wants, that justice derives its origin.”³¹ In his recent book on ethics, John Mackie, citing this statement of Hume’s, alongside Protagoras and Hobbes, has sought to identify what he calls a “narrow sense of morality” (which looks very like *Recht*) as “a system of a particular sort of constraints on conduct – ones whose central task is to protect the interests of persons other than the agent and which present themselves to an agent as checks on his natural inclinations or spontaneous tendencies to act.” Mackie argues, following Hume, that morality, in this narrow sense, thus defined, is needed to solve a basic problem inherent in the human predicament: that “limited resources and limited sympathies together generate both competition leading to conflict, and an absence of what would be mutually beneficial co-operation.”³² Or consider John Rawls’s account of what I have called the conditions of morality and what he calls “the circumstances of justice”: these are “the normal conditions under which human co-operation is both possible and necessary” and they “obtain whenever mutually disinterested

persons put forward conflicting claims to the division of social advantages under conditions of moderate scarcity.”³³

Now it is a peculiar and distinctive feature of Marxism that it denies that the conditions of morality are inherent in human life. It certainly denies that limited altruism and resources are invariant features inherent in the human condition. On the contrary, it maintains that they are historically determined, specific to class societies, and imminently removable. Neither limited resources, nor limited sympathies, nor in general conflicts of interest and antagonistic social relations are fundamental to the human predicament. To assume that they are is itself an ideological illusion (propagated by *Recht*) – ideological in serving to perpetuate the existing class-bound social order. Marxism supposes that a unified society of abundance is not merely capable of being brought about but is on the historical agenda and indeed that the working class is in principle motivated to bring it about and is capable of doing so.

Thus, *Recht* is not merely inherently ideological, stabilizing class societies and concealing class interests, and falsely purporting to adjudicate competing claims, limit freedoms, and distribute costs and benefits in a universally fair, objective, and mutually advantageous manner. It also presupposes an account of the conditions that call it forth that Marxism denies. For Marxism holds that, broadly, all significant conflicts of interests are to be traced back to class divisions. So, for example, Marx and Engels could speak of communism as “the genuine resolution of the conflict between man and nature and between man and man,”³⁴ and speculate about the abolition of crime under communism, and suggest that “social peace” might succeed “social war”;³⁵ and Trotsky, as we have seen, could proclaim that the future “society without social contradictions will naturally be a society without lies and violence.” Certainly the Marxist canon has virtually nothing to say about any bases of conflict, whether social or psychological, other than class.

By furnishing principles for the regulation of conflicting claims and interests, *Recht* serves to promote class compromise and thereby delays the revolutionary change that will make possible a form of social life that has no need of *Recht*, because the conditions of morality or the circumstances of justice will no longer obtain. In this respect, I think that Marx’s view of morality as *Recht* is exactly parallel to his view of religion, concerning which he wrote “The abolition of religion as the illusory happiness of the people is a demand for their true happiness. The call to abandon illusions about their condition is the call to abandon a condition which requires illusions.”³⁶ Analogously, the call to abandon illusions about “the rights of man” and “justice” is the call to abandon the conditions of morality and the circumstances of justice.

Can a Marxist believe in human rights? We have seen that the test of such a belief arises in cases of conflict between such rights claims and the requirements of one’s goals or strategy. So, is a Marxist prepared to protect and defend such rights in situations where they conflict with his goals – which, as I have just argued, include the eventual abolition of the very need for such rights?

Now, I do not doubt that very many Marxists have defended such rights honorably and heroically. But they often do so in situations where there is no conflict between the goals of their struggle and the rights they defend. Take the

resistance to Fascism, or struggles against racism and colonialism, or the opposition of the left to Latin American dictatorships, or the consistent activities of Trotskyists against repression in the Soviet Union and Eastern Europe. But the real test of a belief in human rights comes when the goals of the struggle or strategy come into conflict with the defence of rights claims. Here, so far as I can see, the Marxist canon provides no reasons for protecting human rights. And indeed, it even gives reasons against doing so, if one follows Trotsky in holding (1) that no significant line can be drawn between peaceful class struggle and revolution, and (2) that there is no way of building a bridge to communist society save by revolutionary, that is violent, means. On these assumptions, the only side constraints to one's actions will be one's own (or the Party's) strategic and tactical judgments as to what means one's ends require.

From which I conclude that a Marxist cannot, in the sense indicated, believe in human rights. Those many non-hypocritical and non-self-deceiving Marxists who do so can only, therefore, be revisionists who have discarded or abandoned those central tenets of the Marxist canon which are incompatible with such a belief.

NOTES

- 1 "Anarchical Fallacies," *The Works of Jeremy Bentham*, John Bowring, ed. (Edinburgh, 1843), Vol. 2, p. 494.
- 2 Sir George Cornewall Lewis, *On the Use and Abuse of Some Political Terms* (new edition, Clarendon Press, 1898), pp. 33-34.
- 3 See H. L. A. Hart, "Between Utility and Rights," in Alan Ryan, ed. *The Idea of Freedom* (Oxford, 1979).
- 4 Alasdair MacIntyre, *After Virtue: A Study in Moral Theory* (London, 1981), pp. 66-67.
- 5 G. A. Cohen, "Freedom, Justice and Capitalism," *New Left Review*, 126, March-April 1981, p. 12.
- 6 Joel Feinberg, *Social Philosophy* (New Jersey, 1973), p. 85.
- 7 Such as the rights "to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment," to "just and favourable remuneration," to "rest and leisure, including reasonable limitation of working hours and periodic holidays with pay," to "a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control," to "education" and indeed "to choose the kind of education that shall be given to their children," and "freely to participate in the cultural life of the community to enjoy the arts, and to share in scientific advancement and its benefits."
- 8 See Ronald Dworkin, *Taking Rights Seriously* (London, 1977).
- 9 John Finnis, *Natural Law and Natural Rights* (Oxford, 1980), p. 205.
- 10 Robert Nozick, *Anarchy, State and Utopia* (Oxford, 1974), Ch. 3.
- 11 *Ibid.*, pp. 32-33.
- 12 Marx and Engels, *Collected Works* (London, 1975), Vol. 5, p. 209.
- 13 *Karl Marx: Early Writings*, T. B. Bottomore, ed. (London, 1963), pp. 24-26, 31.

- 14 General Rules of the International Working Men's Association: Preamble (1864) in Marx and Engels, *Selected Works* (Moscow, 1962), Vol. 1, pp. 386-9.
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- 27 Otto Gierke, *Natural Law and the Theory of Society, 1500-1800*, Ernest Barker, trans., (Boston, 1957), p. 39.
- 28 Marx, "Preface to a Contribution to the Critique of Political Economy," *Selected Works*, Vol. 1, p. 362 (amended translation, S.L.).
- 29 Marx and Engels, *Kleine Ökonomische Schriften* (Berlin, 1955), p. 412, cited in Allen Wood, "The Marxist Critique of Justice," *Philosophy and Public Affairs*, Spring 1972, p. 15.
- 30 See *ibid.*, and Allen Wood, *Karl Marx* (London, 1981), part 3, "Marxism and Morality."
- 31 David Hume, *A Treatise of Human Nature*, Book III, Part II, Section II, L. A. Selby-Biggs, ed. (Oxford, 1888), p. 495.
- 32 J. L. Mackie, *Ethics: Inventing Right and Wrong* (Harmondsworth, 1977), pp. 106, 111. See also J. L. Mackie, "Can There be a Right-based Moral Theory?" in *Midwest Studies in Philosophy*, Vol. III, *Studies in Ethical Theory*, 1978 (Minneapolis, 1980).
- 33 John Rawls, *A Theory of Justice* (Oxford, 1972), pp. 126, 128.
- 34 Karl Marx: *Early Writings*, tr. Bottomore, p. 155 (amended translation, S.L.).
- 35 See Paul Phillips, *Marx and Engels on Law and Laws* (Oxford, 1980), Ch. 4.
- 36 Marx, "A Contribution to the Critique of Hegel's Philosophy of Right: Introduction" in *Karl Marx, Early Writings*, tr. Bottomore, p. 44.