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*Andrea Jovanović\**  
*Institute for Political Studies, Belgrade*

## **IN THE REALM OF FREEDOM, EQUALITY, AND PROPERTY: IDEOLOGICAL ASPECTS OF HUMAN RIGHTS**

### **Abstract**

This paper deals with the question of ideological characteristics of human rights by using conceptual and critical–historical analysis. It first examines the different ideological conceptions of human rights by analyzing them from three distinct conceptions of ideology: critical, neutral, and functionalistic. It then proceeds to the critique of the neutral and functionalist conceptions and advocates instead for the critical conception as the most fruitful analytical frame. It concludes that the critical approach is the most suitable for explaining the complexity of the phenomenon of human rights as ideology, including their contradictions but also their emancipatory potential within and beyond the capitalist social and economic system.

**Keywords:** human rights, a critical conception of ideology, a neutral conception of ideology, a functionalist conception of ideology, capitalism

### **INTRODUCTION**

Year 2018 was a year of important anniversaries – it marked 100 years since the end of World War I as well as the 70<sup>th</sup> anniversary of the Universal Declaration of Human Rights (UDHR). Anniversaries

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\* aerdna.1112@gmail.com

can play an interesting role in the Western linear conception of time: they usually represent an opportunity to draw the line between specific historical event from the past and the place the world finds itself in a particular moment of the present. They allow for comparison and give timeframe for measurements of achievements and/or failures of certain values in terms of “progress” or “regress”. If the anniversary is attached to something that is perceived as a “good” side of history, as it was the case with these two anniversaries of 2018, marking it has a ceremonial character of celebration. And yet, the gathering in Paris on World War I remembrance on November 11<sup>th</sup> 2018 left little room for optimism.

Namely, French President Emmanuel Macron gave an apocalyptically intoned speech at the event. Although not literally speaking of “human rights”, by defending the “universal values” of France against “old demons of nationalism”, praising the institution of the United Nations and talking about “moral values” that “keep a nation alive”, Macron’s speech can be read as a passionate defense of human rights (Nakamura, Min Kim and McAuley 2018). Ironically, only weeks after this remembrance event, some other “demons” have come to haunt Macron himself – they have been wearing yellow vests and asking for economic and political justice (BBC 2018). So, once again in history, Paris was set on fire, only not by “nationalists”, but by those who felt excluded from this “universality” Macron had been so heart-warmingly defending before he sent the police on the streets to deal with the protestors. This begs an old question: who counts as “human” and who doesn’t? And what are human rights?

This short description of the events that have been conveniently happening in the birthplace of modern democratic societies and the values of human rights – France – serves to a context for the problem this paper is linked to: questioning of the human rights doctrine. In short, the crisis of human rights. Such crisis is of course much older than the events in France described above. One might say that doctrine of universal human rights has been in different crises since the dawn of their international institutionalisation in the middle of the 20<sup>th</sup> century. However, it was during 2000s that this topic gained special attention within social and political sciences and it has been continuously emerging on and off since then.

There were many different approaches to the understanding of this problem. Some authors went back to the historical and theoretical roots of human rights and tried to understand the nature of their intrinsic characteristics (if there are some) that can lead to their crisis (Douzinas

2007, 3–33; Žižek 2005, 115–131). Others focused on what can be called “ideological character of human rights”, under the impression that it was “human rights ideology” that imposed itself as the only ideology in now famous Fukuyama’s post-ideological time, and that a human rights crisis should be understood as an ideological crisis (J. Nathan, 2012; David 2018).

Nevertheless, regardless of the positive or negative answers to the most simplified version of these investigations, namely, the question: are human rights ideology or not, one meta-question should be asked first in order not to fall into the trap of explaining one complicated notion by the other that’s equally or even more complicated itself. Therefore, if human rights are to be conceptualised as an ideology, *which* conceptualisation of ideology this refers to?

The aim of this paper is to show that this meta-question and different answers to it are not some forms of abstract philosophical pedantry, but are essential for the deeper and comprehensive understanding of logic, function(s) and goals of human rights since their origin up to this day. Consequently, this paper analyses how the conception of human rights changes when they are perceived from the three different conceptions of ideology: (1) critical, (2) neutral and (3) functionalist view of ideology. In doing so, I try to show both strengths and weaknesses of each perspective, and give reasons for why I believe that the first, critical perspective is the most fruitful in striving to understand ideological sides of human rights.

## **HUMAN RIGHTS AS IDEOLOGY, BUT WHICH IDEOLOGY**

Although the word itself entered the common language a long time ago, even the everyday usage of “ideology” is characterized by ambivalence. Depending on the context, the term is being used as a word with strong negative connotations (e.g., in order to discredit someone’s view or positions as a “mere ideology”), as a way to describe someone’s worldview in a neutral manner (e.g., “me and her share different ideologies”), or it can purely refer to political orientation (e.g., “that party has liberal ideology”). Interestingly enough, these common-sense perspectives have not become frequent in the everyday discourse by accident – they actually reflect ambivalences and differences between the theories of ideology themselves.

While the term has a broad scope of usage in social sciences and humanistic theories, its origin and contemporary usages are tightly connected to Marxist traditions. The first appearance of the term “ideology”

was in early XIX century France – enlightenment aristocrat Antoine de Tracy coined the term with its quite literal meaning: the science of ideas (Destutt de Tracy 1992). In the spirit of the epistemological optimism of the rationalistic and mechanistic worldview of the epoch, Tracy believed that dualism between materialism and idealism can be overcome by viewing senses and ideas as one and the same phenomenon, and in doing so, he claimed that for the understanding of the nature of the world of ideas, one should simply follow the same principles that existed in natural sciences of the time (292). By implication, ideology, the science of ideas, will have the same practical consequences as the natural sciences have. In other words, if one educates himself in good and truthful ideas, he will lead good and truthful life, be it personal or social.

Ideology in this sense was very popular among pre- and post-revolutionary intellectual and political circles in France. Later on, however, Tracy's political and economic views led him to a conflict with Napoleon, who then used the term ideology to discredit De Tracy as a “plain ideologist”, as someone who has no relation to the “real” material world and is in a way lost in abstract ideas that are not only useless but harmful for practical life (Rehmann 2013, 20). This was obviously not in coherence with Tracy's philosophical stances, but Napoleon was losing a war with Russia and decided to use Tracy and other *ideologists* as scapegoats and lay the blame in the eye of the public on them (19).

Apart from scholars particularly interested in the philosophies of 18<sup>th</sup> and 19<sup>th</sup> century France and/or historians specialized in Napoleon studies, the term “ideology” would have probably been lost from wider use and understanding if it wasn't for Karl Marx. It was he who took this Napoleonic negative conception of ideology and used it in his and Engels' theoretical disputes with neo-Hegelian scholars of his time in order to discredit them in the similar manner Napoleon did – as those who do not interfere themselves with the real existing material world.<sup>1</sup> After the renaissance of their *German Ideology* in the thirties of the 20<sup>th</sup> century, a text written in 1846 and intentionally never published during Marx's lifetime, “ideology” gained a very important place in Marxist traditions that continue to develop today. Furthermore, the concept spread out from the Marxist circles and entered social and political sciences, as well as ordinary everyday discourse.

It is impossible to draw all the distinct meanings and conceptions of “ideology” in this short manner. For the purposes of this paper, I will

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<sup>1</sup> It was also a convenient word play: “German idealism” that becomes “German ideology”.

make the methodological division into three different conceptions of ideology: critical, neutral, and functionalist. The axis of the division of the first two is almost self-explanatory. The critical approach sees ideology in a critical (not necessarily negative) manner, as something that belongs to a specific historical system (i.e., class societies), and that can be *overcome*. Neutral tradition sees it as something with no normative or moral features, be them positive or negative, and is deeply connected to the understanding of it simply as a “worldview”. In neutral conception, ideologies are many and ever-present, while in the critical – science can fight against it and demystify it (Rehmann 2013, 52–54). And, unlike critical approach that shares the idea of overcoming ideology with the overcoming of class societies, neutral approach perceives it as ahistorical, ever-present fight between different ideologies, where the dominant one is the one that wins in these ideological battles.

The third conception, the functionalist one, is included here for different reasons. Namely, depending on the author or tradition, functionalist conception can be either critical or neutral. It can also share some of the features with the first, and some others with the latter. Since the main feature of this conception is the view that ideology has a functional role in the society, i.e., that is somehow being instrumentalised by a system for its own reproduction, the usual negative critiques of “human rights as ideology” are based precisely on this conception of ideology itself, rather than on the critical one (which may seem more intuitive at first sight).

The next part of the paper therefore examines what becomes of the conception of human rights when it is “pulled through” these three distinct conceptions of ideology. Consequently, the next three parts of the paper analyse the implications that different views of ideology have on seeing human rights as ideology. In order to show that the critical perspective is the most suitable for the analysis of human rights as ideology, the main focus will be on it. Also, it should be noted that many of the characteristics of these conceptions of ideology are not taken into account – the focus is on those that are relevant for understanding of ideological characteristics of human rights and have consequences on the conceptions of human rights.

## The critical conception of human rights as ideology

The tradition of critical theory of ideology is connected to Karl Marx, György Lukács, the Frankfurt School, and, most recently, the German school of so-called *Projekt Ideologietheorie*. This part will focus on Marx's original texts particularly since they present the basis for all further developments. Curiously enough, Marx never gave a completed and rounded theory of ideology. Although it was he who effectively introduced the term to social sciences, that legacy is not straightforward and one-sided. "Ideology" is present in many of his early works, it is essential for his critique of religion, and then it suddenly disappears after he moves to his most significant writings – a critique of political economy in his later works, including *Capital*. This shift was not only a shift of interests but represents a theoretical shift, even in the terms of wording, where "ideology" becomes replaced by the term "fetishism" (Rehmann 2013, 43).<sup>2</sup>

Before moving to the analysis of fetishism, it is important to explain to which end and purposes "ideology" served in earlier Marx's works since it does represent the true beginning of theories of ideology as such. The dispute in which "ideology" emerges belongs to the much broader philosophical division between materialism and idealism. To simplify it, the main question was: what has the epistemological primacy, ideal or material world? Do ideas form the material world, or does the material world give the rise to the ideas? Marx stood on the materialistic positions which partly relied on the previous works of another philosopher's, Ludwig Feuerbach, investigations of religion (Feuerbach 1989). However, he did not support what he saw as "vulgar materialism" – the ideas do not automatically arise from the fixed material relations, but those relations themselves are dynamic and are the results of social human activity and life-process (Marx 1998, 43). But ideas also do not arise in a fashion that is politically and socially neutral<sup>3</sup>, and they entail a certain character of inversion: they appear as if they are epistemologically primal, and that "manoeuvre" is what Marx saw as ideological character of consciousness. "If in all ideology men and their relations appear upside-down as in

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<sup>2</sup> There is not enough space here to carefully elaborate this development in Marx's theory, especially since the interpretations of those are numerous. The parts that are important for this topic will be later taken into the account. For further readings, see, for example: Althusser 203, 221–307.

<sup>3</sup> This point will be more important in the part that deals with the functionalist conception of ideology.

a *camera obscura*, this phenomenon arises just as much from their historical life–process as the inversion of objects on the retina does from their physical life–process”, (42) Marx asserts. Such conception of ideology preserves dualistic point of view, and implies that ideology is a phenomenon of human mental activity and a type of false consciousness that follows and reflects in an untrue manner the relations that exist in material world. To put it in the simplest manner, ideology is a conceptual reflexion of social relations that however appears prior to them.

Nevertheless, in the context of the critical conception of human rights as ideology, I believe that Marx’s later theory focused on “fetishism” is more important than these earlier positions revolving around “ideology”. It is not only because Marx himself to a certain extent rejected such positions, and decided never to publish them, but because in one passage of *Capital*, he speaks explicitly of what can today be seen as foundational human rights. Namely, after his elaborations on the workings of fetishized mystifications rooted in the capitalist mode of production, he says that the sphere of (capital) circulation is “in fact a very Eden of the innate rights of man. It is the exclusive realm of Freedom, Equality, Property and Bentham” (Marx 1982, 123). What does this actually mean? Marx nurtured deeply historical and critical form of thought. In his analysis of capitalist mode of production, it was important to find its *differentia specifica* and explain it. Compared to the previous slavery and feudal class systems, Marx detected that the capitalist system was the first-class system that introduced a strong logical division of political and economic sphere and power (Wood 1995, 19–49). It seems that it could be precisely this division that Marx saw as a root and condition for the occurrence of human rights.<sup>4</sup>

Namely, while in both slavery and feudal-based societies, political and economic power was concentrated in the “hands” of one dominant class (slave owners or feudal lords), and there was a strong and clear hierarchical structure supported by adequate worldviews (“natural order”, religions, etc), where slaves and serfs were seen as “lesser” beings, the capitalist system brought a historical *novum*: Freedom, Equality and (a capitalist form of) Property. In order for the capitalist system to work,

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<sup>4</sup> As Rehmann notes, Marx was well aware that this logical analysis is not historically accurate, which is one of the reasons he wrote the last, and the only historical chapter in his 1<sup>st</sup> volume of *Capital*, named *Primitive accumulation*. But our analysis is focused on the *logic* and *structure* of human rights as ideology, while it is important to have in mind that historical advances and events have their own modes of unfolding, usually without clear scheme and with the high impact of arbitrariness.

members of society must be *formally* equal and free. For a worker to be a worker, and not a serf or a slave, he/she must be *free* to sell his/her labor power (his/her “property”) and he/she must be *equal* to the capitalist (who has capital as his/her “property”) to enter this agreement where the two equal sides exercise a *fair exchange*.

This is one of the reasons why Marx moved from his early conception of ideology as “false consciousness” to what he later called in *Capital* “objective forms of thought” (Marx 1982, 163–178). These ideological thoughts, if ideology is to be understood in this critical manner, are not simply false: they are both *imaginary* and at the same time *real* (Rehmann 2013, 47). It appears that here Marx refuses the duality between ideal and material world that had been present in his earlier works, as well as the idea that ideology somehow entails an untrue (false) relation to the world. What does that mean? The objectivity of forms of thought means they are “real” because they are *adequately* representing the relations of capital-based societies on the level of capital circulation i.e. level of exchange, and yet, they are however “imaginary” because they are inverted representation<sup>5</sup> of what is happening on the level of capitalist production where the *secret of exploitation* (extraction of surplus value) is unfolded based on the specific character of capitalistically defined labour to produce value bigger than its own.<sup>6</sup> In other words, it is not people’s perspective on the capitalist societies that is “false” (it is in fact rather objective or adequate), but it is reality itself that is inverted by the very logic of capitalist production.

In relation to human rights as an ideology from a critical perspective, this position can be summarized in the following three points. (1) Capitalist separation of political and economic power pushed the economy to the private sphere where it is being ruled by private property and market laws. The political sphere is there to guarantee, in one particular social form or the other, the safety of this private sphere and this separation itself (Wood 1995).<sup>7</sup> (2) On the level of capitalist circulation, individuals appear

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<sup>5</sup> “Inversion” is the notion that Marx kept from his earlier work of defining ideology as *camera obscura*, as explained before.

<sup>6</sup> Distinctions of capitalist circulation and production, as well as capitalist exploitation, are too big of issues to be dealt with here. For the arguments that support the perspective being utilized in this paper, see: Heinrich 2012, 99–141.

<sup>7</sup> It is important to note that this is the point on which almost all theories of human rights agree upon, from Marx, Rawls to Hayek and Nozick. The point of departures is the scope of functions of the political sphere, but all of them are taking account the division itself (see: Nozick 2013; Rawls 1985).



as free and equal to enter the process of fair exchange, and all possess a right to private property. The ideological notions of human rights come from here: human rights are both real and imaginary, as explained above. (3) On the level of capitalist production, “secret exploitation” is taking place, unlike in previous class societies, where extraction of surplus was evident and transparent and its “just” character was guaranteed by the conceptual support of hierarchy. It is not secret because “Monsieur le Capital” is deceiving and wants to “steal”, but because the very logic of capital-based production pushed it to the sphere of private and invisible (Heinrich 2012, 96–97).

Combining points (1), (2) and (3), it is possible to derive the conception of human rights as ideology from the critical perspective of ideology. Human rights are therefore ideological, i.e., real and imaginary notions and they function as “objective forms of thoughts”. They are historically specific to capitalist society due to its separation of political and economic spheres. In that manner, they are both presuppositions of capital-based production as well as the results of the rendering of its logic. In being the form of capitalist ideology, human rights can be transcended with the overcoming of society based on capitalist production. Hence, the critical view of human rights as ideology is not necessarily a negative one: this critique contains more of a Kantian approach, namely to explore and explain conditions and limits of certain phenomena. Since Marx did also believe that capitalist logic is not without a fallacy, but on the contrary – it is full of its own contradictions, human rights can be utilized also as a weapon *against* capitalism. This will be further discussed later.

### **Neutral conception of human rights as ideology**

In his book on theories of ideology, German philosopher Jan Rehmann notes that it is “remarkable that both the ‘official Marxism’ of the Second International and the ‘Marxism–Leninism’ of the Third International carried out a ‘neutralization’ of the concept of ideology that all but eliminated Marx and Engels’s ideology–critique” (Rehmann 2013, 61). This happened for many reasons, of which the most important are (1) influence of Stalinism to form USSR state–ideology based on “class–standpoint” (61) and (2) Lenin’s vulgar interpretation of Marx’s topological division of social relations to material base (economy) and ideological superstructure (different ideologies). This is why the neutral conception of ideology is represented mostly in Marxism–Leninism

tradition, with the exception of György Lukács, and, to a certain extent, by Gramsci and Althusser (147–179).

By seeing ideology as something that “merely constitutes” conceptual superstructure above the material base, neutral conception implies that every base will have its own superstructure and that ideologies will differ themselves according to their different material base.<sup>8</sup> In other words, ideology is just a plain “expression” of class–interest defined by the economic base. Ideology itself cannot be destroyed, it can only become a different ideology (Altiser 2009, 48–52). Given that Marxism–Leninism was influential during the time when two economic systems were struggling with each other to become globally dominant – capitalism and socialism – Lenin believed that the working class has “only [one] choice – either bourgeois or socialist ideology” (Lenin 1960–70, 384). Therefore, in neutral conception, the inversion of reality and ideology disappears, together with Marx’s insistence on objectivity: ideology becomes relative and as such, to put it simply, only (ideal) part of political struggle.<sup>9</sup>

So how can one define ideological character of human rights conceptualized by this neutral position? In contrast to the critical position, human rights stop being real and imaginary forms of thoughts specific to the capitalist mode of production, and become a mere reflection of their supposed material base, which is in modern time either socialist or capitalist mode of production. This line of thought was deeply reflected in the reality of the Cold War period, where the division between Western “blue” (political and civil) and Soviet “red” (social, economic and cultural) human rights was the most striking<sup>10</sup>. And although Lenin himself saw the socialist ideology as science, as being “on the right side of history”, by insisting on the ideological choice and vulgar reductionism of ideological to material, this position did neutralize the conception of human rights and made it a notion that can be utilized by different, even opposite “ideological worldviews.” It is interesting to note that the neutral conception of ideology is extensively present even today since ideology is often perceived as a mere worldview or political position. As such, it

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<sup>8</sup> This position so far was deeply criticized for being “reductionistic” and/or “economistic”. Although those objections are very important, this issue will not be thoroughly addressed here because it is not of a huge importance to the topic of analysis.

<sup>9</sup> For example, in his most developed phase of theory of ideology, Althusser talks about a “proletarian ideology” as a certain mindset that arises from class–struggle as its material basis (Althusser 1995), which can be understood as equivalent to aforementioned Lenin’s “socialist ideology”.

<sup>10</sup> For more about history and development of this division, see: Douzinas 2007, 22–23.

affects the conception of human rights as ideology and the division of “blue and red” is also present in some recent takes on analysis of human rights (see: Leckie and Gallagher 2006).

### **Functionalist conception of human rights as ideology**

Functionalist conception of ideology has its origin in earlier Marx’s writings, such as *German ideology* mentioned before, but for its re–re-actualization and systemic development one should look at Louis Althusser’s take on ideology that focuses on the question of *reproduction* of certain class systems.<sup>11</sup> According to him, for a class-based social system to work, the reproduction of subordinated class must be satisfied (Altiser 2009, 8). In the case of capitalism, it is the reproduction of labor power. For Althusser, this “reproduction” should not be thought only in terms of biological or skill–based reproduction, but also in terms of reproduction of its “subordination to the rules of the established order, i.e., the reproduction of subordination to ruling ideology (...) that allows domination of ruling class ‘by words’ (*par la parole*)” (14). Similar to Marxist–Leninist neutral conception, Althusser keeps the base–superstructure division but adds the function of “reproduction” to it. Therefore, the rest of Althusser’s examinations about ideology are devoted to the specific mechanisms and institutions (like church, school, law, etc.) that are allowing and guaranteeing this ideological subordination to happen.

For the purpose of this article, it can be summarized that “a functionalist conception of ideology [is the one] in which the reproduction of ideology serves to reproduce the dominant social system in which it occurs (...)” (Clegg 2008). As noted in the previous section, this conception is usually (though not necessarily) neutral since it is based on the belief that “ideology has no history” (Altiser 2009, 48).<sup>12</sup> Therefore, if human rights are to be seen from the functionalist conception of ideology, they will be seen as a part of the ideological function (i.e., superstructure) of reproducing the subordination to the rules of certain systems (i.e., material

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<sup>11</sup> Althusser’s view is taken as a representative example, but of course, not all the characteristics dealt with in here necessary belong to him as well.

<sup>12</sup> There are exceptions to this, such as the writings of György Lukács, who does see it in functionalist manner while keeping the critical and not neutral position. This view will not be discussed here since its influence is not of a big importance for the question of functionalist role of human rights as ideology.

base). Although being a socialist himself and seeing ideology from a “negative” perspective, the neutral character of Althusser’s functionalist position leaves the possibility to see ideology (and human rights) in a positive perspective as well, depending on one’s structural position in the class society, but also one’s political choice.

By not having an intrinsically normative character, the functionalist perspective on human rights as an ideology can fall to many different and opposing political and ideological tides. One can, for example, see the function of human rights as a part of reproducing the contemporary dominant global system – capitalism, and still advocate for them to be a tool for making that system better, making it capitalism “with a human face”.<sup>13</sup> On the other hand, one can see it in the same functionalist manner, but advocate *against* them since one can share an anticapitalistic position, as Žižek (2006) did. Following this, it seems that most of the contemporary negative critiques of human rights, coming either from the left or the right, share this functionalist conception of them – they can be seen as a servant to the capitalist system or to the “rich”, or as something that is there to secure ideological support to the system, or something that is simply being instrumentalized, one way or the other, by the system and for the system.

## CRITIQUE OF THE NEUTRAL AND FUNCTIONALIST CONCEPTION

Before I move to give the reasons for supporting the critical conception of ideology as the best explanation of human rights as an ideology, I will first deal with the characteristics that both neutral and functionalist perspectives share (although not in identical forms and not always for the same reasons) and which I see as their weaknesses in the understanding human rights as ideology.

(1) Topological metaphor: As sketched previously, the neutral conception of ideology sees social relations as dual: material (base) and ideological (superstructure), where the second is seen as a mere reflection of the first. Functionalist conception slightly changed this rigorous picture by adding the mutual interaction between the two, since ideological is not only reflecting the material, but it also has an essential

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<sup>13</sup> Rawls’ theory, although not directly concerned with the ideological side of human rights, could fall under this perspective.

function in reproducing it. Nevertheless, this topological division suffers from a number of issues, reductionism being only one of them. For the conception of human rights as ideology, however, I believe the following issue is the most important one: topological division cannot *explain* the role of human rights, especially those Marx named “innate” (freedom, equality, and property), without bringing more troubles than solutions to the analysis.

We can take “property” as the easiest example for describing this. Whether the right to property is defined either as a mere reflection of the base or as an ideological tool for reproducing the material base, exactly *what* in the economic base itself is being represented by it? In other words, the very social relations these two conceptions see as ‘material base’ actually already “entail (...) juridical–political and ideological forms and relations that cannot be relegated to a spatially separate superstructure” (Wood 1995, 61). There are no prior base relations in capitalism that only afterward<sup>14</sup> construct property as ideology above itself since property already lies in the heart of the supposed “base”. Even if one takes topological metaphor as only a methodological tool, as it is the case with functionalism, it is still a tool that makes the whole problem even more complicated, and, in the end, does not fulfil its purpose since the criteria that are being used to decipher what belongs to what part of the social structure are faulted themselves.

(2) Over–presence of ideology: whether seeing ideology as a choice (Lenin), or as ahistorical subordination to a system (Althusser)<sup>15</sup>, the neutral and ahistorical character of ideology suffers from being more a description than an explanation of the phenomenon. If one sees human rights from these two perspectives, it becomes almost impossible to answer *why* they appear when and how they do, why do they entail *universalistic* character and why is the common denominator of both ‘red’ and ‘blue’ human rights (namely, simply “being human”) present in both ideological superstructures of the two completely opposite ‘material’ bases (socialist and capitalist)? Following these lines of thought, the realm of human rights as ideology becomes, to use famous Hegel’s saying from Preface to *Phenomenology of Spirit*, *the night in which all cows are black*.

(3) No room for contradictions: following from the (1) and (2), neutral and functionalist positions have issues to explain the possibilities and actualities of social changes. In the neutral conception, where ideology

<sup>14</sup> Here, this is not a chronological, but logical notion.

<sup>15</sup> For a more detailed critique of a–historicity of ideology, see: Rehmann 2013, 165–173.

represents both a mere reflection of the primary base and *also* a political choice, it is difficult to explain how and why someone “chooses” one, and not the other ideology? Why did some of the French aristocrats advocate and participate in the bourgeois revolution that was aimed at dissolving of their own class? Why has the working class so many times in history ‘worked’ against its own supposed class interests? In the case of functionalist conception, although it is a less mechanistic than the Leninist neutral one, the same problem remains<sup>16</sup>. For Rehmann, this is “a view from above that disregards the actual contradictions and struggles in social institutions in favor of considering their function for the stabilization of domination (...)” (Rehmann 2013, 152). Many other authors also attacked Althusser’s concepts of apparatuses and ‘interpellation’ on this basis (see Bourdieu and Wacquant 1994; Hall, Morley, and Chen 1996). In the context of human rights as ideology, the functionalist perspective leaves little room for utilizing them (with awareness or not) *against* the system they belong to. It cannot explain why are the Yellow Vest protestors going against the politics of the protector of human rights, namely, Macron, *in the name* of human rights themselves.

### **Critical conception as the strongest explanation**

Unlike neutral and functionalist conceptions, the critical conception of human rights as an ideology is immune to the objections given to the neutral and functionalist conceptions above. It also proposes positive reasons why it represents the best explanation for ideological characteristics of human rights.

Firstly, the critical ideological conception of human rights does not share the topological division of the social relations to base and superstructure. It does not see society from the structuralist perspective nor does it entail a more or less vulgar hierarchy of some relations *vis-à-vis* others. From this perspective, human rights *are* part of the logic of capitalism both production and reproduction, which are seen as different elements of the unitary process.

Secondly, since this conception is not neutral, but critical, it does not see human rights either as a choice or as a pure subordination to the rules of the system that happens *after* the working of the economic base

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<sup>16</sup> For an elaborate critique of Althusser’s work on ideology before the introduction of state and ideological apparatus, see the work of his former student, Jacques Rancière (Rancière 2011).

is set in the motion. Human rights as ideology cannot be a thing of choice nor of pure subordination that is happening “afterwards”<sup>17</sup> rendering of ‘material base’, since, being “real and imaginary forms of thought”, they are impressed in the logic of the system itself. In other words, the very second one participates in the capitalist exchange, whether by being the owner of means of production (‘capitalist’) or the owner of labour power on the labour market (‘worker’), one is ‘using’ human rights of freedom, equality and property (as they are explained in chapter 2) whether or not he or she chooses to do so. This is all, as Marx notes in *Capital*, happening without our knowledge or awareness that always only comes *post-festum* (Marx 1982, 167–168). In this way, the critical approach does not give a description, but rather a logical *explanation* of the phenomenon, thus being able to offer scientific answers to the questions that neutral and functionalist conceptions failed to.<sup>18</sup>

Finally, the critical conception of human rights as ideology does not only recognize and address potential and actual contradictions in the realm of human rights but also leaves a possibility for them to be utilized against capitalism. By understanding capitalism’s inverted nature and its permeating contradictions, the critical approach sees an emergence of the open space for social changes when the capitalistic unfolding hits its own barriers and fails its own promises.<sup>19</sup>

## CONCLUSION

This paper tried to show that, even before opening the doors to the complicities of answering whether human rights are ideology, there is a prior complicity of what is meant by “ideology” in the very act of posing this question. Different conceptions of ideology affect the very meaning of understanding human rights as one. It, therefore, analyzed different conceptions of ideology itself, methodologically divided into three distinct conceptions: critical, neutral, and functionalist. The article tried to explain why neutral and functionalist conceptions fail to grasp the difficulties of ideological characteristics of human rights by misconceiving them, not explaining them, and, in the end, not addressing

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<sup>17</sup> Again, in logical and not in a chronological manner.

<sup>18</sup> This also represents a fruitful course for the future analysis that unfortunately cannot be undertaken here.

<sup>19</sup> For a more empirical investigation of human rights’ failed promises and their potential to be used for emancipation, see Zaharijević 2018.

the contradictions they entail. On the other hand, it proposed the reasons in favor of the critical ideological conception of human rights as being the best theoretical tool for understanding the phenomenon.

This paper, however, did not go into the explanations, historical or conceptual, of what is meant by human rights themselves. They are left undefined since the purpose of the paper is to understand their *ideological* character however one conceives them. It also did not analyze concrete and existing kinds of human rights, nor international and national declarations, laws, and documents that protect them. It is important to note that some of the more abstract rights that are mentioned, such as the right to property, do not function in empirical reality in the same manner that some of the more specific versions of human rights do.<sup>20</sup> However, such investigations can be a fruitful continuation of this work in the future.

While the Yellow Vest protest was spreading across Europe, the critical conception of human rights allowed us to explain the contradictory fact that the protest was turned *against* some of the official promoters of human rights but *in the name* of human rights. It recognizes human rights as an ideology historically and logically specific to the capitalist system that would wither away with it in the case of its disappearance, but it still offers a possibility of them being one of the ladders to the new non–non-capitalistic world. In other words, critical conception helps understand human rights as an ideological weapon that, when the system fails its promises, can be turned against it, and, perhaps, as something that can unravel the road for the political and social causes that will, maybe, and just maybe, go beyond capitalistic *Imaginarium*.

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<sup>20</sup> For example, children rights, ecological rights, rights on the internet, etc.



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*Андреа Јовановић\**

*Институт за политичке студије, Београд*

## **У ЦАРСТВУ СЛОБОДЕ, ЈЕДНАКОСТИ И СВОЈИНЕ: ИДЕОЛОШКИ АСПЕКТИ ЉУДСКИХ ПРАВА**

### **Резиме**

У последње две деценије, научници/е из хуманистичких поља све чешће наглашавају да се доктрина људских права налази у кризи. Као једно од могућих објашњења јавља се теза да би људска права требало разумети као идеологију, а њихову потенцијалну кризу као својеврсну идеолошку кризу, док се с друге стране понекад сугерише да су људска права у кризи баш зато што су постала идеологија. У овом раду полази се од претпоставке да је, пре него што уопште покушамо да анализирамо идеолошке аспекте људских права у било којем смислу, претходно неопходно поставити једно мета питање на које схватање идеологије се уопште мисли, будући да је појам идеологије једнако, ако не и више, комплексан од појма самих људских права. Рад се стога бави анализом људских права као идеологије користећи се појмовном и критичко-филозофском анализом. Најпре се испитују идеолошке концепције људских права тако што се анализирају на основу три различита схватања саме идеологије: (1) критичког (људска права као идеологија капиталистичког начина производње, „објективни облици мисли”, реални и имагинарни, неопходни за функционисање и одржавање система, нестају у случају нестанка капитализма), неутралног (људска права као једна од бројних идеологија у борби за идеолошку хегемонију, од којих ниједна нема нормативну предност) и функционалистичког (људска права као идеологија која искључиво служи одржавању капиталистичког поретка). Потом се прелази на критику неутралне и

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\* aerdna.1112@gmail.com

функционалистичке перспективе (услед коришћења тополошке методолошке поделе, не успевају да објасне улогу и место људских права у систему, као ни противречности у друштвеним феноменима), а заступа се критичко схватање као најплодоноснији аналитички оквир. Критичко схватање не садржи тополошку поделу, смешта људска права у срце капиталистичке производње, али и омогућава да се разумеју њихове противречне употребе у различитим друштвеним околностима, па и оним када се окрећу против система.

**Кључне речи:** људска права, идеологија, критичко схватање, неутрално схватање, функционалистичко схватање, капитализам

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