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Tamas Földesi

Eotvos Lorand University, Budapest

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MEDITATION ABOUT HUMAN RIGHTS
by Tamas Földesi

Dr. Tamas Földesi (Marxist) is the Dean of the Law School, Eotvos Lorand University in Budapest, Hungary. He has been a frequent participant in Christian-Marxist dialogues in Hungary and abroad. An author of several books and articles on justice, law, and philosophy, he wrote this study as the introductory chapter of a book on human rights which is under preparation.

"To create a theory of state that can answer the social problems of today, to break away from the theses that merely interpret the classics—as the sciences dealing with the economy managed to do so during the past 15-20 years—is the main task of social sciences dealing with the theoretical issues regarding the state these days. If they fail to do so, their work will be forced to the periphery of the social movements, being unable to assist the processes of society. It is my conviction that this was the great responsibility of the social sciences in our age."

This was how Peter Schmidt characterized the situation of the theory of state in Hungary in 1984. His statements, are not only correct in general, but are true to a greater extent if they include assessment of socio-scientific research of human (-citizens') rights.

In my view, with the exception of certain, new and fortunate endeavors, socio-scientific research of the past decades concerning human rights includes elements that by and large reflect decades of innertia, or petrified views that require modernization.

In order to understand why socio-scientific research concerning human rights remaineded backward, one must first deal shortly with the main social determinants that significantly influence the situation. I am convinced that the key to the controversial development should be sought within the existing relations, or more precisely: the political and legal status of human and citizens' rights, their declared and real situation as reflected by the literature on human rights. The fate of human rights was closely related to the (partly) changing historical conditions and necessities of the political systems of the countries of Eastern Europe.

Unfortunately, the history of the Eastern European states was characterized by a special duality that basically determined the development of the professional literature. The social position of human rights, their position within the declared social system of values was equally, although not to the same extent, influenced by two contradictory tendencies. The first was characterized by the fact that human rights were "officially" and legally accepted without any limitations and were declared a basic principle that was generally already in effect (The only formal exception were Soviet developments between 1918 and 1936 when according to the 1918 Constitution, citizens'.
rights were only available to the members of the working classes.) The constitutions of the East European countries all included human rights, which reflects that these political systems considered human rights as basic values. The inclusion of human rights in the constitutions also had significant international reasons. With this, the East European countries signalled that they considered the U. N. Charter and the declarations on human rights adopted in 1948 and 1966 to be compulsory. In harmony with their statements the representatives of these countries had repeatedly emphasized both at international and domestic forums that their social practice was in full harmony with the declared principles, the norms, and postulates declared in the Charter.

At the same time, in the East European countries a tendency contrary to the above also appeared, and this lead to basic contradictions. In these societies in practice a one-party system operated which does not make possible the existence and functioning of political parties basically differing from the ruling party, and thus, does not enable these parties to organize, hold meetings, and have their own press. As a consequence, the so-called classical political human rights could only exist in a very limited manner.

Thus, the practical prevalence of human rights, at least in the sense of the so-called "classical human rights" significantly differs from its traditional bourgeois (and U. N.—codified) version.

The contradiction thus created makes the jurisdiction of human rights in the countries of Eastern Europe incoherent. In it one can simultaneously find the complete catalogue of human rights as based on international treaties and its variants which are, however, frustrated by a special general limitation. This general limitation states that "human-citizens' rights should only be practiced in harmony with the interests of socialism." This condition serves as a basic principle for the limitation of classical political rights. A result of the practical limitation is that the legal guarantees for classical political human rights remain unresolved in the constitutions of the East European countries.

I would like to stress and underline that the contradiction described above was not the result of the fact that in certain Eastern European countries the so-called cult of personality was periodically evident, but rather that the cult of personality was a permanent phenomenon characterizing political structure.

Although it was evident that these two tendencies were contradictory, this contradiction is generally not acknowledged by the government which continuously maintained that the contradiction was a mere fiction. In this spirit it is politically customary not to value Western criticism which had pointed out that in Eastern European countries the realization of human rights
differed from both the international documents which they had accepted and the rights laid down in their own constitutions. These criticisms are not judged according to their degree of their truthfulness, but are unambiguously and completely rejected.

The rejection generally contains two elements. One is that the situation and regulation of human rights was an internal affair. The second is that even if it were not an internal affair, human rights situation was quite good both in regard to their regulation as citizens' legal rights and their actual realization. If a given country is characterized by what are known (there not being a better expression for it) as signs of "personality cult" (which, by the way, has a great variety of expressions) the evaluation was similar except with the basic difference that the mass violation of some human rights are acknowledged later on. Needless to say this has grave consequences for their authenticity.

This is generally accompanied by critical remarks concerning the situation of human rights in the country from which the criticism came (often also pointing out the greater violations of human rights in countries allied to the government from which the criticism stemmed).

A characteristic feature of the political systems of the Eastern European countries—that significantly changes with regard to its size, but always existing in some form—is that they expect social sciences to carry on activities that directly or indirectly legitimate the existing practices. This requirement generally causes conflicts in social sciences. There is a tendency for the conflicts to become more pronounced as the reality which the social sciences are expected to support becomes increasingly contradictory. The result of the above described contradiction is that this conflict becomes increasingly more evident in the social scientific research and human-citizens' rights.

Disregarding the fluctuation in the conflicts, in my opinion, these conflicts have basically caused three types behavior among researchers. The first is the conscious avoidance of the topic by the researcher. The reasoning is that it is impossible to reach scientific truth in this issue (or at least in a significant part of it), thus research should be directed towards other issues. Presumably, this is closely related to the fact that in the field of human-citizens' rights research there is a considerable disproportion between the volume of Western and Eastern professional literature. In the Western countries, especially since the Second World War—in connection with the catartic violation of human rights—a vast amount of literature appeared on human rights issues (including the publications of the different UN commissions which were set up to protect human rights). The volume of similar types of literature published in the Eastern European countries was extremely small.
Abstaining from involvement was another way which characterized the discussing of human rights. In a positivist manner some avoided or hardly touched upon the so-called "sensitive" or "taboo" issues.

However, the majority of the authors who actively dealt with human-citizen's rights had a different attitude. At least in their writings, they agreed with the main lines of the official claims about human rights, and thus, they identified themselves with such views. Regardless of the intentions of the authors this objectively resulted in strongly apologetic evaluations.

The works of the authors in this group were characterized by the fact that their majority dealt with human rights in a conceptional form, which I will refer to—for lack of a better expression—as monolithic. The reason for this term is that the followers of this concept base their ideas concerning human rights based on their view that the monolithic nature of the one-party system is the highest stage of human development so far.

It is not a coincidence that the official evaluation of human rights resulted in the monolithic concept but they altered it by "ideologizing" the need for the limitation of human rights while at the same time they endeavored to do away with the above described contradiction.

The monolithic concept also includes the basic claim that the socialist system is the first political formation where human rights are "truly" realized if not in their completeness, (for that also depends on the conditions of social, political, economic development) but in their essential form. According to their view it is the new society that creates for the first time the bases, called the overall "material conditions," that really ensure the wide-ranging and true realization of human rights. In contrast, though the bourgeois societies declare human rights and consider themselves the forerunners of those rights, the result of their social order even in its bourgeois democratic form, can at best ensure only their formal, legal realization. In fact there are few or no human rights in bourgeois societies.

According to this concept human rights unambiguously appear as positive values. Therefore it is the weakness of the bourgeois society that it is incapable to ensure the realization of these values. And the other way around; it is the advantage of the new society that enables the increasing realization of these values.

However, the followers of the monolithic concept do not merely advocate that human rights in their totality prevail to a greater extent in the East than in the West. They also endeavor to theoretically prove that the limitation of some human rights, and thus, the different degree of their realization is not only reasonable but is even a sign of progress.
At the core of the latter claim and, objectively speaking, basically contradictory to the previous notion is the idea of the discontinuity of human rights. The essential idea of the principle of discontinuity is that the development of human rights should not be characterized by continuity, but on the contrary by intermittence. Therefore, the followers of the monolithic concept strongly underline that in their original form human rights were not only born from bourgeois world, but are thoroughly bourgeois in their character. Thus, in their totality they are only suitable for capitalist societies. If this assumption is true, then the new society requires basically different human rights which, neither in context nor in essence are the continuation of the original human rights, but are human rights with new special features. Furthermore, since they consider the political system, democracy, and legal system of the socialist society as basically surpassing those of the bourgeois society, the so-called socialist model of human rights also qualitatively surpasses the original bourgeois variant of human rights.

The monolithic concept, while considering the human rights of the Eastern European countries to be more advanced than the Western type of human rights, at the same time considerably reduces their values. Because another basic idea of the followers of the monolithic concept is that within the changed social conditions the function of human rights changed to a significant extent. While the bourgeois societies required these rights as their basic rights (although, in fact, they fulfilled a more controversial role), in the new society human rights do not play a deterrent role in the hierarchy of social values and do not function as basic rights within the legal system. The basic reason for the change was that while the individuals, the people in the bourgeois society required protection against the feudal and later even against the bourgeois state, no such requirement appeared in a significantly changed political system—at least not on a social level. The state of the proletarian dictatorship, by basically differing from the previous ones, unites the individual, social strata and overall social interests, therefore human rights do not appear as subjective rights of the people and cannot be considered deterring legal principles of the legal system. Also the unity of the political system, the social classes and the individuals is realized in the system of institutions of the new society, includings its mass communications network. Therefore, there is a practically valid ban on the establishment of even partly different types of institutions. Control over mass communications cannot be considered as a form of limiting of human rights, since, according to the spirit of the monolithic concept, being different is necessarily a sign of a different social system, a sign of hostility. (The only exceptions here may be the religious institutions and their organizations.) Thus, the ban on being different is a guarantee for the complete realization of the new type of human rights.
Based on this the followers of the monolithic concept presume that they have evaded the contradiction between, on the one hand the acceptance of the legalized unattributed "Human Rights" and the declaration of their practical realization and, on the other hand, the justification and superiority of the limited predominance of human rights.

Finally, it is worth mentioning that the monolithic concept of human rights is based on certain views on human rights expressed by the classics of Marxism. However, the views of the classics of Marxism on this issue are far from being homogeneous, making it possible to interpret them in different ways. Some of the text support (or seem to support?) to a lesser or greater degree the monolithic understanding of human rights. However, later I will endeavor to show that the ideas of Marx and Lenin on human rights also contain significant elements that differ from the monolithic concept, which provide an opportunity for a different Marxist interpretation.

The monolithic concept, whose supporters can be found in all East European countries, currently dominates the East European professional literature on human rights, although in my view its premises and conclusions are becoming increasingly outdated in light of the latest state-theory, politology and sociology researches.

In harmony with the undertaken research a new concept of human rights is being formulated and its starting point is that social sciences in this sphere, too, must aim to reveal the truth. One should not disregard sensitive issues and respect the "taboo" nature of certain topics, but the contradictions appearing in the field of human rights should be analyzed in a critical manner.

The real social interest does not require an apologetic approach, but the facing of the actual situation. This makes the re-evaluation of the East European theory of human-citizens' rights necessary.

In my view the situation and fate of human rights is not of secondary significance but a cardinal issue for the East European societies, especially in respect to the development of the social-political system and democracy. After all, a consistently humanistic society must be based on human rights, and in harmony with the social-historic opportunities it must ensure their widest possible effectiveness.

In contrast with the discontinuous idea of the monolithic concept I believe that although human rights evolved during the development of the bourgeois society, and, of course, carry the permanent signs of their origins, their essence is not a bourgeois particularity but the expression of what is universally human. Therefore there is no need for different human rights, for a so-called socialist model of human rights developed in the East European societies, but simply there is need for "Human Rights". Likewise, the position and real effect of human rights in the East European
social hierarchy should not be measured on the basis of new criteria corresponding to a different model, but on the basis of the entity of historically developed human rights that are also included in the United Nations documents. (With one important exception: the new society generally cannot accept the right to private ownership, but since the entity of human rights do not create an absolutely coherent complexity, this element may be separated.) Thus, with regard to human rights in East European societies continuity rather than discontinuity should dominate.

My stand for continuity is closely related to the fact that in contrast with the monolithic concept, I believe that the practically one-party political structure of the East European countries is the result of a special necessity, namely for socio-historical reasons these systems do not feel stable and strong enough to maintain the hegemony of the Communist Parties within a pluralistic structure. The limiting of classical human rights resulting from the structure of the socialist political system is, thus, not a sign of progress. It is not the proof that, due to the objective and subjective convergence of social and individual interests neither society nor individuals requires or need the wider application of classical human rights and pluralism which follows from it. Rather it is a special sign of the lack of political, economic and other types of competences.

In my view one main lesson of several decades of the history of the East European countries is that the limitation of classical human rights has held back the development of these societies to a significant extent, and considerably promoted those operational problems and social crises that developed periodically in these countries.

Therefore, the basic contradiction which exists between the legalization, the generally supportive declaration of the historically developed catalogues of human rights and their strongly limited expression should not be made "disappear" by trying to prove that the two are actually in harmony with one another, as is done by the monolithic concept. It should be done by reducing the limitations and the discrepancies in harmony according to social historic possibilities. In the spirit of continuity they should finally be eliminated.

Based on all this, in contrast with the monolithic concept I believe that human rights in the East European societies "are not in place", they do not play the role they should; in this respect considerable re-evaluation and change are required.

A basic precondition for re-evaluation is that the almost general claim that the non-Marxist analysis of the problems of human rights and the criticism of the practices in the countries of Eastern Europe are automatically considered hostile should be eliminated. In reality these writings are rather wide ranging, their intentions may vary significantly. In the judgement of these
criticisms one should primarily consider their degree of their truth and not the intention of the critics.

However, the practice should also be eliminated whereby criticism concerning human rights issues in the countries of Eastern Europe is rejected on the basis that the critical countries also have problems concerning the practices of human rights. Pointing a finger at one another—in my view—is a useless and undeserving form of reasoning that will not help solve the real problems concerning human rights.

A more realistic, sounder concept reflecting, in my opinion, the real contradictions to a greater extent and more effectively internationally, may gradually eliminate the situation where the discussions on human rights issues, at least up to the recent past, were "dialogues of the deaf". This would also be advantageous for the international working class movement which, often, as a result of the problematic East European concept or ideas on human rights, had to conduct debates on the problems of human rights in Eastern Europe from a disadvantageous position.

Based on all this, I will endeavor in a future book to elaborate the concept of the continuity of human rights. I would primarily like to do it on the basis of a general social-theory and philosophical approach. In contrast with the researchers who study human rights as citizens' rights and emphasize their relations to the state or their role played in the legal system, I will primarily study the judgment and situation of human rights, their realization in general, regardless of whether they function in principle as human rights or also as citizens' rights granted by the constitution and incorporated in the legal system. This however, does not mean that I will not pay attention to human rights as rights, their constitutional regulation, the problems of guarantees, whether or not they are implemented as subjective rights, since these form an integral, inseparable part of the position and functioning of human-citizens' rights.


2 The author uses "Human-citizens' rights" throughout—here simplified to human rights. [editors note].

3 Each time human rights are mentioned in the article they assume also the rights as citizens.