

THE HUMAN RIGHTS MOVEMENT: ITS CONTEXT AND ITS CONCERNS

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Human rights activists who wish to step out of the assigned limit of defending the rights of rebels and revolutionaries are frequently warned not to speak of things such as freedom and democracy out of context. One should not, of course, speak of anything out of context. But what is the appropriate context is a matter that people can legitimately disagree about. One need not live in a post-modern epistemological wonderland in which all postulated contexts are equally valid constructs; one may believe that there is something real that lends greater significance to one as against another. And yet one may differ as to one's evaluation of that significance, as one differs in one's evaluation of twentieth century history and the problems of radical political theory.

Radical minded people, whether activists or intellectuals, who wish to confine the human rights agenda to the single point of defending the rights of rebels, believe that the only valid context for the human rights effort is the revolutionary paradigm of structured oppression, the fight against such oppression, and the liberation from oppression, into a realm of true freedom and democracy. Freedom in between is only the freedom to rebel; and democracy in the meanwhile is only that which allows that freedom. Every other meaning assigned to freedom and democracy in the present day is either ideology or plain fraud. To describe this as the Marxist understanding of the human rights effort would involve a tedious - and necessarily inconclusive - discussion of the various interpretations of the Marxist tradition, (not to mention speculation about what the tradition's progenitor would have said if he had seen the Bolsheviks and Stalin and Pol Pot) but this is certainly the burden of much radical criticism in India of those human rights activists who, in the view of these critics, are wandering at their peril outside the realm of criticism, which - in theory and in practice - is the pristine radical attitude towards all that constitutes the stuff of the existing social order. On this general point Marx would have agreed with them, though perhaps not with all the outrageous things his Indian disciples say about bourgeois democracy. Marx's attitude was that of an unrelenting critic of the way society has been ordered in human history, which he therefore sometimes calls pre-history, a critical attitude in

which the negativity of the existing order of things is treated as its essence, and the positivity, if at all acknowledged, is satirised for its incompleteness, or rather for its illusoriness, and the mirror image of itself that it contains within; perhaps it is occasionally recognised as a mitigating blessing, but never as anything more than that. It certainly has no role in the liberation that is projected, or whatever it may have is inessential and inconsequential to the act of liberation, the overthrow of the very foundations of existing social order, which is the one grand positive act, of which every other act must be a part in order to lay claim to any positivity for itself. Liberation, the realisation of the basis of true positivity, is not a critical summation and extension of progress hitherto achieved and existing, but a process of transcendence of the basis of all that is and has been, the basis of existing progress as well as existing reaction. And after that, real history will be made; real positivity will come into its own. Liberation or revolution, for Marx, is an act as well as a state of affairs. It is not a state of affairs that may be approached by a critical engagement with the existing social order that enlarges its progress and confronts its regression. It is a state of affairs realised by an act of rupture in the basis of the present social order, the positivity of which is essentially irrelevant to this act except in so far as it may aid the act of rupture.

But though most Marxists will not accept this, the Marxist notion of revolutionary rupture as the sum and substance of positive activity, and revolutionary potential as the sum and substance of positive potential in society, looks very doubtful today, and what remains of Marxism is Marx's critique of society, which cannot be said to have been rendered doubtful by experience to anywhere near the same extent as his prognosis of liberation. Marxism, at its best, is an extremely fine critique (but often it is so fine because it is so extreme) of human existence as we know it; and though Marx intended otherwise, for he wished not merely to understand the world but to change it, it is as a superb critique of Man-as-he-has-made-himself (in the gender-blind language that Marx and his contemporaries were wont to use) that Marx's ideas will survive all their other theoretical and practical failures. But whether an exclusively critical attitude is sufficient, quite apart from its extreme moments, to offer a guide to human rights activity is a highly debatable point. Indeed, an exclusively critical attitude is useless as a guide for any transformative - as distinct from critical - activity ... excepting the seizure of power by force, if that be transformative at all. If it appears otherwise, that is only because a lot of practical activity is undertaken untheoretically.

This lacuna, this gap left by the receding promise of Marxism, is part of the context for any human rights theory.

A related and more urgent contextual element comes from what has sought to replace the fading certainties of Marxism. If Marx's project of human progress through a revolutionary break with the past has proved doubtful, we now have radical modes of thought that are not concerned with any prognosis of progress at all. If Marxism has been reduced to a mere critique against the wishes of its progenitor, we now have theoretical perspectives that would proudly be mere critiques, finer and finer critiques, critiques of critiques of critiques. There is no philosophical need to define progress, no need to seek out theoretically the practical modes of realising it. It is enough to disembowel the linguistic modes of self-expression of forms of human existence and activity and discover ugly worms inside. There is no need to establish criteria of truth, and sift truth from falsity in ideas. It is enough to set up ideas as the construct of a mind addicted to a particular social/cultural/philosophical idiom, and then dissect the ideas to uncover the idiom, whose validity with reference to reality is not one's concern. The same is true of right and wrong, good and bad, moral and immoral. Science, History and Ethics are devalued, if not overthrown altogether.

If the pretence of Marxism that the totality of human social existence can be comprehended by a finite set of interpretative rules is called upon by experience to be rejected, we today have theoretical paradigms that reject not only that but the very notion of totality and interpretation (as distinguished from deconstruction) themselves. The totalising nature of Marxist interpretation has certainly led to a false over-simplification of matters, which in turn has led to intellectual tolerance, political dogmatism and repressive politics. Human rights activists who are concerned about democracy are therefore rightly also concerned about the totalising nature of Marxist analysis. But at least, being a Marxist has meant that one is constantly aware of everything else while talking of any one thing, constantly conscious of the totality within which one is talking of any one thing, which is a very necessary attitude. It has also meant that whatever one takes up as the object of one's study one tries to understand it in its relation to as many other things and as comprehensively as possible, which is necessary if one is to make sense of this world in a non-totalising manner. Today we have fashionable modes of thought that disdainfully ignore everything except the one polarity that they have chosen to examine in all its intricate complexity, unmindful of what exactly one is to make of this analysis when it is not linked to anything else either spatially or temporally: in society or history; and (more importantly) unmindful also of the fact that when one takes up a single polarity as the subject of one's study and treats it unmindful of all else that enters the two sides of the chosen polarity and the relation between them, one tends to read everything else, thereby resulting in oversimplification that can sometimes outdo the most dynamic expositions of Marxism.

Thus, the inadequacy of Marxist theory, and the extreme inadequacy of its post-modern (as it is usually called) replacement is an unavoidable theoretical context for any progressive thought, and therefore also for cogitation about human rights. Only those who dogmatically deny that there is any problem for Marxist theory can deny this; or those who have been led by dissatisfaction with Marxist theory into an abdication of the noble aim that the human mind has set itself in the course of history: to seek out what is True and Right and the possible modes of realising it.

This is the theoretical context. The social context, of course, includes rebels and their rights, rebellions and their suppression. But it also includes much else besides, unless the human rights movement continues to tag itself on to the notion that rebellions and struggles for altering the fundamental basis of society will alone create the conditions in which freedom, democracy and equity are possible. Whether or not there is an identifiable fundamental basis of life, it is quite true that rebellions that seek to alter the terms of social life have an important role in creating equitable and democratic possibilities. But that is neither the beginning nor the end of the matter. Quite a lot of ideas and institutions that can contribute to a democratic and equitable existence have already come into existence through past struggles and constructive effort, whether bourgeois or otherwise. Everything is not waiting to be created for the first time in history. On the other hand, the consequences of revolutions are far from being uncomplicated. Rebellions have frequently led to improvement along one dimension of life and deterioration along others. They have in particular led to autocratic regimes, or regimes insensitive to interests other than those they have espoused. They have frequently foundered after some achievement and failed to fulfill, their, promise. Often they have regressed. And finally, progress in democracy and equity does take place outside the domain of revolutionary struggles for a total liberation that rarely comes. Thinking of rights in terms of norms, values and institutions that can guarantee them is much more useful than looking forward to liberating revolutionary struggles to create a paradise of rights, spending time in the meanwhile talking only of the rights of rebels. It will immediately be asked whether the norms and the institutions can be achieved in reality without a fundamental transformation of the production relations, or whatever the questioner regards as the foundation of social life. The answer, born of the experience of the twentieth century, is that quite a few things can be changed without overturning the production relations, and secondly that the overturning of the said basis of life does not necessarily lead to progress in all walks of life unless sufficient previous effort has gone into building changes along with or independent of the revolutionary struggle.

A look at some of the arguments and discussions that the Indian human rights movement has seen will serve to clarify a few more points.

In the early days of the current human rights movement in India, there was fiery discussion about the meaning and scope of the expressions 'civil liberties' and 'democratic rights'. According to the Left in the debate, civil liberties denoted mere legal rights, rights guaranteed in the Law and the Constitution, whereas democratic rights denoted the rights claimed by mass movements and political struggles of the oppressed. Naturally, it was held to be a superior thing to be concerned about democratic rights rather than legal rights as such, though they were of value to the extent that they helped people's movements. Now, it is one thing to say that it is not enough for the human rights movement to speak only about legally guaranteed rights. Indeed, not even the most steadfast Constitutionalist would succeed in doing so in the strict sense. For every right traverses a path in which it is a desire hopefully sought for at one stage, a politically asserted demand at another and a legally guaranteed right at the last. The mistake stems from the belief that legally guaranteed rights have no political history behind them and that they have come into being straight at the moment the law was made. All rights are initially only desires, usually dismissed as unrealistic. They take birth in the minds of a few. If they do not die there but catch the imagination of a wider public, they can become the stuff of a political struggle, a movement that asserts the desire as a right, as something that is a just entitlement and cannot be fairly denied. If the movement succeeds to any extent, the right desired is institutionalised in the form of a legal entitlement. Thus every legal right was a political demand once upon a time, and every political demand hopes to get statutory future. The two are not superior or inferior rights, but two stages of a process. Sometimes one may well think that for a given political demand to get recognition as a legal right, some basic structural changes in society, are required. Though Marxists are generally too eager to assume that this is so, the supposition may well be true on some occasions. But that does not gainsay the fact that the aim of political movements is to obtain institutionalised guarantee - that is to say, the status of a legal right - for their demands, whether or not that is to be accompanied by other structural changes. To say that the right asserted is of a superior kind so long as it remains the demand of a political movement, but gets somehow devalued into a mere legal right once it is accorded statutory recognition - except to the extent that it serves future struggles - is a meaningless way of looking at things. Even the notion of Rule of Law, which is the foundation of bourgeois civil liberties, was achieved by a prolonged political struggle in which large numbers of people participated. And

every progressive political battle of the present, one hopes, will get institutionalised recognition for its demands sometime in the future.

A different presentation of the distinction between civil liberties and democratic rights that one has often heard in the Indian human rights movement is that the former refers to the freedom of individuals (generally prefixed with the appellation bourgeois) whereas the latter refers to the rights of collectivities. This distinction again has two meanings. In one we have a conflict between an individual's rights and that of a collectivity, as when we have a capitalist claiming the right to retain all his profit, pitted against his workers who want bonus. This is really a case of conflict of rights, where one makes one's choice depending upon wider notions of socio-economic justice and equality, and per se has nothing to do with the dichotomy individual vs collective. It can arise between an individual and an individual (an estranged wife and husband fighting over custody of children, or the division of the property that the husband claims he has alone earned during subsistence of the marriage), or a collectivity and a collectivity (upper castes and backward castes fighting over job reservations, with the former claiming the right to formally equal treatment and the latter the right to genuinely equitable treatment). It can even arise between an individual who is on the right side of our sympathies and a collectivity that is on the right side of the law, as in the case of a single employee of a corporation pitted against the collectivity of the corporate shareholders who are his masters; or a non-believer upset by the cacophony of a religious celebration that claims both customary right and legal permission; or the minority of street hawkers pitted against the huge collectivity of a metropolitan populace whose urban development robs them of livelihood. In all these cases, to the extent that the Law acts in such a way as to conserve and reproduce existing social relations, it works in favour of those who benefit from iniquity, but where the Law works as an instrument for reform it is on the side of those who ask for equity, though in both cases the rights it confers are legal rights. What is more important, perhaps, is that the same principles in the name of which Law seeks moral legitimacy for its conservative partialities can be used to force it to aid reform, which fact blurs the sharp polarity between the two roles that legal rights play. But more of this later.

The second meaning of the individual Vs collective distinction in the definition and understanding of rights is deeper. It refers to the conceptualisation of rights as essentially individual- concerned, which may be more justly called a bourgeois conception, not as a term of abuse but as a mark of its philosophical and historical origin, and that of rights as collectivity-centered. There is virtue in this distinction. Certain collective rights are expressed in an unsatisfactory manner in terms of individual rights in bourgeois

law. The freedom of association and organisation are essentially collective rights, but they are conceptualised as individual rights - the right of individuals to associate with each other and to join together to form organisations. These rights are no doubt more advantageously conceptualised with the collectivity as the subject. That would lead to wider implications and consequences for the fights that the associated or organised people possess. The same is the case with the rights of communities to common land, forests, water, hygienic surroundings, community services etc. Such rights were not part of the original bourgeois notion of the -'Rights of Man' but have gradually got some recognition due to, pressures from the Left, though they are still often given expression in terms of the individual as the carrier of rights. Yet the distinction between individual-centered and collectivity-centered rights is not absolute nor as mutually inimical as polemical argumentation would make it appear. Quite often individual-centred rights entail certain rights of collectivities, and the logic of the former can form a philosophical basis for the justification of the latter. The freedom of speech, understood as an individual right, implies freedom of communication, which is the right of pluralities of persons. The freedom of (at least in germinal form) associated action of communities of persons. This is not to deny that there are definite advantages in starting with the associated community as the carrier of rights. That would be a more natural and fruitful starting point for postulating rights of collectivities of persons. But on the other hand, every right attributed to a collectivity requires clarification as to the way it is shared in by the individual members of the collectivity. That is to say, it has to be supplemented by individual rights. If water from a stream is assigned to a neighbouring community as its collective right, the entitlement of individual within the community will have to be specified, whether statutorily or customarily, unless one is blinded by the romantic notion of 'undifferentiated oneness of the masses'. There will be differences of interest and inequality of status within the collectivity, whether it is a 'natural' or voluntary community. Certain sections within communities - women are a universal example - are everywhere discriminated against within communities, and therefore assigning rights to collectivities without specifying the entitlement of individual members can lead to distortions. Moreover, individual members of the collectivities also require rights against the collectivity to ensure that the rights assigned to collectivities do not result in denial of rights to the individual: such as forcing reluctant workers to take part in a strike, where the strike is seen as the right of the collectivity of workers. Or - more pertinent to the Indian situation - where self-determination is seen as a right of a nationality struggle - whether Naga, Kashmiri or Khalistani. Or, where the Maoist agrarian revolution is seen as the collective right of the landless poor, then that is to be supplemented by the right of an individual landless labourer to reject the revolution and

collaborate with the Congress Party, a right that is not always respected by the Maoists of Andhra Pradesh or Bihar. In summary, while the difference between individual-centred rights and collectivity-centred rights is real enough, the two are not mutually exclusive nor always enemies of each other. They are essentially complementary to each other.

The understanding of rights as individual-centered is certainly a bourgeois notion, historically and philosophically. But that does not mean that it is useful only for the capitalists and their ideological or hegemonic interests. It only indicates the limitation within which rights were first conceptualised in modern European history. As some rights are necessarily carried by individuals (for instance, the right not to be tortured to extract a confession, and the right not to be forced to agree with official or majoritarian truth against one's convictions), this notion is not totally misleading, but on the contrary a necessary one. It is limited, incomplete. To be incomplete is not just a quantitative deficiency but can deform the notion qualitatively too, as when an industrialist's right to dispose of harmful waste in the cheapest possible way is defended against the whole community's right to a healthy environment, which was until recently not even understood in bourgeois law, and is even today very poorly protected in Third World countries such as India. The incompleteness and deficiency must be corrected by evolving the notion of rights which have collectivities as carriers. But any argument that it is always collectivities that are the proper carriers of rights is equally fallacious and can equally deform the notion of individuals, has again and again led to arbitrary violation of the rights of life and liberty. And the erstwhile socialist countries, we remember, justified all their grotesque violations of personal freedoms in the name of the superiority of the collective over the individual. Certain rights are inherently individual, and some are inherently collective. Rights that properly belong to collectivities must not be defined in terms of individual rights, or plainly ignored where they cannot be so defined; but where collectivities are assigned rights, individuals must have rights within and against the collectivities.

The most commonly highlighted contrast between individual-centered rights and collectivity-centered rights in the Indian human rights movement is that between, on the one hand, the most precious of bourgeois civil rights, viz., the freedom to live, think and speak according to one's wish, and on the other, what is declared to be the most precious of democratic rights, the right to struggle to overthrow the oppressive social order. In other words, the freedom of political action within society as against the freedom of collective action to overthrow the social order. Here the debate passes over from the individual-collective polarity to cover also the distinction between the right to live freely within society and the freedom to overthrow that society. Stark as this

dichotomy appears, in practical terms there can be no right to overthrow a social order, if one is talking of that right in any real sense, in the sense of an entitlement that can conceivably be conceded. No State on earth (bourgeois or otherwise) will do so (excepting the Utopian State which has withered away, but then it no longer needs to be overthrown). Achieving that right in practical terms means working upon the civil liberties granted by the bourgeois State to live freely within bourgeois society, refining, expanding and elaborating those liberties to approximate something like the right to make a revolution. In other words, the treasured democratic right to overthrow society can only be approximated - if one is talking of it as a right, as any meaningful human rights discourse must, and not merely using human rights language for purposes of political polemics - by working upon and expanding its seeming opposite, the right to live and act freely within the social order.

All this is not to say that any serious theoretical debate about rights as individual-centered civil liberties and group-centered democratic rights, or the right to live freely in society as against the right to transform society, has taken place in the Indian human rights movement. Only vague prejudices have been held and continue to be expressed. The human rights movement in India functions within a revolutionary ambience, and its sights are fixed on the grand act of overthrow of the present social order. Talk of rights is mostly intended as just one more means of making some noise against the 'system'. After the overthrow, it is assumed, an order will take birth in which there will be no serious deprivation of any sort, economic, political or cultural, and no basic conflict of interests, and therefore no need to think too much about rights. Such an attitude can produce no theory of rights, nor undertake a serious discussion about the problem of rights such as the Western radical democrats have undertaken.

This is of course of a piece with the generally uncritical way in which the millenarian aspect of Marxist tradition has been accepted by radical activity in India. But that alone is not to blame. It is doubtful if there can at all be a satisfactory Marxist theory of human rights, as indeed of any other "superstructural" phenomenon. If the Marxist theory is satisfied with being a mere critique of bourgeois rights, then it is confined to the negativity of rights and cannot form a guide to positive human rights activity. If it wishes to go beyond a critique and theorise about rights within the more comprehensive context of social critique plus reconstruction, then it has to work into its theory the only notion of reconstruction known to Marxism: the overthrow of the fundamental basis of the bourgeois social order, and the proletarian potential for that overthrow. But this looks so remote today that no Marxist these days builds any theory within the framework of the proletarian revolution as the only

true positivity, and the potential for it as the only truly positive energy in society. What they do therefore is to smuggle in surreptitiously other elements of positivity that do not really belong to Marxism (as quite a few of our Marxist economists have been doing) or else revert to a mere critique of bourgeois society (as our Marxist literary and cultural critiques tend to do), from where a further deterioration to a post-modern frame is not difficult. It would be simpler and more honest to revise Marx, make him less of a revolutionary and more of a reformer, seek a wider framework of positivity than allowed by Marx within existing society and history, abandon the extreme and Utopian dichotomy between pre-history and true history, look unromantically at whatever transformative potential the struggle of the proletariat and other oppressed people have, relate that potential to the positive heritage of history, whether that stems from the hegemonic or constructive activity of the elites or the struggles of the oppressed, and theorise within this framework of social reconstruction.

III

Let us begin at a different starting point viz., the question of democracy as a concern of the human rights movement.

Human rights activists in India are mostly Marxists or Marxists-like radicals of one variety or the other. They are politically concerned about the revolution', though in their day to day human rights activity they are concerned with democracy. As the Marxist notion of revolution has a troubled relation with democracy (to put it politely), the average human rights activist leads a life of uncomfortable tension vis-a-vis the principal domain of his/her activity. Living in such tension can have the effect of either making one a hypocrite or else opening up one's thoughts. The thought thus opened up will necessarily begin looking critically at the relation between democracy and social restructuring in the Marxist tradition.

Bourgeois democracy has been understood variously in the Marxist tradition. It is the ideal political form for the reproduction of bourgeois economic relations: it is a camouflage of bourgeois power; it is a palliative that softens the anger of the proletariat; it is an ideological blinker that serves to give the impression of popular sanction to bourgeois rule; it is the most extreme estrangement of political life from productive life ('civil society'); and at best (its only positive quality, which is significantly linked to the supercession of bourgeois society) it can be a useful instrument for the proletariat to enhance its political consciousness and engage in the battle for power.

It is all this, but never a form of organisation of human political life that encompasses certain principles that are of lasting value for human civilisation, principles that will necessarily have to be a part of any just and equitable restructuring of society, and can help positively to achieve such a restructuring, howsoever incompletely or unsatisfactorily they may be elaborated and institutionalised today. To understand democracy thus would be to see it positively as an achievement of human civilisation which is to be carried forward while critically overcoming its limitations.

The principle that government must be by those who have the mandate of the people to govern, is one such principle. The Utopian notion of the young Marx, that the estrangement that such representation implies is the acme of alienation and will be transcended to make political life collapse into civil society so that each human being in society is a representative of all others, not by being elected at the polls, but by the nature of the productive activity that he or she undertakes, is just that: a Utopian notion. Given modern technology and the size of modern societies, political life will always be distinct from economic life except at best at the very local level, though the gap between the two can and should be reduced as much as possible, perhaps by bringing as much governance as possible to the local level. But the acceptance of the principle of governance by the people's mandate does not solve all the problems of the mandate: the frequency of elections, recall by electors, accountability other than at election time, opportunity to all to contest elections, participation by the people in governance other than through the elected representatives, etc. These are recognised problems of democracy whose solution has to be sought in the course of perfecting - and not transcending - the principle of representation brought into being by bourgeois democracy. This is not to say that the process of perfecting of that principle does not require certain economic and other structural changes as its concomitants. But then democracy can itself help smoothen the process of achieving those concomitant changes.

The same is true of other values and principles that are part of bourgeois democracy: Rule of Law, freedom of conscience and expression, etc. It may be that the notion of Rule of Law came into being so that the arbitrariness of autocratic rule that is inimical to economic enterprise and the accumulation of capital is replaced by predictable, norm-bound and orderly rule in which they can flourish; or so that the regime of contracts which is central to capitalism becomes enforceable; or so that the capitalist can happily leave the business of governance (subsidiary to known Law) to professional politicians, and concentrate on the making of money; or so that the property of the capitalist is safe from the royal as well as the plebeian robber. Any number of such explanations can be given and have been given to establish the argument that

Rule of Law is a bourgeois notion. All this is true enough, but it misses a vital point. Rule of Law, whatever its origin in terms of the social interests that led to its formulation, is expressed in terms of a universal principle: that human social life must go on in accordance with principles properly laid down by representative bodies such as legislatures, not just in the matters of contract and theft, but in general, so that arbitrariness and autocracy may be avoided. It is a remarkable characteristic of human thought that aspirations and needs born of particular interests are always expressed in terms of universal principles, and that too principles of equity, justice and righteousness. Why this should be so is not clear, but it is always so. It is evidently a characteristic of the human moral sense. Its use is clear enough; it serves the hegemonic purpose of attracting others to one's cause, but that calculation is no part of the moral urge that one feels in calling upon general principles in defence of our particular interests. If the human moral sense is itself a species-device for uniting its members, born perhaps in the struggle for existence, the theoretical sense of interpreting its expression as a hegemonic political device needs to be debated. It seems to imply that not only does our moral sense have a social basis (as historical materialism tells us), but our social devices also have a moral basis.

Howsoever that may be, the consequence of such a general expression of particular interests is evident. The principle that is thus formulated attracts value as a general principle of human social organisation, whether the particular interest survives forever or not. It can outlive that interest and find expression in different social systems and situations. More immediately, even as that particular interest survives and thrives as a consequence of the institutionalisation of the principle enunciated by it, that principle can be and is picked up by other interests, even interests not congruent with the original interest, and given wide expression in diverse social contexts. The principle then no longer purely represents the particular interest that gave rise to it. After a while the two will have to find an equilibrium - stable or unstable - whose nature would depend upon the strength of the other interests that picked it up and reformulated it in their image, and the general strength of the moral appeal that the principle carries in that society, given its cultural history and socio-economic composition. The notion of Rule of Law was born, let us grant, in order to make the protection of private property from thieves a public duty rather than a private affair, in the interest of accumulation of capital, but in due course the thieves too have found for themselves a few rights in the Rule of Law. This is particularly instructive, for thieves are not a 'class' in any sense, nor have they been able to exert pressure upon society in their interest, unlike say the working class, which has picked up the notion of Rule of Law and reinterpreted it in its interest to get some rights for itself. Yet thieves have got

rights in 'bourgeois law' because the moral imperative of the principle of Rule of Law would not have it otherwise. And that principle can help quite a bit in transforming the social conditions in which it was born. It will moreover have to be part of any future society, howsoever thoroughly restructured, unless one continues to be addicted to the Utopian notion that the need of any Law at all will dissolve in a spontaneously communitarian life. The principle is to be understood as a general principle of human civilisation, respected, criticised for its limitations at each point (especially the way laws are created and the way they are enforced), and carried forward in a manner congruent with the just and equitable restructuring of human life.

The idea that all significant social ideas are (in the ultimate analysis) the expression of the interests of some class is therefore basically a partial truth. Ideas, it is true, are generally born as the expression of a given state of human affairs, whether the expression is direct or mediated. But subsequently the ideas go through a process of adaptation, expansion and mutation. Of course they are also frequently subjected to regressive rather than expansive mutation, but we are here looking at the progressive potential of ideas. Using Hegelian language, one may say that the principles around which a just and equal society can be structured realise themselves in particular interests in history and then strengthen and enrich themselves by seeking newer and wider interests that reproduce and expand them until they become part of the inalienable fund of human social life. But this kind of language can be dangerous. Any theory that attributes subjectivity in human history to anything other than concrete and actual human beings can lead to inhuman politics. This applies also to idealised categories such as class, as distinguished from what actual social groupings were and to the extent that they actually act as a group. It is better to stick to the humanistic method advocated (but not consistently followed) by Marx in his essay on Feuerbach in *The German Ideology* - that one sets out from 'real active men, and on the basis of their real life process'. To set out from the real life of the historical human subject, follow up the vicissitudes of its creative and destructive efforts, the trajectory that human effort has actually taken in history, discloses, such alone is the method of study of human affairs that can throw light on the progressive potential of actual human history. Otherwise we will condemn ourselves to either stultifying inactivity or millenarian totalitarianism.

If, then, the tenets of bourgeois democracy are understood positively, as principles that embody civilisational progress, though expressed within bourgeois limitations, and if that understanding rather than perpetual cynicism is made the point of departure for the human rights movements' understanding of democracy, quite a lot of questions concerning the health of Indian

democracy: could be raised by the human rights movement in India, which has instead concerned itself excessively with just one aspect of the ill-health of Indian democracy, viz., State terror, which is a matter of vital concern for political rebels. Ambedkar raised one such question long ago: Democracy (he would not have called it bourgeois democracy, because to him it represented not somebody's class interests but a valuable form of politics and government) presupposes a vibrant community of people who communicate with each other, share each other's life, and as a genuine collectivity decide by a consensus or a majority what is the best for them all. To the extent that every society is divided on economic, regional and other lines, and to the extent that both communication and empathy in human beings are affected by social and territorial distance, the pre-supposition is only partly ever met. But the Hindu caste system has built walls in society that to a qualitatively uncommon extent make each caste a community by itself, enclosed by walls that prohibit sympathy and sharing of concerns, and almost all communication. How then is democracy to be possible in India? Is it not a precondition for the healthy growth of democracy that caste be annihilated, or at least significantly destroyed? This question, which Ambedkar raised in his lone voice, could easily have become the specifically Indian starting point for the human rights movement, to the extent that democracy is its major concern, but then that requires taking democracy seriously. Those who have learnt to look at it only negatively - as a form of bourgeois rule, a palliative, an ideology, a fraud, a form of alienation, or at best a useful instrument for the revolution - would not be able to think of this question at all. And to Ambedkar's question, many more of a similar nature could be added. Democracy, to be a healthy growth, requires active political participation by the citizenry, participation in debating the problems of society and in seeking their resolution. But women, who are half the population, have been kept out of political activity by the patriarchal family system and the division of labour it entails. Can democracy, then, really be meaningful unless this division of labour is put an end to, or at least inhibitive of political participation, are fifty per cent in India according to official statistics. Can democracy be meaningful in these circumstances? Thus many questions of a social and economic nature could have become as vital a question as 'State terror' to the Indian human rights movement if it had taken democracy seriously instead of merely satirising it.

We need not stop there.

The notion of human rights is today not concerned with only political democracy. It is concerned (in its own way) with the whole range of what the UN covenants have labelled civil and political rights on the one hand, and social, economic and cultural rights on the other.

It was not so in the beginning of the modern notion of rights. The precursor of the term human rights is the European notion of 'Rights of Man'. When the expression human rights first became fashionable in India, the immediate reaction of the civil and democratic rights organisations was one of philosophical hostility. It was seen as an imperialist ideological intrusion, for the term 'human' appended to rights appeared to indicate an undifferentiated mass of humanity that is the common bearer and recipient of rights, whereas in truth it is one part of humanity that deprives others of their rights. But somehow the hostility has now worn off, and the term has become more or less acceptable today.

As a matter of fact, 'human rights' is only a gender-neutral successor to the long standing notion of 'Rights of Man'. This is not to say that the latter had no ideological slant, or that the US is not using human rights as an instrument to beat recalcitrant nations into submission to its notion of the international order. But what is relevant for the present is the historical vicissitudes of the notion. The 'Rights of Man' were conceptualised within Natural Rights theory which was set up in opposition to the Divine Right theory of kingly power. Though called a 'theory', natural rights is more an ethical justification of rights than a theory. And as an ethical justification, it is unmatched. If the King has power because God has given it to him, I have rights by 'nature' i.e., by the very virtue of my birth as a human being. This is the best answer to the King, or to anybody who claims authority by virtue of a supra-human being or institution: God, Nation, Family, Order, Development etc. To all such claims of authority, the right answer is that the human being who is subjected to the authority has inalienable and inviolable rights by virtue of being a human being. As such the rights are 'natural'.

In the beginning, the Rights of Man were merely civil and political rights, whose tone and tenor could easily be traced, accompanied the rise of capitalism as a mode of economic life. But radical movements of the poor, women, ethnic minorities, organised labour and the political movement for socialism forced an extension of its scope. And by the latter half of the twentieth century, the notion of the Rights of Man that was born with the rise of capitalism had come to include, under the title of human rights, many rights which, if they are actually realised, would substantially limit the premises of capitalist power. This is one instance of a notion that is born as a principle expressing a particular social interest changing so far as to become almost subversive of that interest in the course of history.

What are today in international charters recognised as human rights have been classified into two types: the civil and political rights, and social, economic

and cultural rights. The former originated along with capitalism and the latter more or less in opposition to it, and by extension of that principle, to other forms of iniquity and oppression. A whole false debate based upon this categorisation raged during the Cold War period about what is 'true democracy', and its echoes can be traced in the way the two terms civil liberties and democratic rights have been contrasted with each other, in the Indian human rights movement. The West, in the Cold War debate, claimed that it was truly democratic because civil and political rights were assured, even if many people in those countries suffered unemployment, want, racist discrimination and other forms of deprivation. On the other side, the Soviet bloc countries claimed that theirs was true democracy, even if there was no freedom of speech and no protection from arbitrary deprivation of life and liberty, because there was security of employment and basic necessities of life for the people of those countries. The falsity of this debate is clear enough now. The deprived and the oppressed in the West have consistently expressed their demands in terms of rights without which western democracy will be incomplete. And in the East, the existence of social security has not prevented people from desiring political democracy. Equally importantly, it is now clear that without political democracy, the economic system that ensures social and economic rights will find it impossible to evolve the necessary correctives to its imbalances at the right time, and will collapse under the weight of the autocratic nature of the political system. There can really be no such trade-off as in Cold War ideology between the two categories of rights. They are all part of an indivisible whole towards which the democratic aspirations of humankind are steadily groping.

When human rights are justified in terms of the natural rights ethics, that one is entitled to these rights by the very fact of one's birth as a human being, the wide scope and meaning of this notion becomes apparent. As a human being, one is entitled to equal worth, equal status and equal opportunity. One is entitled to freedom of conscience, thought and action. One is entitled to live a healthy, dignified and fully rounded life. In each country, in each culture, in each social system, these have been denied to whole classes and groups of people, in different ways. Women have been deprived of the rights of equality, freedom and life in all societies. In India, that is to say in Hindu India, caste has denied all three to the lowest castes. Capitalism has denied these rights in its own way to crores of marginalised people the world over. Industrial civilisation, whether capitalists or other, has denied these human rights to the autochthons, the adivasis of the Third World.

It may be asked: of what use is such a wide formulation of human rights as an agenda for the human rights movement? The question is asked because of the assumption that has gained wide acceptance due to the influence of

Marxism, that real change towards a free and equal society can only come through a forcible rupture in the basis of existing society. And therefore an unarmed movement that does not aspire for political power, such as the human rights movement, cannot possibly have such an unlimited agenda. It had better stick to defending the political rights of those who are capable of causing a forcible rupture.

That very notion is fallacious, as I think twentieth century history has shown. Force per se is a different matter. Sometimes those who fight for their rights may have to use force to break the entrenched opposition of the powerful. But every attempt to build a 'classless society' with the force of authority has failed, and will fail again and again. Fight against oppression frequently takes violent forms, but the restructuring of society on just lines is not something done by force. Equality and freedom are things which human society will only learn slowly, and that too under conditions of free-dom. Acceptance of each other's equal status and worth, and each other's freedom of action is a habit to which human beings will get acclimatised only if the notions are strongly entrenched in the culture that shapes human social character. The shaping of such a culture is not something done by dictatorial force. Change in the economic structure to a cooperative form can only come about gradually in the course of this process, and can only hope to complete itself (if at all) at the end and not the beginning. Corporate capitalism, it appears, has got to be worn down to a stage where it becomes possible to transcend or at least drastically modify the present unequal social arrangements and put society's resources to the extent possible at the collective behest of society.

Since we are talking of culture, cultural norms and institutions, it should not be assumed that this process is something that will go on over the heads of the mass of human beings that make up society. Norms and values pertaining to equality and freedom - or inequality and unfreedom, for that matter - will get expressed strongly enough to become entrenched in society only if they arise as the mode of expression of particular interests and aspirations of large masses of people. It is the social and political aspirations of masses of people that give rise to effective values and norms. To that extent Marx was right in saying that all history is the history of class struggles. But two things need to be stressed here. One, it need not be 'class' alone in the sense of a category defined in terms of the relations of production. It can be any social group that is defined by any set of institutionalised social relations, such as caste, race, gender etc. And a clear distinction must be made between recognising; that aspirations commonly held and collectively expressed by such groups are crucial to history, whenever and wherever they are so held and expressed, and attributing subjectivity in history to such reified human groupings. Two, the struggles or

group aspirations initiate but do not exhaust the dynamics of history, and in that sense history is not just the history of class struggles. It is the values and principles in terms of which the interests and aspirations express themselves; the way these universals interact with the already prevailing moral world of that society; the way the resultant principles get entrenched, as a consequence of the struggle and interaction, in social consciousness, social relations, social institutions and institutional norms; the other material interests and desires that such popularised values are able to attract and awaken; the further transformation of these values through the struggle for the newly awakened aspirations, and the norms and institutions thus spawned; the gradual recognition accorded in social consciousness to the role that these values, when fully developed and incorporated in appropriate institutions, can play in the restructuring of human life on a just and equal basis; this, and not class struggle as such, is the trajectory of history. If Being determines Consciousness, then Consciousness, which always expresses itself in terms of universals unlike Being which is always finite and particular, oversteps its 'material base' and awakens and recreates Being in its extended image. This happens again and again, as new interests come up in society, either because what has hitherto been dormant is awakened to consciousness, or because material changes create new interests and aspirations, and throw up new values and principles (which may often be a redefinition of old values and principles) of social life and organisation that go through a similar life of creative and combative interaction with existing social norms and institutions. Each such principle eventually (not 'in the end', for there is no end) takes the shape of a norm of just and equitable social organisation, even if it never exhausts its development, which can never exclude its possible perversion. This is not at all a smooth and easy process. It is often a bitter and violent struggle. But this is the broad path followed by historical change. Moments of massive rupture, such as appears to have accompanied the rise of capitalism in Western Europe, are occasional points on this trajectory rather than typical moments of change.

When history is seen thus, the human rights movement can locate for itself a more meaningful role than in the historical materialist theory of change emanating from liberation through forcible rupture. The importance of mass movements, generally held significant by radical intellectuals for their transformative potential, lies not in their capacity to capture State power or otherwise dominate society physically and change it, but in the new way of looking at things that they bring forth; the pressure they exert upon society to incorporate their aspirations into the social structure and their views into society's consciousness; the institutional and normative changes that are created in society as a consequence of the pressure they put; the further

potential that the values and principles embodied in their ideas possess for expanding into other areas of social life, and the life of other social groups, affecting other institutional and normative spheres of life, quite independent of the aspirations of the people in whose struggles they were born, and equally quite independent of whether these people have been satiated in their aspirations and become dormant, or perhaps even hostile to further change; and finally (only in conceptual terms, for there is no finality in historical terms) the potential that the principles which constitute the value framework of the movement's way of looking at the world' reveal, when adequately developed through further interaction, for the reorganisation of society on a just and equitable basis, which reorganisation is to be seen, not as a once for all millenarian change, but as a gradual process.

In all of this the human rights movement has a role to play. To identify areas of deprivation of rights, to create consciousness to struggle for the rights, to clarify the significance for general social transformation the particular rights asserted and the principles they encompass and possess, to defend as against the rest of society the justice of the struggle, to oppose the ideological and physical suppression of the struggle, to pick up the values and principles in terms of which the struggle is conceptualised and try to work them into society's consciousness, to look critically at society in terms of these new values and to strive to make it part of the self-criticism of society, to identify and work for the institutional mechanisms and norms which the new aspirations would require for their fulfilment, and later strive for the protection, preservation and extension of the institutional reforms and institutionalised norms - such and such- like are the tasks the human rights movement can meaningfully undertake. It has actually been doing quite a lot of such work, though in an untheorised way, as if to say 'we have to engage ourselves some way until the revolution comes'. It is necessary to theorise positively if it is to face all its problems in a competent manner.