

**INSTITUTE OF CURRENT WORLD AFFAIRS**

AEM-18  
Celebrating Rights

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August, 1989

Dear Peter,

I was surprised to find the bicentennial of the French Revolution so celebrated in Brazil. Perhaps I shouldn't have been; Brazil has been trying for decades to take its place among the "western democracies" to which the French Revolution gave the symbolic start. If one conveniently forgets twenty-odd years of repression and torture, the proposal of the military government was ostensibly this: to see Brazil emerge from its Third World status and join the capitalist powers. Under this light, the "New Republic" with its "transition to democracy" has been an attempt to continue Brazil's economic development while gradually reviving the civil and political rights consecrated by the 1789 "Declaration of the Rights of Man and the Citizen".

This political objective perhaps explains why the French Revolution was heralded on all of the television networks and newspapers, including special reports on Brazil's network king, the Rede Globo, ideologically linked to the government since its birth during the dictatorship. A re-enactment involving thousands of participants was staged in São Paulo's foremost soccer stadium, complete with fireworks, 18th century costume, guillotines and riotous merry-making. Most schoolchildren got a vague idea of the French Revolution having something to do with democracy and streets swarming with men wearing berets. They tend to confuse the event with the current television series of the Rede Globo, "Que Rei Sou Eu?" (What King Am I?), in which a young and handsome bastard prince named "Jean-Pierre" leads a popular revolution to overthrow a corrupt and autocratic monarchy of "Avilã" a mythical 18th century country bearing strong resemblance to Brazil of 1989. The ideological, election-year message of the story is clear; the Brazilian people should unite behind a new leader who will save Brazil from its current corrupt, incompetent, and self-interested leaders and institute democracy (without, however, messing in the economic structures of the country).

The socialist left is less euphoric about the French Revolution, which it defines as the "consolidation of bourgeois democracy", in which the poor took the streets but the middle classes took the power. The revolution serves well that part of the Brazilian elite interested in firming a capitalist democracy on the Western model, with an active but not revolutionary civil society. In this case, it's better to celebrate the French declaration than the 1948 United Nations document, the "Universal Declaration of Human Rights", which moves from civil and political rights to the tricky realm of social rights: the rights to food, housing, work, health care, culture (but at the cost of whom?)

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Despite the criticisms of the left as to the limits of the Declaration of 1789, the administration of Mayor Luiza Erundina in São Paulo jumped upon the anniversary as a chance to bring human rights to the attention of the population. During the week of August 17 to 27 the municipal department of culture launched a city-wide program entitled "1789-1989: City, Citizen, Citizenship". The event involved debates, expositions, films, courses and dramatic shows related to the theme of citizenship and human rights in Brazil and Latin America. Promoters of the event included Amnesty International, the Organization of Brazilian Lawyers, the Human Rights Commission of the Catholic Church, the Nucleus for Violence Studies of São Paulo University, and the Pro-Popular Participation Movement of the Constitution.

Unlike the mainstream press, the event did not evade the controversial discussion of social rights. All of Brazil's leading social movements were invited to present panel discussions, from the labor unions to the land and housing movement to those of health, education, ecology, women's rights, black consciousness, homosexual rights and the prevention of AIDS. The questions of torture, of rural and urban violence, of poverty and of popular organization were discussed as dimensions of human rights. And for the large part of the population unaccustomed to attending debates or films, a team of graphic artists designed billboards illustrating 20 articles from both the French declaration and the United Nations document, which were mounted throughout the city. Although prominent intellectuals participated in the courses and debates, São Paulo's more liberal newspaper, the Folha de São Paulo, virtually boycotted the event, limiting itself to listing the films in the movie pages.

I began thinking about the meaning of human rights a week earlier, when I took a five-day course at the Catholic University (PUC) on the topic of Legislation and Minors. The course was conducted by two energetic nuns of the Pastoral do Menor, the organ of the Catholic Church that works with street children. The topic of the course was the legal project for a new "National Statute of the Child and the Adolescent", elaborated by various organizations that work with children. The Statute would serve as a revision of the current "Legal Code for Minors", instituted in 1979. The initiative expresses the post-constitutional concern with rapidly establishing the legislation needed to regulate so many of the new constitutional principles. During the Constitutional Assembly last year, the Pastoral do Menor led the struggle to pass a popular amendment on the rights of children. As the sisters said proudly, "in eight constitutions, this is the first in which the child is guaranteed specific rights". The constitutional text reads:

Article 227. It is the obligation of the family, of society, and of the State to assure the child and the adolescent, with absolute priority, the right to life, to food, to education, to leisure, to professionalization, to culture, to dignity, to respect, to liberty, and to participation in family and community, as well as protection from all forms of negligence, discrimination, exploitation, violence, cruelty and oppression.

When the constitution went into effect last October, the new challenge was to reform the legal code in accord with these principles. The current Code of Minors is less a definition of the rights of children and more a collection of measures for dealing with those children who, because of their "irregular" status, pose problems to society: orphans, abused or abandoned children, youth who commit legal infractions such as theft, assault, drug traffic. As one of the sisters commented, the code of 1979 "was not designed to protect the child. It was very well constructed to defend society. Society does not want to be incommodated by poverty. It does not want to assume its parcel of guilt."

The novelty of the proposed statute is its attempt to reverse the philosophical conception of law. In the current Code, children are the objects of laws (in Portuguese, "direito"). In the proposed statute, children become the subjects of rights ("direitos"). The child gains the power to demand protection and basic services from society, rather than simply responding to its restrictions and punishments. As one of the sisters said, "This is why our proposal has been attacked as subversive. It is part of the new emphasis on human rights, and in particular, social rights."

The statute takes as its starting point the guarantee to the child of "absolute priority" in attendance of his or her necessities. This phrase is interpreted as meaning that the child would have precedence in receiving protection and help in all circumstances, that social policies give preference to programs for children, and that a privileged portion of public money must be applied in areas related to the protection of childhood and youth.

Going further, the statute takes each of the rights mentioned in Article 227 of the constitution and makes explicit what these would mean in terms of social services. For example, the right to life and health means assurance of adequate health service beginning with pre-natal care, obligating the state to supply medical, psychological, and nutritional support if the mother does not have conditions to pay. Women interned in prisons are given the right to breast-feed and stay with their child. It becomes the duty of the state to develop a "unified and decentralized health service", and to provide vaccinations and preventative public health campaigns. The right to liberty means freedom to express opinions, to participate in the family and politics, to come and go in public areas, to play, and to appeal to the authorities to demand one's rights. The right to respect and dignity refers to physical, psychical, and moral inviolability and the preservation of values and identity, as well as protection against any violent or inhumane treatment.

In the area of education, the statute reinforces the constitutional right to free public schooling from day-care through secondary level, with the special conditions of study for adolescents who work, as well as the recuperation of children or adolescents who left (or were excluded from) basic schooling (in Brazil, 50% of school-age children drop out after first grade). The statute also elaborates protective measures for teenage workers, who can legally begin working at 14 years and serve as apprentice at 12. Teenagers are guaranteed work schedules that permit their participation in school, and are forbidden to work night shifts or in unhealthy conditions. And in programs of professional training, "the pedagogic demands relative to personal and social development prevail over the productive aspect."

One can see why the proposed statute was denounced as subversive by members of the National Congress and why a similar popular amendment was rejected by São Paulo's Legislative Assembly, which is currently elaborating the state constitution. At a moment in which the neo-liberal discourse is gaining force not only in Brazil, but in Latin America as a whole, it thrusts a load of social responsibility back in the hands of the state.

The role of the state in economic and social life is in fact the hottest issue of this year's presidential campaign, as it was in Bolivia and Argentina and will be in Peru and Uruguay. Although the theme of corruption has gotten most press attention, with the media-created, reformist figure of Fernando Collor de Melo in first place in the polls, one finds that Collor satisfies a good part of Brazil's economic elites precisely because he promises to clean up the excesses of the state and support "free initiative". The campaign has turned into a debate between those of the liberal-right who want to "des-estatizar" the economy, those of the socialist left who want to "estatizar" the banks and social services, and the social-democrats in between

who want (and this is a new one) to "des-privatizar" the state - that is, cut the generous public subsidies to business and industry.

The cases of Mexico and Bolivia have already been used by candidates in televised debates to demonstrate the efficiency of fiscal austerity and privatization in reducing inflation. The side-effects of unemployment, stagnation, and reduction in social services have been less commented. Clovis Rossi, political analyst of the Folha de São Paulo, attributed the wave of neo-liberalism in Latin America to the failure of the traditional populist "state-as-father-to-all" approach to resolve the social and economic problems of the continent, accompanied by the reticence to adopt a more aggressive socialist experience, due to the crisis in European socialism. "What remained was the neo-liberal road". But Rossi warned, "In practice, the neo-liberal model has not yet been tested in Latin America. All that the deeper rehearsals (Mexico and Bolivia) have realized until now has been to clean up the statistics of the state and of inflation, at the cost of aggravating the social situation, which is, in the final account, the underlying problem."

It is exactly those social questions left to the side by neo-liberalism that the discussion of "social rights" tries to recuperate. But the idea of rights always strikes me as rather strange. The word "rights", linked in our minds with "inalienable", seems to denote innate human qualities; but in fact, no one is born with rights. Rights are created by society at given historical moments when economic and social conditions demand a re-definition of the relationship of the individual with society. Hence the French Revolution limited itself to consolidating civil rights - to citizenship, to equality before law, to "liberty, property, and security". Recognition of the so-called "human" rights - protection against torture, violence, arbitrary imprisonment - evolved later and remains the subject of worldwide lobbying efforts. The idea of social rights - to food, education, health, culture, etc. - unimaginable in 1789, still results in ideological shock.

This ideological shock is more than simple prejudice. Talk of "social rights" remains whimsical wish-thinking unless one throws into question world economic structures and the conception of the state. One tends to dream up a mammoth, omni-present state that paternalistically (and bureaucratically) supplies all of the basic "rights" of its citizens, exactly the model that European communism is struggling to rethink. But the response of Western capitalism is equally paternalistic; it limits itself to creating a "safety net" to meet the needs (rights?) of its poorest citizens and maintains an exploitative economic structure intact. Is there an alternative to these two models? If not, the idea of social rights quickly corrodes into paternalism.

Still, the "Statute of the Child and Adolescent" tries to combat such paternalism with its insistence that children are subjects and not objects of rights. They are not the passive receptacles of the generosity of society, but rather the active participants of social change. Accordingly, the Pastoral do Menor mobilized groups of street children around the country to collect signatures, organize marches and conduct visits to governors and to state and federal representatives, to pressure for the passage of the statute. While such participation does not resolve the problem of the role of the state in fulfilling the "rights" elaborated in the statute, it does pedagogically recuperate the self-respect and fighting spirit of these children. Accustomed to living without names in the margin where the resistance to change is strong, it is no small psychological reversal to see them demand the dignified conditions of life denied them by the current economic structure.