

---

# CONCEPT OF MARXISM AND REALISM

---

Pallavi Chikkala, LLM, KIIT School of Law

## INTRODUCTION TO MARXISM

### *The Marxist History*

Karl Marx, a sociologist and philosopher, created the Marxist theory or Marxism in the middle of the 19th century. Friedrich Engels furthered the dissemination of Karl Marx's views. Marxist theory originally included three ideologies: an economic and political agenda, a theory of history, and a philosophical anthropology. Karl Marx swore to bring his theories into reality because he had faith in them. Marx believed that in order to truly understand the world, one must act to transform it<sup>1</sup>.

According to Marx, the world will only change once the consciousness of its inhabitants changes. Marx examined the causes, ramifications, and economic, social, and political dimensions of class struggles and conflicts. His research on class conflict was influenced by the writings of English economist David Ricardo, who lived in the 17th century. Ricardo researched the market system and how it operates. He looked at the realities of capitalism, such as the conflicts of interest that exist between employers, employees, and landlords. He foresaw the downfall of Europe's small company owners and rural labour force. The proletariat would then make up the bulk of the population.

### *Early Marxism (1878-1917)*

Early Marxism mostly existed in Europe. It examined European society during the German Social Democratic Party's administration. The downturn (1873–1896), the growth of imperialism, the establishment of the party bureaucracy, and World War I are all discussed.

---

<sup>1</sup> Marxist Theory, <https://blog.ipleaders.in/marxist-theory/>, last visited 15 Oct. 2022

Marx examined a class-segregated society that was composed of both bourgeois and proletarian members. In a capitalist society, the proletariat was the working class of laborers who received compensation for their labour, while the bourgeoisie were those in whose hands power was concentrated. Marx disagreed with the theory of capitalism and how it created society. He referred to it as "reductive economism" and thought that altering capitalism was required. Class distinctions were apparent during the Second Industrial Revolution.

According to Marxism, the forces of production had evolved into the "foundation" of society and were the source of all activity.

Marx's writings were greatly inspired by Engelism. Engels' research also focused on combating capitalism and its effects. The Great Depression was in effect at the time, though. Engels passed on in 1895. Soon later, the Great Depression came to a conclusion, and capitalism expanded into other areas and gained more social acceptance. In the years to come, technology advanced with the creation of vehicles like cars and aeroplane.

Due to their perception of money as the means to an aim, this further redirected people's attention toward capitalism. These investigations were only conducted in select regions of the US and in bureaucratic cultures in Europe. This civilization was dominated by capitalism and became power-hungry, which ultimately sparked World War I.

### ***Middle Marxism (1917-1968)***

Mid-Marxism broadened its scope to cover the entire planet. It investigated Soviet society under communist government. The "Great Depression" of 1929, the development of fascism and the Stalinist counter-revolution, World War II, the Chinese revolution, and the expansion of the US empire were all topics covered in the study.

Karl Marx's attention began to shift from Europe to the rest of the world at this time. Marx researched the social standing and living situations of individuals in the 1940s. During Stalin's rule of the Soviet Union, Marx examined the sociological elements influencing the lives of the populace. During this period, Lenin began to emerge as a revolutionary, politician, and leader. Outside of Europe, imperialism has grown to be a worse evil, according to Karl Marx. In the guise of industrial advancement, imperialism caused the mutilation and annihilation of human beings. Though intended to benefit individuals and society, industrial growth instead brought

about widespread harm. The colonized people of the Soviet Union and other nations were referred to by Marx as the "global proletariat."<sup>2</sup>

Marxism was in line with Lenin's beliefs, often known as Leninism. Lenin thought that capitalism's peak period was imperialism. Lenin thought that capitalism will vanish as a result of a communist revolution.

He aimed to establish "Centralized democracy" in order to establish a "one-party socialist state." Lenin intended communist revolutions to be enacted by communist leaders and adherents all over the world. Lenin, however, passed away before he could realize his dream, and capitalism arose in his place. However, the efforts of the revolutionary movements and their leaders to effect change were not in vain. People in the middle class and lower classes have grown to feel like they are moving up in society. But society persisted in being a society of "capitalist bourgeoisie."

### ***Late Marxism (1968-1991)***

The state of international society during the Cold War was investigated by late Marxism. The collapse of the communist parties and the regrettable resurgence of capitalism and imperialism were among the events covered.

Lenin's death caused the revolutionary Leninism and Marxism movements to collapse, although their effects were nonetheless felt for many years in other regions of the world. The Cultural Revolution in China began in the years 1966–1968. The first worldwide anti-capitalist movement was this one. Despite its failure, it succeeded in uniting individuals from all over the world for a single goal.

Marxism during this period concentrated on restoring the damages caused by Stalin's dictatorship. Revolutionaries struggled to pick the right cause to fight for concerns like the difficulties of the proletariat, women, coloured people, ethnic groups, sexual minorities, etc. because there were many issues in the world at the time. Following a series of failures, Marxist thought advanced further and attempted to alter the "manner" of handling the topics rather than the subjects themselves.

---

<sup>2</sup> Marxism and Law, <https://www.sciencedirect.com/topics/social-sciences/marxist-theory>, last visited 15 Oct. 2022

Marxist philosophy thus began to concentrate on the "creation of human existence." Marxism recommended both direct and indirect methods for producing human life. Marxism advocated about communal self-governance in the direct manner. From lowest to highest, this was the hierarchy and allocation of authority. The second strategy for the production interactions was indirect. This strategy discussed how individuals might influence societal decision-making. It discussed the significance of parliamentary capitalism, political meddling, etc., in social decisions.

## **WHAT IS MARXISM?**

Marxism examines the political, economic, and social influences on society. It discusses the negative repercussions of capitalism on the economy and society. Marxism, or Marxist views, were advanced by Karl Marx. Friedrich Engels researched on concepts related to Marxism and addressed how the economy impacts society. Marxism is based largely on the idea that revolutions would eventually put an end to the class struggles between the bourgeoisie and the proletariat, which are a result of capitalism. One rising while the other falling will cause this to happen. Eventually, as a result of growing exploitation and strife, the bourgeoisie will crumble. As a result, the proletariat will grow in power and eventually come to control the means of production. Marxism holds that if capitalism is not abolished, society would deteriorate. The industrial and manufacturing owners profit from capitalism's exploitation of the working class. Marxism views society and the economy through the prisms of capitalism and class struggle.

## **MARXIST CRITICISMS**

Marxism and Marxist doctrines have been part of society for generations, although they have come under some pretty heavy fire throughout time. Marxist ideologies are criticized as follows:

### ***Criticism of Class Divisions***

The bourgeoisie and the proletariat are the two different groups that Marx split society into. The societal framework may have been appropriate in the 18th and 19th centuries, but circumstances have changed<sup>3</sup>. There is no longer a wealthy class and a working class in society. The scale has altered. For instance, investors purchase stocks and shares in companies

---

<sup>3</sup> What Is Marxism?, <https://www.simplypsychology.org/marxism.html>, last visited 16 Oct. 2022

controlled by affluent people. Rich company entrepreneurs put money into new ventures. In the business world, people are no longer treated like slaves. There is labour law that gives workers and employees rights and also protects those rights. In every nation in the world, slavery is a crime. As a result, the Marxist notion of class distinction has lost some of its significance today.

### ***Nature of Capitalism***

Since two centuries ago, capitalism has evolved significantly. As exploitative as it was in the 18th and 19th centuries, it is now less so. The proletariat does not suffer at the hands of the bourgeoisie, nor are people separated into a bourgeoisie and a proletariat. People are paid standard salaries and minimal pay for the work they perform out of their own free will. Capitalism does not consider them as slaves. People who are less rich than others enjoy the same rights and liberties as those who are wealthier. In contrast to two centuries ago, a segment of society—the proletariat, according to Marxist theory—does not oppose capitalism. Today's capitalism is governed by the state. It is regulated by laws, rules, and decrees that ensure everyone has access to fundamental freedoms and rights. The inequities of capitalism have been reduced by state involvement. The idea of welfarism, or a welfare state, has eliminated the working class's servitude and the disparities of capitalism.

### ***The Misconception about Control***

According to Marxism, the affluent and factory owners were in charge of running the whole social structure, societal economic and political power is the source of wealth and capitalism. But the modern world is different. There are many slivers and divides in society, with rich and poor individuals arranged in various orders. Simply said, wealth is not a prerequisite for power. A journalist has no qualms about writing about a successful businessman. A well-known musician or other artist may support or oppose capitalism. It has nothing to do with his income; a social activist can get an honourable and powerful position in society. Governments guarantee the safety of the underprivileged and offer them a variety of advantages. Thus, the existence or lack of wealth cannot determine control. Wealthy people are valued in the state because they support the economy; nonetheless, they do not have complete power over the state. The government exercises control for the benefit of the populace and the state.

### *False Consciousness*

According to Marxist ideology, the bourgeoisie—wealthy businessmen—held a disproportionate amount of power and used it to foster a false sense of self. But it is clear that riches and authority or control no longer go hand in hand. The most powerful or in charge are not necessarily the richest people. This leads to criticism of the Marxist idea of false awareness. The media's independence is the primary indicator of this. The media does not instil a false sense of dread or favouritism against affluent people. Individuals in today's culture are self-aware and mindful. They downplay or ignore societal class distinctions. These people do not believe themselves to be enslaved or exploited by their employers.

### *Criticism of Relevance*

Marxist doctrines claimed that they were constantly relevant. Marxism holds that society will develop in stages, moving from capitalism to communism via socialism. This has not taken place. In many places of the world, socialism and communism did not succeed because they were not put into practise within the stages described by Marxism. The Marxist views of capitalism and society actually look outdated now. Marxism is thus criticized for disregarding socially significant concerns in the background of society's economic progress.

## **INTRODUCTION TO LEGAL REALISM**

Realism or the Realist Theory of Law is a natural way of analyzing law. In this reference, natural way refers to actualities. A Realist looks at the meaning of law from the eyes of the society and how it is implemented. According to a Realist, law cannot be understood in isolation. It needs to be blended with the societal implementation so as to understand its essence in entirety. Realism is a concept which focuses on the practical application and implementation of law instead of simply focusing on the moral illusions.

Realist school of Law considers law to be emerging from judicial decisions. Judgments or judicial decisions are where the actual social relations are dealt with in the court and a solution is arrived at. In the Realist school of jurisprudence, the law is studied in its real workings, rejecting the usual concept that it is a collection of rules or principles<sup>4</sup>. Realist School of

---

<sup>4</sup> Realism and its Relevance In India, <https://www.legalserviceindia.com/legal/article-8889-realism-and-its-relevance-in-indian-law.html>, last visited 16 Oct. 2022

Jurisprudence is further classified into American and Scandinavian Realism. American Realism is where the realists based their meaning of law based on judgments as well as personal experiences whereas in Scandinavian Realism, the scholars focus only on personal experiences. John Gray is considered as the most noted realist of the American Realism school.

### **AMERICAN REALISM SCHOOL**

American legal realism has its origins in the US law schools and was a dominant discourse in 1920s and 1930s. The rise of legal realism had coincided with the fact that in the beginning of the 20<sup>th</sup> century, there was explosion of sorts in filing of cases by common masses. This was encountered by the State with the increase in number of judges forming art of court system. This in turn led to far too many people deciding on varied sets of facts often having very less or no clue at all about what was done in other part of the country about a similar situation. Scholars including Felix Cohen, Herman Oliphant, Hessel Yntema, Jerome Frank, Karl Llewellyn, Max Radin, Oliver Wendell Holmes, Underhill Moore, and Walter Wheeler Cook, to name a few, have written extensively enriching the legal scholarship. Realists themselves argued that realism is merely an intellectual movement and not a school of thought or set of theories of law<sup>5</sup>. But other scholars have argued it to be a set of theories having influence on the way the legal theory developed subsequently. Legal realism was said to be the most important indigenous jurisprudential movement in the United States during the twentieth century. It had impact on the legal education, scholarship and law reforms in the US. Yet, perhaps the strength and weakness of the realism, in the words of Brian Bix, is that “Among those writers who described themselves (or who were described by others) as “realists”, there was little by way of agreed views, values, subject-matter, or methodology”. Notwithstanding the divergent views and positions taken, the realists “called into question three related ideals cherished by most Americans: the notion that, in the United States, the people select the rules by which they are governed; the conviction that the institution of judicial review reinforces rather than undermines representative democracy; and the faith that ours is a government of laws, not of men.”<sup>6</sup>

### **SCANDINAVIAN LEGAL REALISM**

Unlike the American counterparts, the Scandinavian realists focused on the substantive

---

<sup>5</sup> Suri Ratnapala, *Jurisprudence* 10 (2009) (Relying on observation of Karl Llewellyn)

<sup>6</sup> <http://cyber.law.harvard.edu/bridge/LegalRealism/essay1.htm> last accessed by 13.07.2015.

philosophical doctrines from semantics and epistemology<sup>7</sup>. Scandinavian realism refers to the legal philosophical writings of scholars from Nordic countries which were not influenced much by the common law system. The law is largely uncodified in the Nordic region. Hence, the judges have a major role in deciding the cases. Scandinavian realists believed that the “law can be explained only in terms of observable facts, and the study of such facts, which is the science of law, is, therefore a true science like any other concerned with facts and events in the realm of casualty.”<sup>8</sup> The interface between law and psychology was one of the major focus of the Scandinavian realists. In the process they articulated the fact that law influences the human behaviour in certain ways. Scandinavian realists consider the physical facts and the psychological effects of law.

## **CRITICISM**

Although it has been observed that the realist movement has contributed in important ways in the development of jurisprudence in USA and elsewhere, it has not been able to avoid criticisms. One of the primary criticisms is the fact that the realists themselves had taken contradictory positions and expressed views which could be reconciled only to a minimum level. Secondly, the realists did not have the structure and in-depth analysis required for a theory of law to be developed out of their contribution. Thirdly, their indeterminacy was debunked by H.L.A Hart by explaining that the law remained open textured only at the edges and the 'core' law had a determined meaning guiding the judges. In fact it is scary to imagine a world without codified laws, however indeterminate they could be. For the world to be without law just because it has flexibility is very bad and will lead to more chaos. So it is important that we do not negate the codified law, rather build on the codified law after considering, amongst other, the views of the realists.

## **CONCLUSION**

Karl Marx and Friedrich Engels were influential figures in the development of society. Even after Karl Marx's death, Engels continued to advance Marxist ideas. When they were first written, Marxist doctrines were far ahead of their time. These theories were founded on the idea that capitalism has encouraged class strife. Even though capitalism is now accepted by

---

<sup>7</sup> Michael Freeman, Lloyd's Introduction to Jurisprudence 842 (9th ed., 2014).

<sup>8</sup> Jerome Frank, *Law and Modern Mind* vii (English ed., 1949), reproduced in Michael Freeman, Lloyd's Introduction to Jurisprudence 841 (9th ed., 2014).



most people, it nonetheless distorts and undermines social ideals. Because capitalism and capitalist ideals rule society, many segments and strata of society suffer. Even now, capitalism may be considered as a barrier to literature and culture, proving the validity of the critical theory. Although the Marxist theory is criticized for being outdated in the modern world, it has made invaluable contributions to societal advancement.

Legal realism has brought a new life to the study of legal theories. It tried to open up new vistas in legal research. In the words of Frederic Schauer, “Legal Realism is contested terrain. Whether we label the perspective legal realism or Legal Realism, or American Legal realism, there have been for at least eighty years serious disputes about just what Legal Realism is and what it claims. Moreover, the terrain is contested not merely because there are disagreements around the edges – that is, with respect to the borderline cases of what is or is not Realist perspective.”<sup>9</sup> Realists have been concerned with the indeterminacy, subjectivity and the discretion of judges –which is often used in unpredictable ways – in deciding the cases. The emphasis of realists on subjectivity of judges meant that they completely ignored normative nature of the law. If the judges are to make laws without their being a need to see what the legislature has to say on a subject, the judiciary will be setting new norms on regular basis. This in turn will lead to more chaos for want of

benchmark to test if there was minimal or maximum deviation by the judiciary. Such testing is possible when and only when the law making power is exclusively with the legislature. In absence of such separation of powers between legislative and judicial branch of state, the realists themselves could not have had an occasion to analyse the laws and the judicial behaviour as they have done now.

---

<sup>9</sup> Frederic Schauer in William Twining, Karl Llewellyn and the Realist Movement ix (2nd ed., 2012).