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Marxism and human rights: history, exploitation and the labour-capital compromise

Marxismo e direitos humanos: história, exploração e o compromisso labor-capital

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Abstract: There are two essential elements of any truly Marxist analysis: the theory of exploitation and a dialectical theory of history. The original Marxist position on human rights, forged on this basis by Marx in the mid to late 19th century, was that rights were merely part of the super-structural legal framework that facilitated capitalist development. However, the great compromise between capital and labour forged in many countries during the twentieth century, which explicitly put human rights in the service of protecting the gains of organized labour, requires that the Marxist attitude toward human rights shift accordingly. Human rights can no longer be rejected by Marxists, but must be in part embraced as part of the advances made not only in the struggles of workers, but also of other marginalized parts of human society, like Indigenous and traditional peoples.

Keywords: Human Rights; Marxism; Dialectics; Exploitation; Organized labour.

Resumo: Existem dois elementos essenciais em qualquer análise verdadeiramente marxista: a teoria da exploração e uma teoria

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dialética da história. A posição marxista original sobre os direitos humanos, forjada nessa base por Marx no século 19, argumenta que os direitos são apenas parte da superestrutura legal que facilita o desenvolvimento capitalista. No entanto, o grande compromisso entre capital e trabalho forjado em muitos países durante o século XX, que colocou explicitamente os direitos humanos a serviço da proteção dos ganhos do trabalho organizado, requer que a atitude marxista em relação aos direitos humanos mude de acordo com isso. Os direitos humanos não mais podem ser rejeitados pelos marxistas, mas devem ser em parte abraçados como parte dos avanços obtidos, não apenas nas lutas dos trabalhadores, mas também das outras partes marginalizadas da sociedade humana, como os povos indígenas e tradicionais.

Palavras-chave: Direitos humanos; Marxismo; Dialética; Exploração; Trabalho organizado.

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Introduction

The classic Marxist critique of human rights goes something like this: The system of constitutional law in capitalist nations, which includes what has come to be called human rights, was institutionalized as an essential super-structural element of the emergence and development of the capitalist mode of production. The fact that human rights provide a modicum of protection for workers in various ways—freedom of assembly and speech, some labour rights, and so on—only somewhat mitigates the way in which the right of individuals (persons and corporate persons) to enter into contracts and hold private property is utterly essential to the proper functioning of the capitalist mode of production. Capitalist exploitation, in Marx's explicit meaning of the term, is only possible when capitalists have (a) the *right* to exclusive private property of the means of production, and (b) the *right* to enter into limited term contracts with labour that establish wages, benefits and other working conditions. The right to private property and contract have thus been centerpieces of the liberal capitalist notion of human rights. In short, rights are intrinsically woven into the structure of capitalism and exist only because they are both consistent with and promote capitalist class interest.

It is consistent with this traditional Marxist critique of human rights that agents of social change may provisionally and strategically engage with human rights by, for example, using them to protect dominated, vulnerable and exploited peoples and communities. For example, rights discourses and instruments have been used frequently by organized labour in countless cases around the world. Another example: Article 169 of the International Labour Organization and the United Nations Declaration of the Rights of Indigenous Peoples have been used to great effect by traditional peoples and communities in Canada, Brazil and elsewhere to protect and encourage the autonomy of the these peoples and communities. All the while, however, the traditional Marxist view holds that individuals and groups should

be cognizant of the fact that rights discourse and the explicit use of rights in political and activist practice is a precarious activity, for it is impossible to disentangle human rights from their complicity with capitalism. Rights discourse not only does nothing to protect Indigenous peoples, for example, from exploitation, it also does little to protect them from the voracious hegemony of capitalist economic production and social culture.

In this paper I am going to explain why I think Marxist theorists need to rethink this critique in certain essential ways. This will require two steps. First, I will make an argument that the theory of exploitation and the dialectical theory of history are the essential core of Marxist theory, and thus function as the standard by which this and other questions need to be adjudicated. This will include further elaboration on the traditional Marxist critique of human rights. Second, building in particular on the importance of the dialectical theory of history I will attempt to illustrate how the labour-capital compromise forged in the 20th century dramatically changes the premises and conclusions of Marxist reasoning about rights. Thereby, I will sketch a proposed revision to the Marxist theory of rights.

1. Exploitation and the Dialectic of History: Two Essential Features of Marxist Thought

There are, in my mind, two absolutely essential features of Marxist thought: the theory of exploitation and the dialectical theory of historical critique.[2] In this section, I will carefully explain each of these two essential points.

a. Exploitation

2 In fact, I believe these to be the only two essential features of Marxist thought, but there is not space to defend that claim here.

Marx is the first thinker in history to recognize and criticize a kind of domination that he calls "exploitation". His definitive statement of this is in *Capital*, Volume I.[3] (MARX: 1976; 283-329) Since Marx did not elaborate this theory in the *German Ideology*, *1844 Manuscripts*, *Communist Manifesto* or many other oft read texts, it is surprisingly common that people do not understand Marx's technical use of the term exploitation. Marx argues that the reason human beings work is to create *new value*. The thing we craft with our labour is more valuable to us then that which we had before—otherwise we wouldn't work at all. Marx calls this new, extra value generated by acts of labour "surplus value". Surplus value, then, is always generated by human labour, and its enjoyment by workers is a source not only of their fulfillment and pride, but also of their transcendence. Work transforms workers into more sophisticated beings, both in their capacity to understand and alter nature and in their capacity to cooperate with each other. Marx's theory of work applies most especially to those activities that meet material needs, but only because the demands of meeting these needs are so great, especially in early forms of human civilization, that this kind of labour is superordinate over others—such as work that creates beautiful rather than useful works. The more human beings are freed from the need for merely useful work, they more than can engage in labour that is a fulfilling end in itself—what Negri and Hardt call the "Labour of Dionysus". (1994) One of the great advantages of capitalism, he argues in *Capital III*, is that it produces such wonderful technological capacity that human beings can eventually be liberated from the necessity of spending much of their time producing for material needs. Marx says, "The realm of freedom really begins only where labour determined by necessity and external expediency ends; it lies by its very nature beyond the sphere of material production proper." (MARX: 1991; 958).

Initially, however, Marx says that in societies that he calls "primitive communism", the work required to meet basic needs demands the full activity of all members of society. However, once

3 A shorter articulation of the basic structure of exploitation is found in Marx's essay, Value, Price and Profit. https://www.marxists.org/archive/marx/works/1865/value-price-profit/

the techniques of creating new value become more sophisticated room is opened up for a class of people to emerge who live not by working themselves, but by expropriating the surplus value created by the other members of the society.[4] This expropriation is an act of violence, carried out by a combination of guile and sheer force—typically by those who posit themselves as holding religious and political authority. In short, Marx's theory of exploitation refers to any circumstance in which the surplus value produced by workers is expropriated from them by a dominating class that itself does not have to work—that lives off of the fruit of the work of others.

While there is much variety in history, broadly speaking Marx says that there are three basic forms of exploitation. In slavery, first, almost all the surplus value created by workers is expropriated by their masters. The only part of that new value that could be said to "belong" to the slaves is the value the master has to spend to feed, clothe, and house them. Feudal exploitation, second, is somewhat different in that feudal serfs have some kind of claim to the land they farm, but it belongs formally to the lord to whom they are vassals. Any surplus value the serfs create on the land under their care they can keep—it is thus not exploited from them. However, a certain number of days per week they must work the lord's land, and the surplus value from this work goes to the lord. All this surplus value is exploited—the serf does the work, the lord gets the surplus value. In both the case of slavery and feudalism, exploitation is very plain to the eye—everyone can tell that the exploited, whether slaves or serfs, doesn't get to keep the surplus value of their labour.

Let us briefly note here that both of these regimes of exploitation are also accompanied by the *legal* apparatuses that facilitate them and the *ideological* apparatuses that legitimatize them. First, the legal apparatus refers to the system of laws and its enforcement that make exploitation possible. Slaves in 19th century Brazil, for example, were the legal property of their owners. Second, the

4 Marx doesn't explain why a non-working, exploiting class necessarily emerges. After all, the society could remain cooperative by collectively working less, or by collectively exploring new techniques to still better meet needs. Domination, in other words, seems woven as an inextricable possibility into the fabric of human social life.

ideological apparatus refers to the forms of consciousness that the dominant class employs to convince the members of the society that the exploitation is, in fact, just. For example, that slaves were created by God to be naturally inferior to their masters.

Capitalist exploitation is very different from slavery and feudalism. Workers are "free". That is, they are neither owned like slaves nor are they in a state of vassalage like serfs. They can enter into contracts with capitalists to sell their labour power. Legally speaking, in other words, they are equal to their employers. Their exploitation, however, is hidden by this legal freedom and equality. Let's say that a worker contracts with a capitalist to sell 40 hours of her labour time per week, at a rate of $20 per hour. She is paid each and every hour she is there, and brings home $160 per day or $800 per week. She is pretty pleased with this, and is free to spend her income as she likes. However, whether pleased or unhappy with her wage, she is nonetheless exploited just as was the slave or serf. Her employer would never have hired her if she didn't produce *more* surplus value per week than she is paid. Let us say that she actually produces $2000 of surplus value per week—this means that she has produced $1200 of new value more than she receives, which is only $800 in wages.[5] The difference between the total surplus value she produces and her wages is, in this case, $1200. This is the amount exploited from her. The actual amount of surplus value she produces per hour is $50, but she is only paid $20 of this. If she is producing $50 of surplus value per hour that means it takes her only 16 hours to produce her entire week of wages ($2000/$50 = 16). In truth, then, she is being paid all of Monday and Tuesday, but is actually working for free for all of Wednesday, Thursday and Friday.[6] Just like the slave or serf, the capitalist worker produces surplus value, often a great deal of surplus value, that is exploited from her by employer.

5 The amount exploited from the worker is not the same, however, as the employer's profit, since other expenses might diminish that amount.

6 Of course if the employer is also a manager, and it is truly the case that management is necessary to production, then the employer deserves a reasonable salary for this managing time. The exploited sum will thus be somewhat lower. They key point is that no employer would ever hire a employee if he wasn't able to exploit her—otherwise he would make no profit. The plainest case is someone who owns stock in a company. This person does no work at all, and thus all of her dividend is the fruit of exploitation.

The unique guile of capitalist exploitation is that the worker has no idea that she is exploited, whereas it is perfectly obvious for both the slave and the serf. If the worker was a member of a cooperative the difference would become clear, for her share of the surplus value would be (depending on the precise way the cooperative is organized) the full $2000 she produces each week, not just $800. Capitalism tricks workers into believing they are free and fairly treated, when they are victims of egregious exploitation.

One can thus plainly see how legal rights facilitate capitalist exploitation. Both the worker and the employer have institutionalized and inalienable rights to private property and to enter into "fair" contracts. Violations of these rights, by either the worker or the capitalist, are punishable by the state. But this system allows capitalists to have exclusive control over the factory or other production facilities (what Marx calls the "private property of the means of production") to hire and fire workers whenever it is in the best interests of their profits and, finally, to allow a surplus supply of labour to keep the cost of labour low. The lower the cost of labour, the higher the rate of exploitation. Marx thus argues that the notion of individual rights is not only compatible with capitalist exploitation, but is precisely the legal superstructure that capitalism requires. Strictly speaking, of course, workers are free to purchase means of production for themselves. However, this is exorbitantly expensive, and one must have the capital to do so—which of course the vast majority of people do not. Competition and economic development also tend, over time, to concentrate ownership of the means of production in smaller numbers of people and to increase the amount of capital required to buy the means of production—making it increasingly difficult for normal people to do so. Workers are thus forced to sell their labour power to capitalists and be exploited or, literally, starve.

There is one last point to be made about exploitation: it foreshadows a time when it is overcome. The *telos* of history, Marx thinks, is a society where no class expropriates the surplus value of others. The principle of this kind of society, as Marx famously put

it in *Critique of the Gotha Program*, is "From each according to his ability, to each according to his needs." (MARX AND ENGELS: 1978; 531) Such a society is necessarily democratic. Marx argues that even monarchies and aristocracies are implicitly democratic—they all rely on a network of cooperation in which everyone has a role to play and everyone gives his or her implicit consent. "Democracy," Marx says, "is the truth of monarchy; monarchy is not the truth of democracy. Monarchy is democracy necessarily inconsistent with itself." (MARX AND ENGELS: 1978; 19) This implicit consent permits domination of all kinds, but particularly exploitation. When the consent becomes explicit, however, the free participation of each becomes the animating principle of the society. A society of free consent is necessarily a democracy and, moreover, a democracy in all its spheres, economic as well as political. Here, once exploitation is "overcome" a new era of history has dawned. This term "overcome" (*aufheben*) is decisive. It is a term taken from Hegel's dialectics, and it describes the way that humanity dramatically transforms itself replacing an old regime with a new one. This replacement has a specific logic to it though: the old regime is a stepping stone to the new one such that the achievements of the old regime are a necessary condition before one can go on to the new one. As is now plain, this process unfolds in time—in history—so let's turn to that now.

b. History

For Marx there is no standard of truth or falsity, justice or injustice or, indeed, anything else, outside of history. This has some surprising consequences for those who seriously consider its implications. For example, for centuries, indeed millennia, according to Marxist theory there was absolutely nothing unjust about slavery, for to claim that slavery is "always unjust" requires a standard or criterion of the just and unjust that is outside of history. Now those enslaved may well have considered slavery unjust, but

until they forge their liberation in history the institution of slavery itself is contested, and from the point of view of the dominant class, is plainly just. While some philosophers have tried to make arguments that slavery is inherently unjust (e.g. for Thomas Hobbes or John Locke human beings are "naturally" free), Marx emphatically rejects this point of view. Drawing explicitly on Hegel's philosophy of history, Marx completely repudiates any mode of criticism or justification that is not historical. Doesn't this lead to "historicism"—the view that history renders everything relative? Not at all, Marx argues, for there is, to use Hegel's expression, "reason in history". Marx completely agrees with Hegel on this decisive point. It is called the "dialectical theory of history" and relies upon the overcoming of certain ways of being by new and better ones. Let us further clarify the implications of a dialectical theory of history, for it has huge importance for the Marxist stance on human rights.

The only standard of the justice and unjust, then, is the unfolding of history itself. Slavery, for example, is perfectly just in one historical epoch, but *becomes* unjust in another—it is "overcome" (*aufheben*). As an empirical fact, this is uncontroversial. Slavery was plainly legal and considered just by the Portuguese and Brazilian authorities until 1888. Now it is unjust, and egregiously so. For Marx, the historical process that is responsible for this and other similar transformations are explained by means of fundamental changes in modes of production. That is, dominant and exploiting classes themselves change as modes of production change. Generally speaking, Marx explains the change in "justice" of slavery as a change from a plantation based economy where for a long time slavery was the most profitable "mode of social relations", to an emerging capitalist economy where it is wage labour, and not slavery that is most profitable. Arguably, for example, many plantation owners made more money hiring and firing seasonal workers than they did paying the expenses of slaves all year

round.[7] In the same vein, João Goulart's proposed agrarian reform was meant to modernize the Brazilian agricultural sector—that is, make it more efficient from a capitalist point of view. This new sense of justice also tends to come with a new morality—in which it becomes abominable that we would have ever considered slavery just.

The decisive point here is this: capitalist exploitation (or any other kind of exploitation) is thus not actually unjust until there is a historical change that makes it unjust. Typically this is conceived in Marxism as a worker revolution that comes upon the collapse of capitalism due to its own inner contradictions. The paradigm statement of this is in the Preface to *The Contribution to the Critique of Political Economy*, "At a certain stage of their development, the material productive forces of society come in conflict with the existing relations of production... This begins an epoch of social revolution... In considering such transformations, a distinction should always be made between material transformation of the economic conditions of production...and the legal, political, religious, aesthetic or philosophic—in short, ideological forms in which men become conscious of this conflict and fight it out." (MARX AND ENGELS: 1978, 5) The fundamental point here is that Marx adapts another key feature of Hegel: Certain forms of individual consciousness or society collapse when they develop contradictions within themselves, thus giving birth to a whole new way of being. Hegel had observed such dialectical transformations in, for example, the collapse of the Roman Republic and Empire, or the emergence of the Enlightenment. Marx, however, emboldened by the predictive power of natural science, took a step that Hegel had assiduously avoided: predicting a future dialectical collapse rather than simply explaining those that had already taken place. Capitalism, Marx thought, would collapse because of a group of factors that included the law of the "declining rate of profit", the evisceration of the middle class as more and more small and

7 Thus the 1850 Land Law in Brazil, which ensured that new land acquisitions had to be made with cash, ensured that when slaves were "liberated" they would not be able to get land and would have to sell their labour to roughly the same people who were their masters.

medium sized business were ruined by their bigger competitors, and the ever-increasing impoverishment of the working class.

Marx's predictions have, however, proved to be mostly false, at least in the explicit form that he made them. Profits did not decline; the tendency toward oligopoly and monopoly have not been as strong as Marx thought; capitalists, led by Henry Ford, learned that corporations would make much greater profits if workers had money to spend—and thus the working class, in Europe and North America, has seen dramatic if episodic increases in their standard of living in the 20th century. To the chagrin of many Marxists, capitalists have proven to be flexible and creative in their ability to prevent the collapse of capitalism, constantly introducing new regulatory measures to keep capitalism from tripping itself up.

Observing this, Marxists have generated all kinds of explanations—the increased canniness of capitalist class interest, the sophisticated power of ideological control in the mass media, the willingness of the working class to be "bought off" by bread and circuses, the move away from industrial to high-tech and finance capitalism, the strategic use of labour organizing and social democratic politics to achieve working class gains, and so on. Many of these aspects of Marxist theory contribute valuable insights to our understanding of capitalism and workers' experience (and I will focus on labour organizing and social democracy in a moment). Others, such as the continually postponed "crisis of capitalism", are increasingly embarrassing for the left. The key point, though, is that this is embarrassing only because Marxists stick doggedly to the categories of 19th century historical realities. The fact that Marx's predictions are mostly wrong is actually not a problem at all for Marxist theory, for any dialectical theory of history will generate a set of expectations, a horizon of possibilities, that answers to a particular moment of time. Marx was, perhaps, a little too confident in his predictions from time to time, but anticipating the future is inherently part of what it means to be historical beings. However, once the conditions of history themselves change, so too does the horizon of possibilities. The embarrassing thing for Marxists is not

that Marx's predictions failed, but that Marxists continue to use historically obsolete conditions as their paradigms of thought.

So what does this mean for the status of capitalist exploitation as supposedly "unjust"? One might argue that since Marx, many workers and their union and political party representatives have achieved "class consciousness", decrying the exploitation of workers by capitalists, and that this is enough, long before any workers' revolution to establish the creditials of capitalist exploitation as unjust. These arguments typically rely on the fact that, despite what Marx himself said, there is a sense even within liberal morality that exploitation is unjust. The United Nations Universal Declaration of Human Rights says that, "Every one who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity." (Article 24:3) Many people, when they really understand Marx's argument for the first time respond that "It is not fair that workers are not actually paid for many of the hours they spend on the job!" Suffice it to say, though, it is absolutely central element of Marxist thought, drawing on Hegel, that the only criteria that can settle this and other questions are historical criteria. It is the real struggle of workers not just to address the injustice of exploitation, but through their action to quite literally *make exploitation unjust*.

2. Marxism, History and Human Rights

Marxism, on Marx's own principles, cannot adopt any ahistorical philosophical positions. The Marxist view of this issue is, in this respect, identical to Hegel's. "Philosophy," Hegel said, "is its own time understood in thoughts." (HEGEL: 1991; 21) That is, the premises of Marxist arguments potentially change with every significant historical change. Obviously this is a huge topic, but I would like to make two points regarding the time that has passed since Marx examined his own historical period. Both of these points bear heavily on the key theme of this paper: Marxism and human rights.

a. Exploitation and the Social Democratic Compromise

In the decades after World War II workers around the world, but perhaps especially in Europe and North America, made an historic compromise with capitalists. Despite the fact that many if not most labour leaders were fully cognizant of Marxist theory in general and exploitation in particular, they nonetheless compared the kind of standard of living, work-place participation and social democratic political voice they could achieve in a capitalist society to that typically found in post-war Communist countries, and decided to make a deal with capitalists. They bargained away revolutionary politics in return for collective bargaining rights, other provisions that legitimate unions, and welfare state provisions for health care, education, unemployment insurance and pensions. Workers essentially had a choice: advocate for the revolutionary politics that might, should all go well, lead them to overthrow capitalism and join the communist nations in an ever greater bloc; or use their considerable and growing power to make significant modifications to capitalism itself. Empirical indications showed that workers could quite literally claw back a significant proportion of the surplus value expropriated from them through high wages and significant social welfare programs. Workers were still exploited, make no mistake about that, but they by and large had a higher standard of living and had a greater political voice than did workers in communist countries. Capitalists, for their part, were chastened by the Great Depression and wary of the alternative posed by the Soviet Union and, after 1949, communist China, were also willing to strike a deal. I will call this the capitalist-labour compromise. Let us look at it somewhat more closely.

Capitalists spotted in the capitalist-labour compromise a further opportunity to consolidate the strength and power of the capitalist system. If, they reasoned, they could promise workers a reasonable standard of living and some political voice then capitalism itself would be so much the more stable for it. This insight dovetailed perfectly with the key claim of Fordism: capitalists stood

to earn better profits by abandoning elite markets and selling instead to their own workers. But this meant that real wages had to be increased such as to effectively balloon the middle class into an enormous pool of economic demand. It was profitable to capitalists to elevate workers into the middle classes by increasing their wages. Capitalists thus were willing, under labour pressure of course, to institutionalize key features of labour rights: collective bargaining and rights for workers to basic safety and good working conditions and sometimes even closed shop provisions of various kinds. The capitalist state, meanwhile, also compromised by increasing taxes on the wealthy and using that income to build a sturdy welfare state, paying for unemployment insurance, welfare, public education and public health care. Now, of course, in most parts of the world labour did not have the power to make such demands and the system of exploitation thereby remained brutal and severe. But even these workers, typically, aspired to be more like their cousins in the "developed world", and supported capitalist economic growth and increased security for union organizing.

The great labour-capitalist compromise also meant that the extremely risky and indeed dubious prospects of revolutionary politics were no longer relevant. Why, workers reasoned, risk everything in a revolution when incremental gains in labour rights and welfare state provisions were so immediately and concretely beneficial? This reasoning was all the more compelling when it became clear that, if Soviet or Chinese communism were the standard, they would actually be worse off economically and politically *if they won the revolution*. Empirically speaking workers were better off being exploited than they would be in the Soviet Union or China.

To put this compromise in Marxist terminology, both workers and capitalists agreed to lower overall rates of exploitation in return for greater wealth and greater economic and political stability.

This compromise ruled until the mobility of high-tech and finance capital allowed capitalists to start to back away from the deal. One can thus argue, from a Marxist point of view, that the

compromise was a mistake. However, such an argument, even were it to be convincing, is still a hindsight claim. Workers in 1950 couldn't have anticipated the technological revolution that started in the 1980's. The compromise was made, and our world still deeply reflects its character.

It is in this context that the struggle for human rights took on a whole new character for workers and thus also should also take on a new character for Marxist analysis. The traditional Marxist view, once again, is that rights and rights discourse are the legal and ideological (respectively) superstructure of capitalism. They facilitate rather than inhibit capitalist exploitation. However, after the capitalist-labour compromise human rights became one of the most important *guarantees* of the compromise. In what follows I will elaborate on this claim, but first I will discuss two groups, fascists and certain neo-Marxists, that rejected the compromise in the first place.

b. Fascist Philosophy, Neo-Marxism and Enlightenment

Here I will use the term "fascist" to refer not only to those political movements of the 1930's and 40's that took power in Germany, Italy, Spain, Portugal and southern France, nor just especially to the military governments that abolished democracy in Latin America and elsewhere in the 1930's through the 1980's, but also to a right-wing lament over the destruction by "modernism" of predominantly rural, close knit, hierarchical and patriarchal cultures. For convenience sake, I will call the kind of society for which fascists have reverence *pre-modern*. The most important element of a pre-modern society is not that it is pre-capitalist (for not all "modern" societies are capitalist), but that it is pre-sceptical and thus anti-democratic. That is, it employs visions of an order of nature, or an order of the gods, to legitimate domination. The 18th century sceptical revolution against pre-modern society, of which Marx was himself a product, shook the foundations of European society and gave rise to revolution.

Intellectually, this fascist thinking has been very powerful, especially in the thought of Friedrich Nietzsche and Martin Heidegger.[8] For them, the Enlightenment notion of "progress" is literally inverted into a kind of world-historical decline. For Nietzsche this is the triumph of what the calls resentful slave moralities (including socialism) over traditional nobility. For Heidegger, Western civilization has been in the hands of an increasingly powerful calculative rationality since Plato. Thus pondering a grim future, Heidegger says, "Only a god can save us". (HEIDEGGER: 1976) The result is a kind of fatalistic misanthropy. When Heidegger finally abandoned Nazism it was only because the Nazis were not fascist enough were unable to carry out the world historical mission of, as Heidegger saw it, non-Jewish Germany.

From a Marxist perspective the emergence of this fascist mentality is hardly surprising—Marx documents reactionary tendencies continuously and perspicaciously. What is surprising from a Marxist perspective, however, is how much traction closely related views have had *on the left*, including in certain neo-Marxist circles. That non-Marxist leftists like Gilles Deleuze and Jacques Derrida find inspiration more in Nietzsche and Heidegger than in Marx is already strange, but all the more odd is the discovery of this same kind of phenomenon in people who explicitly identify themselves with the Marxist tradition—like Theodor Adorno and Max Horkheimer of the Frankfurt School. Crushed with disappointment that the Marxist revolution in Germany did not follow upon the heals of the Soviet revolution of 1917 and that fascism emerged instead, Adorno and Horkheimer crafted a "dialectic of Enlightenment", in which it is not just capitalism that is blamed, but Western civilization in general. Famously, they draw these insights all the way back to Homer (trumping Nietzsche and Heidegger, who go only back to Plato!). Odysseus, though bound hand and foot allows himself to hear the song of the Sirens while his sailors have their ears plugged. Odysseus is the premonition of the repressed bourgeois, while the workers themselves (the

8 For Nietzsche see especially The Genealogy of Morals (2008) and for Heidegger see especially The Question Concerning Technology (1982).

sailors) can get no pleasure at all, though they can still labour.[9] The connection with Nietzsche and Heidegger is explicit, such that putative Marxists end up holding what are essentially fascist views and certainly views radically different from Marx himself.[10]

I think that this whole phenomenon of grand, root and branch condemnations of Western civilization has more to do with the traumas of European civilization (both Heidegger and Adorno were Germans who lived through the aftermath of World War I, the Great Depression, and World War II) than with serious philosophical engagement—and certainly not philosophical engagement inspired by Marx. To pull up Western civilization at its roots is to pull up Marx with it, for Marx was committed to oppose marginalization with democratic inclusion, domination with liberation and exploitation with common property of the means of production. But all of these Marxist aspirations—inclusion, democracy, common property and liberation—are precisely radical versions of Enlightenment aspirations. Marxism is indeed a dialectic of Enlightenment, but one that sublates a bourgeois Enlightenment with a socialist one.

One further comment on the strategy of putative Marxists like Adorno and Horkheimer. As I mentioned, their main theoretical motivation is to explain why the Marxist revolution did not occur as expected. "Philosophy," Adorno wrote in *Negative Dialectics*, lives on because the moment to realise it was missed." (1990; 3) One of the key ways they did so was to greatly expand the role of the Marxist theory of ideology, through a highly elaborated concept of the "culture industry". Thereby they could endeavour to provide an excuse for the worker classes' less than revolutionary politics. Herein, workers are too thoroughly duped to know their own good. From this point of view, the labour-capitalist compromise was nothing more than the expression of bourgeois manipulation. However, in the light of the fact that organized labour made an intelligent and strategic decision, in the light of knowledge of their

9 See Horkheimer and Adorno, (2010) Dialectic of Enlightenment, especially "Excursus One: Odysseus or Myth and Enlightenment."

10 I certainly don't mean to imply here that one should reject all of Heidegger, Adorno and Horkheimer. They were brilliant and insightful thinkers from whom we have a great deal to learn. I criticize here only their meta-narratives about Western civilization, and those elements of their thinking directly related thereto.

real prospects in welfare state capitalism, the increased role played by ideology by many Marxists reveals something very unMarxian. It not only patronizes workers, but shows a real stubbornness on the part of these thinkers. They would rather stick with the their own unhistorical view of history and patronize workers, then give up an obsolete paradigm and move their thinking along with the concrete unfolding of history. In their minds, the fact that there was no workers' revolution in Western Europe couldn't possibly have meant that their theories were wrong, but only that workers are hopelessly incapable of identifying their real interests.

There is a constant danger, in other words, that thinkers sympathetic with Marx's trenchant critique of domination and exploitation, the first essential feature of Marxism, gradually give up on the second—the unsurpassably historical nature of Marxist critique of society. Despite bourgeois ideology, workers have indeed identified their own interests and fought doggedly to realize them. The problem for thinkers like Horkheimer and Adorno is that workers identified their interests in a way different from these philosophers. Rather than putting aside their own views, Horkheimer and Adorno lament the failure of workers to understand their own reality and concoct an almost paranoid metanarrative about the corruption of Western civilization. This is not surprising from fascist thinkers like Nietzsche and Heidegger, but quite bizarre from philosophers who so explicitly identify themselves with the Marxist tradition, like Horkheimer and Adorno. The ahistorical left joins forces with the ahistorical far right in the creation of a millennia-long fantasy of domination and a misanthropic condemnation of the aspiration to concrete freedom and equality.

c. Marxism and Human Rights, after the Compromise

So again, the dialectical commitment of Marxism is to think in and through history, not in spite of or outside of it. If Karl Marx was right about exploitation but wrong about the immanent collapse of the capitalist system, then Marx himself would have revised

his thinking accordingly—as he did at various times in his career in response to concrete historical circumstances. If there are no criteria outside of history itself, then an immanent analysis of real-lived history is the only standard Marxists can use. So where does that leave us?

Human rights, as we have begun to see, are an essential and increasingly important part of the labour-capital compromise. Although human rights typically establish minimal standards for justice of various kinds, they nonetheless have a ratchet-like character to them. Once established, that is, they mark gains that are difficult (though not impossible) to undo. For example, the International Labour Organization passed its The Freedom of Association and Protection of the Right to Organise Convention in 1948 (Convention 87), guaranteeing the rights of workers to organize unions. This other ILO Conventions elaborated upon and echoed the 23rd article of 1948 United Nations Universal Declaration of Human Rights. This states, "Everyone has the right to form and to join trade unions." (Article 23:4) A year later the ILO passed its Convention on the Rights to Organize and Collective Bargaining. Now, of course UN and ILO charters and conventions are not enforceable within individual nations, and not all nations have endorsed them. However, most Western nations passed their own legislation establishing provisions to recognize these rights. In the case of Canada, for example, the *Industrial Relations and Disputes Investigation Act* was passed the same year as ILO Convention 87. While UN and ILO Charters do not explicitly rule on "closed shop" provisions (either pre or post-entry), some countries have introduced various versions of closed shop provisions. In Canada, for example, the Supreme Court ruled that workers have the right not to belong to a union, but that if they benefit from collective bargaining they should nonetheless pay union dues. Workers unwilling to pay such dues due to religious belief or conscientious objection can pay equivalent sums to a registered charity. The scope of this paper is to small to include a serious empirical exploration of the way that the great compromise has been taken up in various

countries, but suffice it to say, it is not controversial to claim that this compromise has, in fact, taken place.

Now, as everyone knows, the post-industrial stage of capitalism has given freedom to capitalists to back out of the compromise, which is precisely what they have been trying and, to a considerable degree, succeeding in doing. The counterattack against organized labour has been sustained, of long duration and quite successful. Of course, when workers made this compromise in the first place they couldn't have known how the capitalist mode of production would evolve in the future, and thus can't be blamed for having made a mistake. Moreover, the fact that more revolutionary and more radical politics has little concrete possibility of success right now any where in the world, workers by and large remain committed to work-place, legislative and judicial struggle on an incremental basis.

The argument of this paper, however, does not depend on the judgement of whether, in hindsight, workers were mistaken to have made this compromise. Nor, even more emphatically, does it depend on the estimation of individual theorists as to the state of capitalism and worker struggle within it. The point, rather, is that Marxist philosophical method commits the theorist to consider nothing other than the concrete historical situation and the dialectical possibilities that it opens up. It is for this reason, once again, that the kind of wholesale condemnation of Western civilization, combined with an exaggeration role of ideology in the "culture industry", as one finds in the Frankfurt School, is not Marxist. Moreover, the real upshot of Heidegger's "history of being" is a nostalgia for the old *Gemeinschaft* forms of social relations in which workers, emphatically, know their place within a pre-Enlightenment hierarchy.

Conclusion

The tide of history itself requires a change in the Marxist/dialectical interpretation of human rights. Rights can no longer

be considered nothing more than a super-structural facilitator of capitalist exploitation. They have become, quite literally, the tools of the working class and other dominated peoples and communities in the demand for the recognition of their own autonomy. It is for this reason that important progressive thinkers, deeply influenced by Marx, are abandoning the 19th century, "mere superstructure" view. I cite just two prominent examples here. Both Jacques Rancière and Etienne Balibar defend nuanced positions with respect to rights.11 Suffice it to say, Marxist theory must keep up with history, and human rights have become an important tool not only of working class struggle, but of many other oppressed and marginalized peoples. The commitment to abolish exploitation and to think within the framework of real history requires a real change in the Marxist attitude toward human rights. Even if human rights provisions are sometimes used against workers and other marginalized peoples, it also become impossible to really engage with liberation struggles without rights talk.

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11 See for example, Etienne Balibar (1994) and Jacques Rancière (1999). For an excellent and broad discussion of various progressive positions on human rights see James Ingram (2015).

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