

# On the Shortcomings of 'Existing Socialism' †

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When I agreed to present a contribution on this subject a year ago, I hardly expected that I would be doing so as one who has witnessed, taken part in and been affected by a revolution in my own country. Nothing in my country today is like it was yesterday, and tomorrow it will be different still. Soon the German Democratic Republic will be consigned to the history books; whether it will be just as a footnote, as the writer Stefan Heym thinks, remains to be seen. But what will happen to the Federal Republic of Germany? Is it not also facing changes in connection with unification? Will it be the same republic as today after unification?

Faced with the frantic pace of events, it is no easy task to make out points of reference such as those required for a scientific analysis of the processes going on around us. I ask you to regard this statement not as an argument for abdication, but as a challenge and a chance for our discipline to re-define its positions and make a critical self-appraisal. There can be little doubt that we require a discriminating approach to the question what national, regional and global consequences the decay and collapse of existing socialism will bring in their wake. To turn round a familiar phrase: The world has thoroughly changed, the point is to interpret it.

The failure of 'existing socialism' is at the same time the failure of canonised Marxism-Leninism. Attempts to deny the connection, or even to claim that it is not so direct, ignore the facts of the matter. It

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† Title supplied by the Editor, *ASLP Bulletin*. The phrase 'existing socialism' was long used by Marxist-Leninist theory to apply exclusively to the social order established in societies governed and reconstructed by Marxist-Leninist parties.

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has been shown that those people were right who distinguished between institutionalised Marxist-Leninist ideology aimed at legitimising those in power and preserving that power, on the one hand, and non-institutionalised Marxist theory and methodology on the other.<sup>1</sup>

The concept of state socialism, subjected to empirical testing over the past seven decades, has not measured up. Socialism has wasted the opportunities it was given by history. As a concept and model of society, socialism is now discredited. This is a diagnosis whose effects cannot yet be predicted. But it would be premature to believe that the collapse of existing socialism also signified the end of aspirations towards social justice and a society marked by a solidarity in which there is no room for the exploitation of man by man and nature by man.

The revolutionary upheavals that shook various countries in Central and Eastern Europe towards the end of 1989 seemed to some to have hit these countries like a natural calamity, but were in fact the result of processes that had been long in the making. There had been signs of these crises, though not all were of the same intensity, since the 1950s. That was the time when a long chain of attempts to modernise socialist society, its economy, its system of government and its legal framework was begun. It was first and foremost artists and scientists, though they were not that numerous, who made suggestions and developed ideas for ways of changing and transforming society, backed them up and were made to suffer for their pains.

But all the attempts to modernise and change socialism failed when they came up against the monopoly of the Communist parties and their bureaucratic structures. This monopoly of power — in the final analysis, it was a monopoly in the hands of the leaderships of these parties — meant that existing socialism became incapable of reform. This alone was enough to bring about a situation where revolutionary action was the only way to break up its ossified structures. So the revolutions in the socialist countries stemmed from their internal contradictions; they were not the product of decisions from outside, as certain stereotypes might lead us to believe.

The actual course of the revolutions in the various countries shows them to be extremely ambivalent in their substance and objectives. This is underlined by the fact that certain changes of direction occurred during the revolutionary process itself, and will continue to do so. It is this same fact which makes it extremely

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1 On this issue, see most recently Paul Wolf, *Die zwei Gesichter der marxistischen Rechtstheorie* in F.S. Maihofer, Frankfurt a.M., pp. 329 ff.

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difficult to form a clear picture of the social nature and the socio-political thrust of the revolutionary events. And that is where the academic debate begins about what kind of revolutions we are dealing with, indeed whether the upheavals in the various countries can be properly described as revolutions at all without qualification. This has to do with the historic experience that every revolution contains the seeds of counter-revolution.

As regards the German Democratic Republic, for example, it must be noted that the initially unanimous euphoria at the first successful revolution in Germany is starting to give way to a growing spectrum of views. This has to do with actual experiences, for the election results of 18 March 1990 were the final confirmation of the fact that the revolution abandons its originators.

Without wishing to enter into an analysis of the changes in the once socialist countries from the viewpoint of the theory of revolution, it seems to me that the thesis is justified which states that these changes *started out as democratic revolutions for human rights*.

Against a background of a profound alienation between the citizen and the state, the actual supplanting of the people's sovereignty by the usurped sovereignty of a politbureaucracy and the resultant disregard for the autonomy of the individual, the demand for the implementation of human rights developed such a force that it ultimately transformed existing socialism into dying socialism.

The bureaucratic-administrative brand of socialist society has confirmed Max Weber's fears that it would bring the individual members of society a condition he described as the 'pacifism of social impotence under the wing of the only power it is quite definitely impossible to escape: that of the bureaucracy in the state and the economy'.<sup>2</sup> The economic foundations of the power enjoyed by this bureaucracy were provided by placing the economy in the hands of the state, an act smugly passed off as the socialisation of the means of production. The state-run economy of existing socialism was bound to generate bureaucratic centralism, which — though the extent varied from one country to another — soon grew like a cancer to bring regimentation in all areas of society. What resulted was a command economy and a command society that were unable to satisfy human needs in the long run. That I must draw this conclusion is sad but true. For the model of society called socialism, once derived from a historically outdated utopia and associated with great hopes for social equality and democratic justice, was embarked upon

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2 Max Weber, *Wirtschaft und Gesellschaft*, Tübingen, 1980, p. 836.

with the impetus provided by Marx's categorical imperative to overturn all relations in which man is an exploited, enslaved, humiliated being. But it is no use lamenting. What is required is a theoretical understanding of the decaying social, political and constitutional structures of existing socialism. And that is more than just a catharsis, no matter how much this may be necessary both academically and morally. A theoretical understanding of these facts is essential if we are to make the necessary headway. History has not come to an end, nor does it stand still. Tomorrow, too — to paraphrase Brecht — contradictions will remain the hope for development and movement.

The description of the revolutionary upheavals as democratic revolutions for human rights represents a deliberate departure from polarised assessments against capitalism and in favour of socialism, or vice versa. The criteria employed were based on a simplistic either-or approach which failed to take account of the actual course of history. It is one of the weaknesses of the mode of thinking that divides the world into two mutually hostile camps.

Since existing socialism admitted only of Marxism-Leninism as the basis for social progress, it excluded from the outset any contemplation of alternatives within a socialist framework, beyond or beside it, let alone the alternatives within capitalism.

As far as the issue of human rights is concerned, this means that the innovations and real reformative successes various capitalist countries have recorded in the implementation of human rights were either not registered or denied. Simultaneously, the shortcomings in human rights in socialist countries were not officially admitted or concealed in a cloak of ideology. To the extent that any scholars in the field of law sought to address these issues at all, they were only able to do so with the help of historical alienation or by employing tactics that led their audience to read between the lines.<sup>3</sup>

The simplistic either/or approach that admits only of the alternative between capitalism and socialism and was raised to a paradigmatic status in Marxism-Leninism, proved to be an unsuitable methodological basis for an analysis of the relations between the various elements of human rights as determined by universal human, class and group interests. This became particularly clear in the latter half of this century when, under the pressure of global problems, the

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3 H. Klenner is one of these legal experts. His analysis of de Victoria's and Suarez's legal justification of the forcible Catholicisation and colonial policy pursued by the Spanish kings is a singular *piece de resistance*. Cf. *Marxismus und Menschenrechte*, Berlin 1982, pp. 166 ff.

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need to safeguard the existence of the human species generated a whole host of human rights demands. It is a major trend in human rights at the present day that the universal human elements are on the increase. This is one aspect of the processes characteristic of the current epoch, when the focus has moved to endeavours to secure the survival of the human race which go beyond social systems and negate blocs. It is only possible to safeguard human rights today by attaching primary importance to the global problems which threaten mankind's existence, such as the prevention of wars and ecological disasters, the ending of underdevelopment in numerous countries, and so on. This is a second trend in human rights related closely to the first.

The pressures resulting from the dangers presented by global problems add quite considerably to the dimensions of the universalisable interests of individuals, peoples and states. This at the same time provides an objective basis for a consensus-oriented discussion on human rights, which is essential if now and in future we are to ensure both the internal and external peace of states and peoples. Hence the challenge facing legal experts to create more substantial mechanisms guaranteeing that human rights really are implemented, and that includes mechanisms for the peaceful settlement of conflicts.

The revolutionary revolt against what passed for socialism in various countries has made it clear that these societies had not incorporated the universal system of human values which took shape from the time of the bourgeois revolution. Many of the slogans with which people in the German Democratic Republic took to the streets last October and November were more reminiscent of 1789 or 1848 than 1917. These grassroots demands were a reaction to the practice in the socialist states of denouncing and dismissing the rights won in the bourgeois revolution as formal, instead of taking them on board and expanding them.

There was no limit to the arrogance with which the ruling politbureaucracy treated the achievements of bourgeois society in the field of political rights. And there were not a few reasons for this. They doubtless include a lack of education. It would also be correct to ascribe this arrogance to the Stalinist deformations of Marxism. But it seems to me even more fruitful to look for the ideological origins of this behaviour in Lenin, for example, in his polemics against Kautsky. Neither was it just an accident that the countries with a deformed socialist system chose to remain silent about the successes of 1789 and so were not able to benefit from the bourgeois concept of democracy and human rights as part of their societies' inheritance. Manfred Kossok, an expert on the history of revolutions from

Leipzig, hit the nail on the head recently when he said that the people of these countries became "comrades" without ever having been "citizens".<sup>4</sup>

Though it may have been toned down since Stalin's death, the political system of existing socialism took a despotically disturbed attitude to the law. The leading bodies of state and the persons who filled their offices were at best formally integrated into the legal system. They were not subject to the law but stood above it. It is here we find the actual root cause of the lasting hostility the communist parties showed towards the idea of the constitutional state. They were afraid that in practice the law might be used to set certain limits on their power. The rights and freedoms of citizens were in the foreground of the revolutionary upheavals in Central and Eastern Europe. There was a mechanism at work by which the suppression of freedom by the ruling was countered with demands for freedoms by the ruled, a phenomenon witnessed during previous revolutions and the period immediately preceding them.

When over half a million people gathered on Berlin's Alexanderplatz on 4 November 1989 to demand their rights and freedoms according to the motto "Legal security is the best form of state security", this was a declaration of war on an authoritarian state, which spoon-fed its citizens and had them watched by an omnipresent security service, introducing blanket coverage when Gorbachev embarked on *perestroika* in 1985. It has now been discovered that the former Ministry of State Security kept files on more than six million people. The gerontocracy that used to run the German Democratic Republic imagined that in this way it would be able to shield itself against influences not only from the West but from the East as well.

The emphasis on rights and freedoms in the revolutions against existing socialism is aimed at bringing out individuality. Creativity, a willingness to take risks and an entrepreneurial spirit are qualities that will be at a premium. What is involved is the freedom of the individual as expressed in self-determination and self-realization, and the necessary economic prerequisites and conditions. But there is also an economic motive behind the role played by civil rights and freedoms in the revolutionary transformation. The public quite rightly saw a direct link between the bureaucratic spoon-feeding of the individual and the dramatic decline in productivity in the socialist economy. This notwithstanding the fact that the German Democratic

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4 Manfred Kossok, "Requiem auf eine schöne Revolution" in *Die Weltbühne*, No. 6, 1960, p. 161.

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Republic was among those socialist countries with an economy that at least worked to some extent. But what matters is the point of reference, and people in the German Democratic Republic are faced directly with the West Germans whose productivity is about 40 per cent higher than their own.

For all the political failures of the now defunct social system in the German Democratic Republic, the ultimate reason for its demise was economic inefficiency. The system knew no domestic compulsion to innovation, and all the measures taken to rectify this situation did not work. In recent years attempts were made to compensate for the economy's inability to innovate by exhausting the environment and even engaging in morally reprehensible international business practices.

Certainly, nobody went hungry in the German Democratic Republic, nobody was homeless, and everyone was guaranteed a job and training. This kind of security engendered a certain kind of complacency, led to social apathy on the part of the individual and culminated in a lack of pressure to work. Moreover, it was only to be had at the cost of a life dogged by bureaucracy. The so-called sense of belonging had another side to it, namely that people's decisions were taken out of their hands and they were spoon-fed. This brings us to the conflict between freedom and social security. It is a conflict human and civil rights theory takes up by posing the question of the relationship between economic and social civil rights and others, particularly political rights.

Certainly, there is an interdependence between economic, social, cultural and political human and civil rights. But does this mean that human and civil rights are entirely indivisible and no priorities are to be set in their implementation?

This is currently a subject of much discussion in the German Democratic Republic, together with the constitutional implications involved. The right to work is set out in the draft constitution drawn up by the Round Table. But there is another position which says that a constitutionally guaranteed right to work is incompatible with a social market economy.

By way of a compromise, the view is emerging that the right to work — just like those to housing and a healthy environment — whilst being incorporated in the constitution, should not be made enforceable by law. In other words, these rights should be understood as aims of the state. The definition of such aims can doubtless provide a major foundation for the interpretation and application of the entire body of valid law in a country. Although the inclusion of the right to work as an aim of the state does not actually make it incumbent on

the state to find work for the unemployed, it does oblige the state to guarantee protection against wrongful dismissal and to introduce job creation programmes in the absence of full employment or prospect of unemployment.

If we take Marx's utopian vision of a community in which full and free individuality has been implemented on the basis of the universal development of all members of society,<sup>5</sup> then social and political basic rights must be regarded as indivisible. But we also know that in human history to date it has only been possible to advance the capabilities of the human species at the cost of the majority of individuals. This was not due to bad intentions on the part of the ruling classes, but happened because the actual level of productivity reached in society meant it was impossible to bring about the universal development of all. This is still the case today and will remain so for the foreseeable future.

It remains an organisational task for the future to create the conditions which allow the development of the inclinations and abilities of a growing number of people, i.e. to make less severe the contradiction arising from the development of the capabilities of the human species at the cost of the majority. It would be incorrect to expect the law to solve all the problems here, but no less so to deny it any part at all. That man shapes his own condition and is the measure of all things applies as much to the field of law as it does to all others. However, legal means of implementing human rights can only function as well as, but should function no worse than, determined by a society's level of economic development and hence of civilisation. The importance of a solid economic base for the implementation of human rights has been reaffirmed by the breakdown of existing socialism.

The shortcomings in implementing human rights in the countries that called themselves socialist had a great deal to do with the fact that they were afflicted by economic shortcomings. The introduction of organisational principles based on a market economy in the socialist, or once socialist, countries will create more favourable conditions for the implementation of human rights. But the process will not be without friction and tremors. There is bound to be a polarisation between rich and poor, and this will bring with it a shift in the emphasis of human rights campaigns in these countries; social justice will take on growing importance.

But the implementation of human rights is a never-ending process anyway. Human rights are not handed to anyone on a silver plate, and

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5 K. Marx and F. Engels, *Works*, German edition, Vol. 42, Berlin 1983, p. 91.



neither are they granted by the state or any other institution; nor yet are they introduced into society by virtue of ideological programmes and plans. Human rights are won by movements when the necessary political, economic and cultural conditions are present or can be created in society.

This makes clear the close connection between the implementation of human rights and the democratic self-determination of peoples. In essence, human rights are nothing more than a people's right to self-determination applied to the individual. A state which denies another people the right to self-determination necessarily also denies this right, and thus their human rights, to the individuals who make up that people.<sup>6</sup> To this extent, the democratic revolution in the socialist, or once socialist, countries is also a revolution in favour of their peoples' right to self-determination.

As current developments in some of these countries show, this is being accompanied by efforts to revitalise national identity. These processes are quite normal and perfectly understandable as such but there are unfortunately also certain unmistakable trends towards nationalistic attitudes, not least in the two Germanies. It is particularly worrying that anti-Semitism seems to be gaining ground. What is happening in the German Democratic Republic in this respect can no longer be dismissed as trivial.

I am coming to the end. It has been my intention to present you, from the viewpoint of the general theme, with a number of aspects that should be considered when carrying out a theoretical analysis and evaluation of events in the once or still socialist countries. These are my conclusions:

- a) The revolutionary upheavals in the countries of existing socialism started out neither as revolutions (counter-revolutions) in favour of capitalism nor in favour of (a better kind of) socialism; they were democratic revolutions for human and civil rights.
- b) The most prominent feature of the transformations was action in favour of personal rights and freedoms. The focus of attention was on a revitalisation of the civil rights generated by the bourgeois revolution, rights which the ruling politbureaucracy had dismissed as formal instead of taking them on board and expanding them.
- c) As democratic revolutions for human rights, transformations in the countries of existing socialism are aimed at giving their peoples the right to self-determination. Human rights are the right of peoples to self-determination applied to the individual.

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6 H. Klenner in *Die Rechte des Menschen, Dialektik 13*, Köhn, 1987, p. 149.