

On Unravelling Rights

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I

The history of rights is full of strange ironies. One of the more intriguing ones is that the language of rights has a weird mimetic quality. If the clerk is the major violator of rights in the twentieth century, the bureaucratic document has become the basic narrative of human rights violations. It is as if filing and defiling have an unconscious kinship. In this copy-book picture of reality, rights become an indicator. But a preoccupation with rights violations tells us as much about rights as a thermometer about heat. One needs a different beginning, where the real, the surreal, the unreal and hyper-real connect. One place where the discourse on rights, scholarly, realistic and committed, and the fairytale of rights, the dream land of Peter Pan and Kafka, meet is Argentina. Argentina is distant enough to be both unreal and a fable. In *Imagining Argentina*, Lawrence Thornton has produced such a fable, a world where magical realism and the discourse on rights intertwine brilliantly.¹

It is a story about Argentina under the dictators. The hero is a gentle person, Carlos Rueda, an intense man who directs a children's theatre and is at home in the world of Alice and Oz. During the time of the dictators, Rueda discovers that he has an extraordinary gift. He realizes that he is the site, the locus, the vessel for a dream. He can narrate the fate of the missing. From all over Argentina, men and women come to his middle class home and sitting in the garden, Carlos tells them stories, tales of torture, courage, luck, death, stories about the missing. All around the house are birds, tropical in hope, each a memory of a lost friend.

One day the regime arrests his wife, Celia, for a courageous act of reporting. The little world of Rueda collapses till he realizes he must keep her alive in his imagination. Carlos realizes that for the regime there are only two kinds of people, sheep and terrorists, and terrorists are those who differ or dream differently. Carlos enters the world of the tortured, like a Zen Buddhist entering a leaf or a tree.

As the regime becomes crazier, it is the women who object. It is the women as wives, as mothers, as sisters who congregate in silence at the Plaza de Mayo. Quietly, silently, each carries a placard announcing or asking about the missing. It is a classic case of what Vaclav Havel calls 'the power of the powerless'.² The women walk quietly, sometimes holding hands. It is not just an act of protest; it is a drama of caring, each listening to the other's story, each assuring the other through touch, weaving a sense of community.

The community grows as the men join them. Protest seethes like a cell under mitosis. All the while, through the window, the Generals watch them, one general in particular, face like a mask, eyes covered with inscrutable goggles. It is the totalitarianism of the eye encountering the community of the ear. General Guzman is the observer, the eye in search of intelligence. His Falcon cars sweep the city picking, pecking people at random. People realize they cannot be indifferent onlookers, spectators, bystanders. The indifference of watchers to the spectacles of the regime won't do. One must be a witness. A witness is not a mere spectator. He looks but he also listens. He remembers. He meets the vigilance of the eye through remembering.

Thornton shows that the world of torture is a strange world. It maims the victim, emasculates the body and the self. Carlos Rueda writes a children's play called *Names* which evokes every man, every woman, every memory of torture. Everything must be recited. Nothing must be forgotten. Every scream must be redeemed with a name. Genealogies are essential. When Professor Hirsch, the lover of literature, is beaten, he is asked who his fellow conspirators are. He answers 'Koestler' and 'Dostoevsky' repeatedly and the killers are puzzled because the names are not on their list. The world of life and the life of the text combine to give him his double genealogies of friendship. Only the imagination, says Carlos, stands between us and terror. Terror makes you behave like sheep, when you must dream like poets.

Underlying Thornton's Arabian nights of terror and hope is a testimony to rights. There is a universal esperanto in the cry of pain, the scream as utterance that makes rights at one level a universal project. At that level, torture is torture whether in Argentina, Beijing, Bhagalpur or Iran.

Yet latent in Thornton's story is a message that the world of rights is a multi-layered world. As Carlos Nino, constitutional adviser to Raul Alfonsin, remarked, human rights is an invention, as much an artifact as an aeroplane or a computer chip. If rights are an invention, an artifact, an act of imagination, Thornton seems to suggest that the imagination must make it continuously inventive and perpetually reflective. This is the real challenge before us. It was a challenge that the woman of Argentina, the legendary mothers of the Plaza took up, a challenge Argentina as a society faced in deciding whether to forgive the torturers. The stories and reflections of this period have been captured in a passionate array of writings from Carlos Nino's *The Ethics of Rights*, Lawrence Weschler's *A Miracle, A Universe*³ and Gary MacEoin's *Sanctuary*.⁴ These are scholarly addendums to *Imagining Argentina*.

Deep within Thornton's book is a second message. He suggests that rights cannot be understood purely at the formal jurisprudential level. A naturalism of rights will not do. Secondly, he implies that a theory of rights without an ethics of caring is fatal. We will also have to explore the tacit knowledges underlying the world of rights, realize that rights, like science, has an unconscious we must delve into. The notion of rights is a myth and we must look at it like a mythology. Like Prometheus' fire, it is a problematic gift. It is

this world we must explore, not as experts but as witnesses. In doing so we locate ourselves at this particular moment between the mothers at Plaza de Mayo and the students of Tiananman Square and confront three questions, three debates that make the world of culture as politics:

(i) Is Human Rights an ethnocentrism? Should we follow Khomeini's Iran or the born-again Asians of Korea and Singapore to contend that the emphasis of rights is a Western project, irrelevant or of limited relevance to other cultures?

(ii) To the project of *restriction*, we juxtapose the problem of *proliferation*. Rights today is a Stakhonovite term, working overtime in many shifts and places, a rubric for so many worlds. There are today innumerable appeals to the rights to work, to food, to security, to ancestors, to nature. Can the inventiveness of rights cover such a multiverse of worlds?

(iii) A third perspective holds that the language of rights is a formal but restricted language inadequate as a vehicle to translate the ordinary languages of rights, the pidgin and the Creole, the alternative universalisms and the dialects of the ordinary world. This view also claims that the world of rights is semantically impoverished, axiomatically inadequate and culturally narrow to reflect the pain of such worlds. A formalistic, patriarchal universalizing project is seen as suddenly threadbare to cope with worlds of Genocide, Development, the destruction of genetic diversity or the nuclear apocalypse. The worlds of Raz, Rawls, Hart have not the littlest echoes of the battles fought in Narmada, Jharkhand or GATT.

Where does one stand personally and collectively in such a maze of controversies? We believe it is captured in two anecdotes. The first is from the testimony before the Indian Industrial Commission (1919).⁵ One of the Englishmen before the commission complains that Indians 'byhearted' the English language. True. We byhearted the works of Shakespeare, the Bill of Rights, the works of Wordsworth. 'Byheart', the colonial gentleman complains, is actually an Indian neologism. We plan today to byheart the world of rights. Byheart is such a lovely word. You commit to memory, breathe in, into the body's own recollection of being.

The second story is from that elfin intellectual, Raimundo Pannikar. Pannikar playfully, inventively seems to suggest that being colonized is a 'privilege'. India has been colonized by the Dutch, the British, the Portuguese, the Danes, the French. Pockets of their influence still exist. Pannikar suggests that Goa and Pondicherry should be kept as cultural enclaves, crystal seeds of the West within India. They could serve as windows for dialogue, niches for experiment. For Pannikar, these pockets are a bit like Beaumont's use of Alexis St Martin's body, a window to watch the elementary/alimentary process of the West.

We want to locate our approach to rights within these two stories. We are Indian yet there is a west in us. Being Indian and recessively Western, the alchemy of rights can be worked at differently and playfully without apology. As Indians, we neither have to be Wogs or born-again Asians. We speak here with the confidence of Mahendar Lal Sircar, establishing the Indian Association for the Cultivation of Science, the first institution for the study of

Western science under Indian control.⁶ He listed as the first goal of his organization: to rescue science from Western civilization. We have a similar task. We begin by acknowledging that the institution of fundamental rights is a Western invention. We will byheart the gift realizing full well that all gifts demand reciprocity. We shall return the gift having enriched it in our own idiosyncratic way.

II

The discourse of rights today generally involves a sequence of three acts. It posits a *lack*, enacts a *celebration* and proclaims a *universalism*. The texts state that 'primitive', 'subsistence' societies lack a notion of rights. They then state that rights is a Western invention, simultaneously contending that rights are inalienable and universal. Finally, the West claims that rights are for export, linking rights to aid and the development process. Whether it was President Carter's bumbling attempts at human rights diplomacy or the World Bank's threat to use rights as an indicator for aid, rights rather than being projected as the essence of the person becomes an enabling device, part of the baggage a citizen needs to enter modernity. This simultaneous use of the concept as a fragment, as a universal, as a prosthetic raises problems because rights are never seen in terms of a total social fact.

It is a pity that we did not follow Durkheim and his *Annee Sociologique* school in their understanding of rights. Durkheim in his *Division of Labour*⁷ saw rights as a dialectical term, a site where the relation between the individual and the collective is worked out. He showed that the notion of rights varied with societies and that 'primitive' societies did not have the modern, individualistic notion of rights. But there is a danger of positing this in terms of the evolutionary notion of *lack* which operates so actively in the current philosophy of rights and in diplomatic discourse.

Probably this can be understood in terms of another anthropological category—work. The puritanism of the West saw these societies as lazy societies because they spent so small a fraction of their time in obtaining basic needs. Men living in these societies could obtain their needs with three or four hours of peaceful activity. What sociologists arrogate to the post-industrial world—leisure—had already been attained by these so-called subsistence societies. The concept of work is a modern invention created by missionaries, monks and the current theologians of industry. What was a lack was actually a harmony, a balancing of productive activity to needs. Similarly, these so-called subsistence societies did not need a notion of rights. The notion of rights was born simultaneously with the state and the surplus. The notion of surplus includes within it a surplus of repression. Rights did not exist because rights in the modern sense were not necessary. But subsistence societies now need to develop their own notion of rights because development, as Ivan Illich has pointed out, has literally become a war against subsistence cultures.⁸ The genocidal and ecocidal nature of modern development makes

rights for subsistence cultures necessary. But the Western notion of rights, of what Roberto Unger calls 'the private rights complex'⁹ is grossly inadequate. It is grammatically incompetent to provide necessary sentences. To us, the question is not whether rights is universal but whether the notion of rights is inventive enough to be life-giving. Also, does the framework of rights, to use a Heideggerian term, provide a proper sense of *dwelling* to these societies?¹⁰

This question of *lack* can be stated in a different way by looking at the notion of torture. Torture exists in tribal societies but basically as a 'rite of passage'. The initiatory rite, as Pierre Clastres notes, literally grabs hold of the body. The ritual subjects the body to torture. Clastres remarks, 'The explicitly declared techniques, means and goals of the cruelty vary from tribe to tribe, and from region to region, but the object is the same: the individual must be made to suffer. The pain always ends up being unbearable . . . torture is the essence of the initiation ritual.'¹¹ Clastres remarks that an initiated man is a tortured man. 'The purpose of initiation in its torturing phase is to mark the body. Society imprints its mark on the body of young people.'¹² The pain may disappear but the scar is ineffaceable. The body becomes a memory of the moment. Clastres goes on to explain that the initiatory rite of torture becomes a mark of acceptance that they are full members of the community. Torture as an initiatory rite *marks* acceptance of membership into society.

But torture in modern societies has a reverse function. Torture *marks* the stranger, the deviant, the dissenter. It marks society's attempts to negate the person. Furthermore, the quality of violence has changed. No society has systematically improved on the means of torture as the modern society. The modern notion of rights is born in the transition in the nature of violence in societies with modern state. It is a marker of that transition.

We move now to the primordial history of rights.

III

Rights might be a Western invention but its celebration in political theory is often of a puritan kind. In fact, modern political theory has a habit of flattening its most intriguing concepts. What should have had shadows, dimensions, a backstage, an unconscious, is presented like a one-dimensional pancake. This is particularly true of rights. Its many-layered pedigree is reduced to an official birth certificate from liberalism. Even Marxists have conspired to sustain this fiction. But rights is a bricoleurian world, and myths, legends, theories, stories, legal fictions have all gone into its making. The unconscious of rights can be conceived in terms of four conceptual events:

- i. The Odysseus legend or the problem of exile.
- ii. The exodus or the homecoming.
- iii. The Enlightenment project or the dreams of reason.
- iv. The globalization of risk as a post-modern footnote.

The Problem of Exile

The history of Greece is replete with legends but three in particular have been philosophically fruitful. The triptych includes the legends of Prometheus, the Oedipus myth and the stories of Odysseus. If the debates on technology begin with invocations of Prometheus, questions of the family wrestle once again with the riddle of Oedipus, and the story of rights goes back to Odysseus.

The legend of Odysseus is probably the most poignant story of exile, homesickness and homecoming. Odysseus is all that modern man is: ruthless, crafty, restless, driven; all the personality traits which have been woven into the technological act. Beyond the intelligence, there is the ironic wisdom of the exile. When the Cyclops Polyphemus asks him what he calls himself, Odysseus replies 'Nobody', which is precisely what an exile is.

The problematic of exile has been reinvented again in the later retellings of the legend, particularly in Battista Gelli's *Circe*,¹³ Nikos Kazantzakis's *Odyssey*,¹⁴ and Giovanni Pascali's 'The Last Voyage', each variant adding to the poignancy of exile.¹⁵

Gelli in his *Circe* claims that Odysseus finds his crew transformed into a variety of animals, not only pigs. Gelli adds that the animals refused Odysseus' offer to restore them to their original form. 'The arguments for remaining as they are, constitute an ingenious commentary on the human condition. From the rabbit to the lion, the animals are united in being done with humanity. Not all the wiles of Odysseus can talk them back into the shape of *Homo sapiens*.'¹⁶ The single exception 'proves to be a dubious Greek philosopher immured in the body of an elephant. He alone consents to the renewed transformation.'¹⁷ Exile, Gelli seems to imply, is not only a movement away from home; it is a rift in the cosmos.

Giovanni Pascali makes an equally poignant comment, that for Odysseus, it is not exile that is problematic, but homecoming. It is a return to the prosaic world, to everydayness that proves impossible. Odysseus himself is found 'lynching helpless if inobedient women servants.' The Odysseus who settles down is a man of lesser stature. He longs for the period of his exile but every other act of movement has triggered acts of violence from that domesticated Odysseus, Western man. The history of rights shows that while rights of the refugee and the exile are recognized and even celebrated, every other mobile figure (except the upwardly mobile) has been problematic for citizenship. The nomad, the hobo, the gypsy, the pastoral groups following animals across national boundaries, the tribal practising shifting cultivation, all have become problematic for citizenship. The exile merely pines for lost place, the rest carry their spaces with them creating a perpetual liminality for the orderliness of the rights-mind.

But in the mythology of rights, exile has been celebrated. Exiles have virtually rewritten the history of the twentieth century. Andrei Codercu, after citing the achievements of Lenin, Cioran, Tristan Tzara, the Dadaist—and, one might add, the generation of German refugee scientists—claims,

'We are all exiles if only because, by virtue of his having never left the womb, God is the only native.'¹⁸ But if exile has not been problematic for rights, homecoming has been infinitely so. The finest attempt to confront it has been the *Exodus*.

IV

The Exodus or Homecoming

The *Exodus* is the story of how Moses leads the Israelites out of Egypt into the 'promised land'. The power of the *Exodus* and its limits can be best caught by looking at its literary opposite, *The Trojan Women* by Euripides.¹⁹ The opposition is not just between man and woman, homecoming and slavery, but between hope and hopelessness. Both are violent stories but the *Exodus* is about hope, about perpetual promise. Rights is an embodiment of hope, slavery in war marks the end of it. The *Exodus* is at one level a justification of war while *The Trojan Women* is probably the greatest anti-war document in history. The play, says Walzer, provides a horizon for the understanding of the *Exodus*. We shall follow here Walzer's reading of the *Exodus*.²⁰

For Walzer, Moses is a teacher and the *Exodus* rightly emphasizes that the acquisition of rights is a pedagogic exercise at three levels: in Egypt, in the Wilderness and the Promised Land. Rights involve memory because it is the remembrance of Egypt that remind the Israelites of the rights of strangers for, after all, they were once strangers in a strange land. It also suggests reinvention because the situation of oppression is constantly redefined. Thirdly, the *Exodus* shows that rights is not an act of creation but an act of creation which is repeated at every moment. Fourthly, the *Exodus* is a human document. Moses is a human leader. Not only is the *Exodus* enacted in historical time, it is a denial of historical messianism. It implies that rights involves not a messianic act of politics, a one time institution of erasure and the creation of a new gestalt but something to be sustained like a cosmic patch-quilt subject to repair and invention. The rights narrative as a political style is a negation of the totalitarianism of utopian narratives. It is an event cut to human scale, a story of this-worldly endeavour.

The Egypt that the Israelites come out of is both place and metaphor. The Israelites were guest workers who were tyrannized by the Pharaoh. In fact, liberation theologians describe it almost like a contemporary human rights document. Gustavo Gutierrez provides a table of their sufferings under four headings: repression, alienated work, humiliation and enforced birth-control.²¹ But Egypt is also a state of mind, a slavishness. Bondage not only involves work without end but it exhausts and degrades the slave. Otherwise, how can one explain the fact that 600,000 Israelites feared the Egyptian army? So rights become markers, the political version of Maxwell's demons, preventing a slipping back to a state of mind called Egypt. This can be understood through the sheer mundaneness of a contemporary example. Probably the most moving moment in the epidemic of American crime films

is the occasion when a burly cop arrests some anonymous soul and then proceeds to read him his rights. It is an iconic recollection of the original covenant.

The Israel of the *Exodus* is a moral community, an authentically human community representing the moral competence of ordinary men and women, where every act of remembrance represents 'an authentic solidarity with the oppressed.' Walzer claims that the safeguards established by the *Exodus* prohibitions have no parallel in either Greek or Roman law. For example, the Deuteronomy claims that the Sabbath was established so that 'thy manservant and thy maid servant may rest as well as thou. . . remember that thou was a servant in the land of Egypt' or that 'if a slave suffered physical injury at the hands of the master, he was to be set free.'²² In fact, the prophet Jeremiah blamed the fall of Judaea on the failure of the people to 'proclaim liberty' to their enslaved brothers and sisters. It is a pity that Walzer does not explore the current parallels of the story.

The *Exodus* is the story of a promise. Anticipating the social contract philosophies but more resonant in its poetry, the *Exodus* shows that the political community has to be invented again and again. In a stark way, that later contract theory was to drive underground, it shows that rights and rites are intertwined. As belief, as myth, rights have to be retold, recited repeatedly. As ritual, it has to be enacted again and again. As a recollection of the original covenant, it has to be repeated again and again. And in the very act of repetition, it is reinvented anew. From Cromwell to Benjamin Franklin, Marx and Lenin to Gustavo Gutierrez, the *Exodus* has served as a text for liberation. The relation between rights and rites shows that right is not a monadic concept. It is perpetually enacted within a community.

Michael Walzer observes that the social contract philosophies of the sixteenth and seventeenth centuries have had their roots in the exodus literature. But there is a poetry to the covenant, even a numeracy that the later Contractarians lack. 'Consider for example the debate among the rabbis about the number of covenants made at Sinai. One rabbi said that 603,550 covenants were made, each adult male (the women are left out here) pledging himself to God. But another claimed that 603,550 covenants were made 603,550 times. The men pledged themselves to God and also to one another. What is the issue between them? Rabbi Mesharsheya said that the issue is that between personal responsibility and responsibility for others.'²³

In the *Exodus*, there is no reified universalism of rights. The *Exodus* is against the universalistic visions of rights in three ways. First, it is an invitation to a hermeneutic enterprise. The hermeneutical act is a pluralizing rather than a universalizing process. In the very act of seeing similarity in the difference, the text is reinvented in various ways. As a result, the *Exodus* has provided the political underpinnings of such major events as the Puritan Revolution of Cromwell, the metaphor of the slave revolts, the Civil Rights movements of the American south, the political philosophies of Knox and Calvin and the anti-apartheid struggles of South Africa. As Walzer explains,

the *Exodus* is not just a text. It is a space within and around a text calling for continuous interpretation.

Secondly, the *Exodus* is a story, not a theorem, not a universal set of axioms. A story is intensely personal, deeply psychical and each listener perceives and adds a different variant to it. A story is a collection of standpoints. Its objectivity comes from linking biography to history. But since any story has to be lived out, it is an invitation to individual action. Looking at rights as a collection of stories alters our perspective on it. It claims not the universalism of classical physics freezing rights in space and time. There is no one totality of rights. The whole keeps changing as the stories are enacted anew.

The physicalist metaphor that underlies rights creates a reductionist universe. The metaphor of rights should be seen more like a language. The universal declaration of rights provides the langue while the dialects of rights, the constant inventions are its *parole*. The everyday speech of rights constantly strains against the dictionary meaning of rights, adding nuance, pidgin and slang. Simultaneously, the creation of new formal worlds like Genetic Engineering, Cybernetics, the creation of risk cultures, also provides alchemical challenges to the world of rights. Thus the world of rights grows in a protean way like language absorbing new meanings, changing through translation. To see it in a universalistic sense renders creative role of *parole* as noise in the world of rights. Saying rights is only a Western invention creates a stereotypical view of rights. It misses the creative acts of translation that the rights language is undergoing. When the West is extending the rule of property to the domain of life, patenting life forms, a Castro asks 'Who would have thought of copyrighting a Cervantes or a Shakespeare, who would have thought of patenting jazz?' When Castro says the whole world has a right to Cuban research on sugar, he is challenging the dominant theology of rights, creating a dialogue of rights reminding the West of worlds it has long forgotten. When a Liang Shu Ming claims that rights are not relevant to China, he might only be challenging the disembedding of rights in a liberal world, claiming that rights is too formalized and abstract. It needs the world of 'Li' around it.²⁴ In doing so, he is embedding rights in an ethics of caring which the individualism of the West has long dissipated. Or consider again Ananda Kentish Coomaraswamy's observations on a woman who refuses to buy a washing machine, asking 'But what will become of my washerman?', or on a person arguing against hotels because they violate the culture of hospitality. These stories add to the debate on rights to property, issues its theorists haven't dreamed of for centuries.

Walzer's interpretation of the *Exodus* also suggests that while the catechism of rights might be universalistic, the actual drama of rights is a bricoleurean one. Rights theory overemphasizes the construction of rights at the level of jurisprudence or political philosophy. It fails to see that the construction of rights at the level of struggle, whether it is a question of ecocide in Vietnam, of development as genocide as in Paraguay, or

displacement through dams as in India, is a bricoleurean activity, without the negative connotations of the French word.

The bricoleur, Levi Strauss says in *The Savage Mind*,²⁵ is 'someone who works with his hands and uses devious means compared with a craftsman.' That is, a bricoleur is a sly handyman who takes from his stock anything he needs to complete his job. Rights building at the grassroots level is such an activity. It symbolically constructs through whatever is available: fragments of myth, case law, declarations of rights, folktales, a new framework against oppression.

A bricoleurean activity is practical. One gets the job done. One is not concerned with a Cartesian science or whether the UN charter recognizes one's demand. The bricoleur deploys 'his fixed stock of signifiers' from the culture around him. He does not need a utopia or a special technical language. If Rawls or Sandel or Dworkin fail to recognize him, it is the former worlds which are impoverished. But a bricoleuran world is not one of fragments alone; it sees the whole but in the part. And in redefining the part, it adds to the whole. A court ruling that says squatters are illegal adds less to rights than a Mexican slum that rips a road to plant a field or a migrant villager who insists that an urban road is a commons. Frankly to define a motor road as a commons is more grammatical than a Western businessman who says 'A Car'. Raimundo Pannikar points out that there is no such thing as a *Car*, because behind the car is a system of public roads, refineries, mines which go into the making of that allegedly singular object and without which it can't function.²⁶ It is a monadism that displays the innumeracy of much of contemporary rights theory.

It is this three-fold sense of *Exodus* as a story, as a hermeneutic, and as a bricoleur that makes it an intensely subversive activity, open simultaneously to a Lenin, an Ernst Bloch, a Guterrez, a Cromwell and even a Calvin. In fact, almost ludically Walzer's conception of the Israelites as guest workers in a foreign land and of Egypt 'as a high culture, that has gotten too high: overripe, tainted, corrupt and at the same time rich and alluring' might give ideas to a new Moses in the 'fleshpots' called Los Angeles, Texas or the EEC Community, and a new covenant of rights could be born again.

V

The Enlightenment Project

Rights in Medieval Europe were like rights everywhere, a set of concrete worlds, growing in terms of specific relations. The modernism of rights or the dreams of universalism were inaugurated only with the project called the Enlightenment. This can be seen in a fascinating way by exploring the key terms we have been using so far: slave, enemy, guest and stranger.

Emile Beneveniste, in *Indo-European Language and Society*, points out there was no one word for slave in the Indo-European languages as a whole.²⁷ A slave was simply someone outside the community. In fact, slaves were

designated by the specific names of the places they came from like Lycian, Lydian, Samian. The notions of slave and freeman developed in a correlative opposition. A freeman was someone born in a group and a slave someone who did not belong to this society. Beneveniste notes that 'the notion of the stranger is never defined by fixed criteria as he is in modern societies.'²⁸ A stranger is simply someone who is outside the group. The word *Xenos* in Greek stands for both stranger and guest. But there is no stranger as such. Given the diversity of notions, the stranger is always a particular stranger who carries a distinct status. Beneveniste concludes that 'the notions of enemy, stranger, guest which form distinct entities—semantically and legally show close connection.'²⁹ It is only with modernity that the stranger becomes an abstract and generally problematic category. In fact, the Enlightenment in a deep and fundamental way is a meditation on strangeness and the stranger. Its search for universalism and unity must be seen in this context.

The Enlightenment was a historic project conceived of on a cosmic scale which sought to locate reason and right together. Begun as a reaction to the violence of the times, the Enlightenment itself became a form of violence. A critique of the project called rights must begin with a salute to this greatest of Western projects, before we expose its ironies. It was a project that produced at its best a Kant, a Voltaire, but whose logic eventually culminated in the concentration camps of Auschwitz and Treblinka. In fact, strangely, what begins as a mythology of rights turns out to be a psychopathology; a celebration turns out to be a pathologist's report.

It is a pity that anthropology which in many ways is a creature of the Enlightenment has not produced a convincing reflection on rights. The Mexican poet and critic Octavio Paz in his works almost performs the exercise.³⁰ One wishes he had bracketed rights societies, along with caste and Totemism, treating all three as anthropologically 'quaint'. All three are efforts to think cognitively. They all use nature positively or negatively to reflect on social relationships. Totemism is a cognitive act and Levi Strauss shows that primitive man lives in a universe of signs and messages just like a cybernetician. Only the 'primitive' is closer to nature and reflects on it, using natural systems to conceptualise social relations. It is a classificatory act with nature as the building block and the matrices created reflect social life. Totemic thought, says Paz, is close to nature and distant from history.³¹ If modern man shows a Cartesian anxiety towards nature, reducing it immediately through the grids of survey, lens, map, totemic thought resists the corrosion of history. Caste too reflects this ambivalence but a Rights society is located in history and is a movement away from nature. If the former two posit an affective tie with nature and attempt to alchemize history into nature, a rights society sets man adrift in history. It exiles man from nature and breaks his kinship with other forms of life. This is important to understand for at one level talking about animal rights or asking whether a tree has a legal standing creates problems of incommensurability or proliferation. Rights is a cosmology and within such a cosmology personhood

is strictly attributed to man. The Enlightenment project on rights reflects the death of the *anima-mundi* idea that every rock, plant, tree, fungus, animal is a person with a soul. The latter held that nature spoke to man and was a system of messages. But now, as James Hillman points out, 'Nature no longer speaks to us. A stone is a stone, a tree, a tree. They are things.'³² While history acquired meaning, nature became semantically impoverished. Hillman observes that 'as the human loses his personal connection with personified nature, the image of Pan and the devil merge.'³³ He adds however that Pan never died, 'he lives repressed and returns in psychopathologies which reassert themselves primarily in the nightmare and its associated erotic, demonic and panic qualities.'³⁴ Thus one of the constant mythemes of a rights society is a rift with nature.

Secondly, the notion of order is *contra nature*. A society like a contract or a clock is a product of design or artifice. The post-Hobbesian world saw order as an artifice or as an act of intervention; 'The unordered existence or the fringe of ordered existence becomes *Nature*.'³⁵ Nature is something to be ordered, mastered, subordinated, remade. In fact, to the world of the Enlightenment 'nothing is more artificial than naturalness.'³⁶ Nature is now subject to science, something to be mastered, mined, surveyed, dissected, vivisected, musuemized. And in fact rights becomes the marker of a civil society, a reminder that one is no longer in a state of nature. Rights protect the citizen, the person from violence. It is the mark of the non-natural and therefore protects the citizen from torture, the vivisection that nature was subject to. Human Rights is that metacarp of protection that signals the rift with nature.

A rights society, like a Totemic or caste society, is a classificatory act and classificatory acts are statements of power. Western society operates through dichotomies and dualisms whether of observer and observed or of self and other.³⁷ In each, says Bauman, the second term is a creation of the first and a regression of it. There is no bilateral symmetry here, only a false symmetry because the other is always a creation and a creature of the self. It is a genetic source of violence and can be best explored in modernity's most fascinating category—The Stranger. But who is the Stranger?

The classic formulation is still George Simmel's. Simmel defines the stranger as 'the man who comes today and stays tomorrow.'³⁸ The stranger is that abstract, liminal category that embraces all between the friend and the enemy. The stranger, says Zygmunt Bauman, is not the enemy. He is not a friend, yet claims a right to be an object of responsibility. He is ambivalence coming in uninvited and threatens the sense of order. Bauman in his reflections claims that the stranger 'undermines the spatial ordering of the world—the sought after coordination between moral and topographical closeness, the staying together of friends and the remoteness of enemies. The stranger disturbs the resonance between psychical and physical distance: he is physically close while remaining spiritually remote.'³⁹ Coming in uninvited, the stranger, like the squatter, stays on for several tomorrows.

And in doing so he exposes the hypocrisy of the political order. The stranger draws upon himself, as squatter, alien, ethnic, Jew, gypsy, the violence of the society. Archetypal of the Western stranger was the Jew. Western Sociology, philosophy and literature from Kafka to Shestov, from Bauman to Emile Fackenheim have struggled with the problem of how the Jew as stranger undermined the Enlightenment project of linking reason and right. What we have to explore is the responses the Enlightenment made to the other as stranger and its relation to the question of rights. We shall examine three in particular:

1. The creation of the Gaze.
2. The idea of the nation-state.
3. The model of every person as a universal stranger.

The Gaze

The Enlightenment responded to the object as other by recognizing its alienness, its distance, its strangeness. Man and nature did not exist together in dwelling, that is, one never accepted the otherness of the other. Richard Bernstein talks in the context of Cartesian anxiety.⁴⁰ He suggests that when a scientist encounters an object, for example a forest, he feels a Cartesian anxiety towards it. The other as object had to be decomposed, mapped, surveyed, and located on a grid. Reductionism as universalism is a strategy to break the alien into the familiar and the standardized. The rift between the I and the other had to be enframed and the process of enframing was called the Gaze.

The Cartesian Gaze, says David Levin, was a disciplinary act.⁴¹ Enframing demanded total visibility and total control and constant surveillance. The Gaze was the death of enchantment. 'There must be nothing hidden, nothing hiding, nothing beyond the Gaze.' It was a methodology of disciplinary surveillance which prepared the way for modern political economy. An understanding of the ontology of rights demands an understanding of the metaphysics of the Gaze.

The Enlightenment was a deeply visual ontology. The acts of seeing as survey, map, lens, vision, framing, surveillance are all visual activities. The totalitarianism of the project was visual too. The Benthamite world-view sought to create the panopticon, an all-seeing eye which would survey, supervise, scrutinize and ensure the surveillance of the poor, the vagrant, the mad while they worked for society. The rudiments of the Enlightenment Gaze can be traced to a linear view of the world. Robert Romanyshyn notes that two centuries before Descartes, Alberti had already laid the basis for this alienated view of the world.⁴²

The linear view geometrizes the space of the world. It is as if we are standing behind a window which separates us from the world. The self behind the window is an isolated self, distanced, detached and neutral. The self becomes an observing subject, a spectator and the world outside a

spectacle or an object of vision. Secondly, the condition of the window initiates the eclipse of the body. The eye not only becomes the only means of access to the world but the rest of the senses are also de-emphasized. The world outside is now only data, a spectacle, a matter of information. It is conceptualized in terms of a grid. When one linearises the world, one fragments it into little parts and then transfers them to little squares. The linear vision, says Romanyshyn, represents the technologization of the eye and it makes possible the world of scale drawings, maps, surveys, graphs and grids.⁴³

The linear vision identifies the body as a spectacle as an object to be seen. The Gaze isolates the body from a given situation and places it within a neutral homogenous grid. This geometrization of the body in turn facilitates its anatomization. It is within such a neutral space that the corpse was invented. The corpse is a specimen, a spectacle to be made visible by the Gaze. It is in this context that Romanyshyn emphasizes the ironic fact that 'formal anatomies played a significant role in the development of the stage.' Animal anatomies were spectacles open to the public and citizens even had to purchase tickets. The first recorded mention of such a ticket was in Padua in 1497.⁴⁴ It is even suggested that the sale of tickets to anatomies preceded and may have even encouraged the sale of tickets for theatre.

The general question of the spectacle becomes important politically. Foucault observes that people demanded the right to observe executions and even intervene. He shows that originally the spectacle had a festive quality where the spectator would even invade the field. In fact he cites cases where the army had to intervene. As a result, the theatre acquired the frame of a panopticon. 'The spectacle acquired the quality of abstract intimidation and justice quietly went about its work.'⁴⁵

The question of the spectacle and the Gaze raises two important issues about the metaphysics of rights. The first is about the ironic dialectic between Gaze and the right to health. As Foucault stated it:

The most important moral problem raised by the idea of the clinic was the following: by what right can one transform into an object of clinical observation a patient whose poverty has compelled him to seek assistance from a hospital? We have to face the fact that the establishment of a right merely becomes a prelude, a pretext or a parallel text to opening a new space to the scrutiny of the Gaze.⁴⁶

Jacques Donzelot in his *Policing of Families* shows how the school and right of children to education merely opened up the family to the scrutiny of the psychiatric and social work complex.⁴⁷ The question we then have to face is whether this proliferation of rights merely opens new spaces to the power of the Gaze, allowing it to scienticize, rationalize and economize them.

The second threat to rights comes from the fact that rights and the Gaze share the same visual Enlightenment ontology. After all, an atrocity or any other act of violence becomes a spectacle. The spectacle in an Enlightenment setting offers three roles for interaction: the scientist-observer, the

onlooker and the spectator.

The scientist is the disembodied eye. He is hegemonic or neutral and might see the act of violation with objective curiosity. At one level, the act of vivisection is only the satisfaction of curiosity. The observer is the dislocated eye. He has no position to locate himself in. The onlooker is the feeble eye. He watches but feels helpless in the act of watching. The spectator is the consuming eye. All of them are acts of un-involvement. They consume, scrutinize, survey, watch the spectacle as murder, hanging, riot or genocide. I am reminded of an event at the Hiroshima museum. A group of Australian tourists were watching the video of the impact of the atomic bombing on the victims. A few in the front even had their fingers wrapped around a hamburger. During a poignant scene, the tourist leader suddenly yelled 'OK guys, lets go' and the room emptied in a minute.

This problem was raised even more systematically during the aftermath of the Kitty Genovese incident. A young girl is assaulted in front of a block of flats. She screams. The assailant runs away. The lights come on and people rush to the windows to watch. The killer realizes that people are merely watching and he returns and stabs Genovese furiously to death. A team of social scientists who investigated this lack of involvement found that one of the most typical responses was that the occupants felt that they were watching television. They were consuming a spectacle. And rights to be protected needs more than the disembodied body or the consuming eye. It needs the other senses. The abstract universal disembodied 'man' of a rights ontology must literally return to his/her senses.

The Nation-State and the Stranger

The sociologist Zygmunt Bauman, who in his own life must have been that extra-territorial creature, exile and stranger, claims that the nation-state as a territorial entity was designed primarily to deal with the problem of strangers not enemies.⁴⁸ The nation-state, he writes, defines friends as natives and extends rights not only to the familiar but unfamiliar residents of a territory. In creating this imagined community, the nation preaches a common fate and enforces ethnic, linguistic and cultural homogeneity.

The nation-state was an Enlightenment factory that forged patriots. But to do so, it standardized not only memories, but categories, even ideas of weight, measure and time. The French revolution was such a patriots' factory and its vision of citizenship reflected this search for homogeneity. One can see the contradiction between rights and plurality at the very outset because rights was the invitation to the other to become a standardized self.

It is the maverick imagination of Eugen Rosenstock-Huussy that evokes it brilliantly. He shows that the French search for citizenship transformed everything from calendars and literature to the decimal system. In his *Out of Revolution*, he shows how the French idea of citizenship was the dream of reason.⁴⁹ For the French, 'nature was not the noble savage, but the

reasonable Robinson Crusoe, not the blushing Adam but the reflecting Voltaire; it should be called not "nature" but "reason".

The French dreamed of one language of weights and measures that could be spoken from the Equator to the Poles. Rosenstock-Huessy explains that the diversity of the old measures, 'foot, yard, acre, grain, pint, etc., were all taken from the near environment of man; his own body, his fruit, his soil served as sources for his language.'⁵⁰ But this fog of diversity had to be dispersed and what one needed was a universal measure and 'water, Adam's ale, was made the corner stone of the new natural system of weighing and measuring bodies and distances. A thousand grams of water are one litre and a litre is a cubic decimeter or a 1000 cubic centimetres of water. The metre again is in connection with all nature being the ten-millionth part of a quadrant of a meridian, from the Equator to the Pole. Its standard is a piece of platinum kept in Paris.'⁵¹

But Rosenstock-Huessy points out that there is nothing natural with the decimal system. There is nothing to say 10 or 5 are more natural than 4, 12, 20 or 120. But this dream of standards is the dream of abstract homogeneity and extends to identity, life style and to the forms of life itself.

Bauman remarks that for the nation-state to reach its objective, 'there should be no strangers in the life world of the resident turned natives turned patriots.'⁵² The stranger who resists these efforts becomes a weed, an object out of place. The nation-state cannot practise toleration beyond a point. It has to subject the refractory element to one of the following strategies:

1. assimilation;
2. museumization: confine the culture to a reservation till it dies out;
3. segregation, as apartheid or ghettoization is a strategy of distancing, physical and symbolic;
4. genocide, the systematic elimination of the other through mass annihilation.

In this context we must remember that rights is only an enabling device that enables difference 'to become the same'. A tribal only becomes a citizen by losing his tribalness. If he is recalcitrant, the nation-state has no alternative but to dump him in a ghetto or turn genocidal in the name of security or development.

The discourse on rights can never provide that full sense of dwelling, the ease with difference. When the tribals protest that a dam destroys their way of life, all that the middle class and the nation-state can say is, 'why can't they be like us?' The only river the nation-state is interested in is the mainstream. Secondly, the world of rights, centring around the individual, has no answer to the survival of collectivities. The individual ethnic or tribal may be discussed or responded to but as collectivities they remain perpetual problems. The rights discourse is not able to deflect the either/or of the nation-state: genocide or assimilation. The final goal of the nation-state remains a homogenous table of citizens.

It is in this context that we must state that the West was marked by a

double-enclosure movement. The first was the conventional Enclosure movement, whose laws displaced the peasant and marked him as a poacher. The Enclosure was a dramatic attempt to destroy the commons called nature, to deprive the peasant of the rights of subsistence in the farm or forest. But the second enclosure movement was the destruction of the commons of communities around the individual. Modernization removed the individual from the embeddedness of caste, ethnicity, ecology. The layers of fraternal membership were removed to create that vulnerable core—the citizen. If the first enclosure movement destroyed the individual's access to nature, driving him to the anonymity of the city, the second created the monadic I. The I is seen today as sacrosanct and untouchable but it is an I that has lost its endocarp of communities, its affinity to groups. The notion of rights is only a thin layer, a metacarp, protecting the isolated I in the world of the nation-state. But what has been destroyed in a deep way is the commons of nature and communities between state and citizen. It is in this context that we must examine the third strategy that modernity builds around the stranger.

A Nation of Strangers

Bauman, following Niklas Luhman, observes that the extreme division of labour, the functional specialization that modernity entails, creates a sense of displacement, permanently or existentially, in each person. There is no single place in society where a man is truly at home and everywhere he is a partial stranger. This notion of the universal stranger was of course paradigmatic of the city. There is 'a sense of rootlessness which is no longer the handicap of particular group but a universal condition.' The city creates a whole range of relationships devoid of moral significance. 'In such a world' warns Bauman, 'people may not refrain from taking actions or engage in actions that moral responsibility may have debarred them from taking.'⁵³ There is an ambivalence even here. 'At one level the newcomer to the city may escape attention and avoid becoming a target of hostility and violence. Yet at another level, we, like all strangers, are deprived of the protection only moral proximity can offer.'⁵⁴

There is a transition here that we must understand, a shift of gestalts between the world of Hobbes, Machiavelli and Marx and the anthropology of the universal stranger as epitomized in the work of Erving Goffman. For Bentham, Hobbes or Machiavelli, society begins in distrust and the solution to distrust is a political one. Rights represents the best a non-altruistic society can offer the other. But the work of Goffman shows that we have moved from distrust to indifference. But either way the political solution is separated from the ethical. Deep down, the political in the West is marooned in ethical slumber. This is why the work of a Martin Buber⁵⁵ or a Emmanuel Levinas⁵⁶ can be read as a critique of rights, a lament that an ethics of caring is missing in the world of rights, that the other is somehow less than the I. Philanthropy and tolerance are the furthest solutions the West can devise within such a

perspective. This is why I think when Gandhi was asked, 'what do you think of Western civilization?', he answered, 'It would be a good idea'. This was a man who was superbly political yet his genius lay in making the ethical, political. But political thought in the West has separated the two. As a result, we face either the violence of difference or the violence of indifference and rights in the purely political sense is poor protection in these moments.

Probably the finest critique of rights in this context was Erving Goffman's.⁵⁷ For Goffman, the world of today was a world of strangers who deal with each other through civil inattention. The problem is not of interaction but of how to avoid meaningful interaction. Goffman's studies of madness, gambling, spies, the rituals of city make one realize that within modernity the person is not sacrosanct and that rights don't adhere to the person. A right is a mask that helps you pass as a citizen. It is a toolkit enabling you to survive the strangers of a city. But in his study of extreme situations or total institutions, Goffman becomes a passionate defender of rights.

In his *Asylums* he shows, through a study of mortification rituals, how a self is stripped and then, in a study of resistance, how that self is reconstructed again.⁵⁸ Goffman shows that rights in a deep and fundamental way is no longer the essence of a person. It can even be cynically seen as a prosthetic, a toolkit that enables one to survive and innovate in a society. But there is a fundamental point here. To be treated as a person with rights, even residually, alters the quality of tyranny. It is the difference between the concentration camps of Hitler and the Russian Gulags. In the camp the Jew is not a person. In the Gulag, the victim, no matter how badly persecuted, retains a sense of the person. The nature of violence is qualitatively different. A Bukharin confessing can serve as a model for *Darkness at Noon*. A Bukharin, as a non-person, is still more of a person than the Jew at Auschwitz. Somehow in the Russian camps, even the most brutal, there is a sense that rights are the essence of a person, while the person who is made to disappear into lampshades, goldfillings and fertilizer is no longer a person. A 'useless eater' is converted into raw material for an industrial system.⁵⁹ It is a crevice of a difference but it is the first crack of freedom.

Goffman talks of survival as a strategy of toolkits. Every gesture, tool, scrap enables you to reconstruct yourself as a person. In fact, the finest defence of property came from the records of the concentration camps. A person who retained anything, a photograph, a piece of string, retained some vestige of his personhood. The photograph becomes a surplus of memory, a string the choice of the possibilities of suicide, a pencil the possibility of witness. As Primo Levi in his *Survival in Auschwitz* puts it:

Consider what value, what meaning is enclosed even in the smallest of our daily habits, in the hundreds of possessions which even the poorest beggar owns: a handkerchief, an old letter, a photo of a cherished person. These things are a part of us, almost like limbs of our body.⁶⁰

Goffman also shows the attractions of anonymity. A spy survives because

he is able to *pass off* in another society. As long as he is anonymous, he is free. This situation is not very different from construction workers dropping their Dalit identities and coming to the city. The anonymity of the city helps them pass off as citizens. If anonymity creates the indifference to the stranger, it also allows harassed minorities or just a romantic couple an opportunity to escape the claims of caste and family.

Yet in the very methodological cynicism of a Goffman is the plea for caring, for rights without caring is a political economy without a moral economy. It has to overwork itself to be effective. We shall explore the ethics of caring in detail in a later section.

VI

The Globalization of Risk as a Post-modern Footnote

In this section we wish to explore a set of collective threats that arise out of the conceptual matrix within which rights is constructed. At one level, we have in Albert Hirschman's parable *The Passions and the Interests*⁶¹ an understanding of how the pursuit of individual interest maximized social gain. We have the modern antidote to it in that other great fable, Garret Hardin's 'The Tragedy of the Commons'⁶² which is a Hobbesian story of how only coercion can control the untrammelled pursuit of individual interest. Both are epistles to rationality and rational analyses. Both these elegant essays take for granted a thesaurus of concepts that economize society and nature. Not only is this a process of abstraction and quantification, but the very methodologies of understanding change the gestalt of rights from life world to system, from dialogue and the story to cybernetics, from suffering to compensation, from an emphasis on diversity to a language of scarcity. In fact, if we look at a whole series of concepts like scarcity, obsolescence, progress, risk, triage, enclosure, development, all these concepts have about them an economism. They convey rationality and control by the individual making rational choices. There is, secondly, a harshness, a Calvinist ruthlessness in the manner in which the poor and the defeated are treated. All these concepts have about them what the historian Christopher Hill called 'the Calvinist division of humanity into the elect and non-elect.' In fact, these concepts are secularized versions of such an ethic.

They also operate to effect two further things. They cut down the real possibilities of choice and thus pre-empt futures. Secondly, they hypothecate the world of rights to dystopias while using the language of rationality. Their real poignancy and the undertone of humour were conveyed to me while moving around the city of Calcutta. In the area I lived, cobblers operated from the roadside, sitting under an umbrella. Their goods were kept in a dealwood box and scribbled on it in stark but hesitant English was the sign, 'HYPOTHECATED TO BANK OF INDIA'. The word hypothecated captures everything in its resonances. Its length claimed the entire box. It is a word the cobbler hesitated to translate. It branded him and claimed his time, his

future. One almost feels that India, like the cobbler, is hypothecated to the institutions of globalism. And the battle between economics and rights begins here.

If we examine concepts like linearity, progress, risk, triage, we realize their economic bias. Even illiterates of economic theory like me realize that economics is a discourse on scarcity. In it, scarcity for the first time is not treated as an episodic or periodic phenomena. It is the defining element of the discourse and the behaviour that it entails. Secondly, nature, society and technology are all seen as resources. Defined this way economics enforces an impoverishment on language and everyday behaviour. It always amazes me that the poor and subsistence groups talk of the gift, of festivals, of diversity, of sacrifice, while the elite and the World Bank are replete with neo-Malthusian economic metaphors. The question is, does rights belong to the first or to the second discourses?⁶³

I was reminded of this question during the The Asian Women Human Rights Conference at Bangalore (AWHRC) in January 1995 when a tribal woman got up to attack the Narmada project. It was one of her first visits outside. She said that she was grieved to hear that there were areas in India where people get two full meals a day for only thirty days a year. She observed that she had atleast 300 days of adequate food. She was stunned by the discrepancy, the lack of harmony, and she decided immediately to fast for significant periods every month. There was no puritanism here. It was almost raucous in grief and concern, like a village woman yelling a greeting across to the next house. Fasting, she seemed to imply, is not the language of scarcity. Fasting is not dieting, it is not anorexia, it is not a response to scarcity; it is an act of harmony. You fast to get your body and your self in harmony with nature and society.

May be another incident would illustrate this better. In Alleppey, in monsoon time the fisherman will hardly put out to sea. They even starve but they will restrict fishing in spawning season. There is poverty here but no one will fish unrestrainedly at that time; except the big trawlers. Listening to the conversation, one sees a double ledger. The trawlers speak the language of scarcity and rights, the fisherman the language of harmony and reciprocity. There is no talk of rights to nature. Nature is bounty, the provider, angry at times but it is a festival and not a resource. There is none of the social science hysteria about survival. What I want to imply is that rights has got embroiled in an economic discourse and one of the great threats to the rights discourse is this economism.

At one level this seems inevitable for the relation of money like the relations of rights is fundamentally about strangers. Both favour a kind of impersonalization. Money transactions are best conducted with strangers but there is a danger when money becomes both the model and currency for rights. Once money calibrates suffering, or risk, or an atrocity, it is rights that get commoditified. A notion of rights that says that the Bhopal disaster required a compensation of 600 million US dollars is as ridiculous as one

that claimed that the chances of a nuclear accident at Chernobyl were one in a million. It is not just the surrealism of it which makes it ridiculous, it is the notion of money, of quantity as a measure of justice.

We have thus far been discussing the question of rights in relation to the notion of space. The squatter, the gypsy, the hobo, the vagrant, the beggar, the hawker, the *jhum* cultivator, are all boundary crossers. But such a view ignores the problematic of time for the enclosure exists not only in space but in time. And scarcity and time are closely related.

The doctrine of progress was an enclosure movement in time. It treated the past as something to be emptied out and driven towards the future like peasants to the town. The tyranny of linear time is something formidable. Linear time negates all other forms of time: the time of nature, body time, agricultural time, astrological time, the rhythms of the sea and the sun, the time of festival and myth. It is deeply puritan. The future is its sign of grace and all societies that are perceived as belonging to the past are condemned to be segregated or emptied out. The museum is only a thought experiment for what development projects are doing today in the name of progress. The notion of scarcity could not come into full flower without linear time. If time was multiple, it becomes a festival-like picture of abundance and diversity. Disciplining and scarcity march together. Linearity martial time as a scarce resource. The past is lazy and must be force-marched into the present.

The discourse on rights has always been visualized within the rhetoric of progress. The notion of right exists only in standardized time. Choice is only within a grid. There is a right to development which is a tautology because both march in linear time. Any other time is obsolescent time and is problematic for rights. When people demand a right to their past, to their memories, to their ancestors, and to the sacred sites, the progressive logic of rights can merely say, 'But how can you go back to the past?' a question ridiculous in any language but linear time. As a result, rights is only a clerical aid to development. But development splits the world into two, one moving with progress and other facing the necrophily of the rights rhetoric. So, living civilizations, traditions are forced into enclosures or museums with only a right to be developed. Our illiteracy about multiple time is deep. We talk of the right to education and expect children to come to school at sowing time. We talk of rights to work but make no concessions to menstrual time or reproductive time. We never see a factory as a violation of body time, or a nuclear plant as an obscene insult to the future. Between Pol Pot and Mao, Nehru and Nasser, development has become the greatest enclosure movement in history. We are destroying multiple times, herding civilizations into modernity and there are no rights against development. The linear logic of time makes rights an amputated concept.

A crafts society can be destroyed today and there is no notion of rights against anything defined as 'progressive'. The progressive notion of rights is part of what Octavio Paz has aptly called 'a syllogism dagger'.⁶⁴ It is the logic of a concept whose application trails in its wake violence, genocide or

ecocidal displacement. The artist and designer Dashrath Patel made this fantastic documentary about a village that crafted delicately in bone. With the coming of plastic, especially the everydayness of plastic buttons, plastic dolls, buckets, a way of life was threatened. The village panchayat met and swore never to use plastic. What it created was a commons of craft around bone, which rights theory has no concept of. The progressive rhetoric of right performs the same function as the concept of scarcity. It creates a protestant world without multiple times. So ancestors, ancestral sites, memory, obsolescence, all become terms which rights today is incapable of being grammatical about. One is reminded in this instance of the work of Nancy Mitchell, the anthropologist.

Mitchell was asked by her tribe to rescue the bones of their ancestors from the American museums. The tribe claimed that several millions of their bones were being scattered across the museums including the Smithsonian. The Apaches felt that the souls of their ancestors could not rest in peace till their bones were accorded a ritual burial. The courts rejecting the appeal ruled that the tribe could not be dealt with collectively but that each family had to file an individual appeal to recover its bones!⁶⁵

Rights theory fails to be universal partly because of the impoverishment of linear time. But not only is there an enclosure movement against the past but even the future is hypothecated in a banalized way. This is best understood through the notion of Risk Societies.

Rene Dubos in his *So Human and Animal* observes that technology is today a major environment for Western man.⁶⁶ A great majority of his perceptions are mediated through and by technology. Adapting a paraphrase of Leo Marx, Dubos contends that the machine is the garden.

Fundamental to this observation is an understanding that technology is no longer a bunch of techniques, a bundle of means towards an end. It is an autonomous system, an environment in its own right like nature and society. This raises problems for rights theory. Earlier, technology, like rights, was expressed in means-ends chains. Right was a means to an end. Technology was a means for facilitating rights. But when technology changed from a method to a total environment, it became problematic for rights, because technology which used to dominate nature now dominates man.

The concept of risk is a recognition of this technological presence. It must be distinguished from the hazard. A hazard is a natural threat. A risk is a recognition that industrial dangers are man-made. The old economics of modernization saw pollution, obsolescence, industrial disasters as externalities, unanticipated consequences or noises to the system. Now in modernity the idea of risk is central. Asks Ulrich Beck, 'How can the risks and hazards produced by modernization be prevented, minimized, dramatized, channeled?'⁶⁷

Risk, like propaganda, is a function of high information societies. Risk is a recognition of the iatrogenic nature of industrialism. It raises the question of the hazards of industrial society to a level of methodological awareness.

But the risk one is talking about is not directly perceivable in the domain of sounds and smells. It usually escapes direct perception and can be located only 'in physical and chemical formulas.' Also, risk is not a face to face encounter. An atomic accident can affect countries at a distance and its impact survives for generations. So too an oil spill or the destruction of a forest. The model of causation is no longer the-butler-did-it variety but full of indirect effects. As a result, the old Weberian model of rationalization with its sense of knowledge and control is no longer fully applicable. Knowledge is significant but it is linked to anxiety rather than control, anxiety about ozone, pollution, acid rain, nuclear accidents, cholesterol. What a risk society creates is anxiety on a global scale.

While risk institutionalizes anxiety and even questions science, it uses critique to promote scientism on a larger scale. A risk society universalizes the conditions of a laboratory on to the world. It recognizes that one needs science to perceive the hazards of industrialism. The entire apparatus of Big-science is needed to detect and track a hazard. Not only is science needed to perceive a hazard, one needs science to solve it. Inevitably, the solution to a technological problem is another technology. The language of risk is arithmorphic and the expert becomes sacrosanct. A layman can acquire expertise but the rituals of acquisition only create a plethora of experts. They do not bridge the distance between expert and layman. Risk society emphasizes that neighbourhood ethics is inadequate to combat the global threat of pollution but what it offers is not a new notion of rights or ethics but the validation of new technical methodologies. Risk creates an ecocratic cousin to the technocratic establishment.

Such a closed systems approach where technology feeds on technology becomes a threat to rights. If the concept of progress was the rhetoric of enclosure for the past, risk is the rhetoric of control for the future. Modern rights theory is totally illiterate in this context. Political theory in a deep and fundamental way has little to say on oilspills, nuclear accidents, the Bhopal Gas disaster or gigantic dam displacements. It seems to accept or subject to benign neglect the tensions of science and democracy or acknowledge that democracy does not fully operate in the domains of science, business, defence and technology.

Beck sees risk as characteristic of the later faces of modernity. He claims that risk, like a gas, has diffused through the entire society. He aphoristically claims, 'Poverty is hierarchic while smog is democratic',⁶⁸ that is, the danger of smog diffuses through the society. The word diffusion itself indicates that risk is no longer endemic to a slum or localized to a lake but envelops the whole society. But what if there is a double resonance? Beck fails to consider what happens when poverty and smog exist together, and discourses of scarcity and risk resonate each other. What happens when men die of poverty and one blames smog for it?

There is a systemic quality here which severs the link between rights and responsibility. The word system with its labyrinth of connections and its

visceral demand for expert attention removes responsibility from the person. A Chernobyl can occur and be blamed on systems failure. Future generations might be told that their deformed babies are a result of system default or clerical error.

The logic of risk separates the discourse of rights as an ordinary language from the discourse of risk expertise. There is a flow of metaphors like system, probability, stochastic on to ordinary language use. Individuals can also acquire this expertise but the ritual of initiation only creates a diversity of experts. It does not bridge the moral chasm between expert and citizen. Finally, the notions of risk and scarcity combine with the discourse on security. As a result, a nuclear leak abrogates human rights at the level of security, expertise, and responsibility. By raising anxiety and introgeny to the level of methodological awareness and harnessing it to create the structures of expertise, risk exposes the illiteracy of rights theory regarding technology. The Chinese had enunciated the great controversy between what they aptly called *Mr Science* and *Mr Democracy*. The challenge before rights theory is to bridge this in a new and inventive way. The innovations of Gendering will stem from the recognitions of this rift and its creative healing.

VI

The struggle to renew rights is a split-level drama. There is the immediate engagement with shackles and cells, with the institutions of courts and police. But there is also the struggle to liberate discourse, particularly the texts that create the classificatory horrors we engage with in everyday life. This essay tries to unravel the discourse on rights and seeks to show that the Enlightenment metaphysics itself is a source of violence. It is a violence that can be healed with four craft-like activities: caring, dwelling, weaving and story-telling.

Fundamental to the Enlightenment metaphysics are its genetic dualisms between the subject and the object, and the self and the other. David Michael Levin adds that the Enlightenment metaphysics was a reflection of patriarchy. 'Since it is men who have dominated society, it is they who have presided over the telling of this metaphysics, where one set of oppositions is seen as submissive to the other.'⁶⁹ Thus activity was privileged over passivity, mind over body, ego over libido, reason over passion. Not only was the first privileged over the second, the latter was attributed to the feminine. The liberation of women thus becomes tied to a liberation from the metaphysics of this captive text. Gendering thus becomes a fundamental attempt to deconstruct and pluralize the Enlightenment project. It must restore to the abstract universalism of rights theory a context and voice. The moral perspectives of Enlightenment universalism must recover the qualities of passion, compassion, empathy and listening which it tended to treat as marginal or eccentric.

The second flaw in the notion of abstract universalism was that it was an

ocular world-view. The visual ontology of the Enlightenment devalued the other senses. Objectivity was a visual violence and what one need was an Enlightenment that recovered its senses.

The importance of this was brought home to me by two traumatic events. The first was the genocide of Sikhs in Delhi in 1984. During a moving discussion on it, Dinesh Mohan spoke of his helplessness in facing the stark visuality of Delhi burning. He then said that one of the victims consoled him by saying, 'Mera duty rona hai, Tera duty sunna hai . . .' (My duty is to cry and your duty is to listen).⁷⁰ The woman in her intuitive way captured the insights of Heidegger and Merleau-Ponty on the importance of listening and crying.

David Michael Levin begins his essay on crying with a quotation from *The Sacred Pipe* by Black Elk.⁷¹ Black Elk writes, 'Perhaps the most important reason for "lamenting" [*hamblecheyapi*, i.e., crying for a vision] is that it helps us to realize our oneness with all things, to know that all things are our relatives.'⁷² Crying is an act of kinship, a healing of the rift between the heart and the mind. In the history of metaphysics the eye has become associated 'with detachment, separation, abstraction, rationality without heart.' Crying open the eyes to the primordial vision. When you cry, you cry with the whole body. You reach out. Crying thus reflects the need for openness, for wholeness. Crying, says Levin, reflects a breakdown, a recognition of vulnerability, a denial of the eye that panopticizes, that seeks visual mastery. Crying restores us to reality. Instead of a will to power, it is a letting go. It is a dissolution of old experiential structures. An admission of a need for vision. When you cry, you care, and politically when caring and crying become part of the eye, it loses its property of detachment. Crying is the major break from the Enlightenment world. Crying is that act of kinship, of togetherness, of participation that moves away from the objectivity of the Enlightenment world-view.

The Bhopal disaster too had a similar message. Most of the scientists, lawyers and bureaucrats, who came to Bhopal, saw it with an objective eye. They were self-styled experts who because of their objectivity could vivisect Bhopal. The whole city was spread-out like a table of anatomized corpses, subject to the professional gaze. If Bhopal emphasized anything it was the importance of hearkening, of listening to the voice of the survivors.⁷³ Carol Gilligan remarks that seeing and listening can become the basis of two separate moral theories. A society that valorizes listening, that hearkens to the speech of suffering cannot vivisect its victims.⁷⁴

Merleau Ponty's evocation of us as sonorous beings reminds us that we listen not just with our ears but our whole bodies. The patriarchal Enlightenment world-view privileged the eye as the gaze, while listening and feeling were generally regarded as feminine and seen as lesser attributes.⁷⁵

Levin, quoting Carol Gilligan's work, puts it succinctly. He remarks that Gilligan in the course of her work on moral development discovered that there were two ways of thinking about the relation between the self and the

other which could be the basis of two separate moral paradigms:

The first role was masculine and the second feminine. The first way was a competitive model which gives primacy to the individual and relies on the supervenience of formal and abstract rules to achieve cooperation and consensus and the second a cooperation model which gives primacy to relationships and relies on contextual normatives and dialogue communication to resolve moral problems. The two different modes of describing the relationship between the self and the other are essentially two different ethics, the one an ethics of 'universal' rights and duties and 'universal' rational principles, the other an ethics of care, responsiveness, and responsibility.⁷⁶

Levin adds that corresponding to the two ethics are two different conceptions of the self. The self of the patriarchal tradition—the Cartesian ego—is disembodied, non-situated, isolated, self-contained, purely cognitive. The self towards which some feminist critique is tending is essentially embodied, contextually situated, relational, interactional. The second self is one that emphasized the importance of listening. Such a cultivation is important if our current metaphysics and its systems of domination are to be overcome. Listening initiates the movement toward this new self. It possesses the primordial openness of the infant. It is playful. 'Just listening opens up the ego—logically constituted structure of subject and object to the interplay, the inter-twining of subject and object. They become co-responding resonances.'⁷⁷ The objectivity of Enlightenment metaphysics is deaf. Listening opens up to a new plurality of worlds. It ends the Enlightenment idea of truth as monologue, as univocity. In terms of resonance, the Enlightenment was a monotonous truth.

But to develop this new theory of caring as listening, the Enlightenment has to rediscover the body. It is strange that modernity talks of the body-politic when its notion of truth is dis-embodied. Secondly, the body has been reduced a la Foucault to a disciplinary matrix. The body was something to be disciplined, surveyed, impoverished, robotized, vivisected. From Jeremy Bentham to Winslow Taylor and to their great critic Michel Foucault, the body is only a passive entity, active only in its moments of irrationality or subjectivity as in sickness, possession, music, menstruation, madness or dance. But a rereading of rights must begin with a recovery of the body. Logos cannot meet eros except in the site of the body. To redeem the Enlightenment and the monadic theory of rights, one must add to it a flesh, an eros. Only then can the body recover its senses and elaborate a theory of caring. Gandhi's theory of *satyagraha* was one such theory of the body. What the Gandhian body exemplified was truth, love and resistance. What Gandhi did in his androgynous way needs to be invented upon. What we need to do is to locate rights back in the multiplicity of bodies that the current world has suppressed: the peasant body, the vivisected body, the possessed body, the body of the patient, the body of the madman, worker, tribal, the ritual cycle of bodies. Only then can new or lost dispositions be located, which can serve as embodiments for rights. Only then can we pluralize the current body-

politic which has reduced its alphabet to the corpse, the robot and the model.

The recovered body as a sonorous being open to listening must articulate a theory of caring. It is a theory of caring that must heal the Enlightenment rifts between self and other and end the narcissism of the Cartesian ego. The finest articulation of this is the work of Emmanuel Levinas.⁷⁸

Levinas goes further than Martin Buber did in his classic *I and Thou*. Buber's is a plea for reverence and dialogue, of the resonance of the *thou* in me reverberating to the *thou* in you. But Levinas' is a much more demanding metaphysics. For him the question of rights in modern times appears as a narcissistic preoccupation. The modern self is located between solitude and indifference. He faces the great Judaeo-Christian question, 'Am I my brother's keeper?' in a different manner. For him the notion of the contract is inadmissible. The contract moves towards entropy, towards indifference, to the taken-for-granted. It is even comfortable. It is a routine and 'in the ascent to the standards of routinized care, love is the first ballast thrown overboard.'⁷⁹ Secondly, rights gets too contaminated by role theory and by the question of calculation. For him utilitarian theory is morally inadequate. Levinas also observes that the split between the private and the public has been ethically devastating: 'With modernity, morality, has exited from the public sphere'. The polis, like the laboratory, was the domain of rationality. If morality was based on proximity, law was based on estrangement. A new ethics 'should be one that readmits the other as a neighbour, as close-to-hand and mind, away from the wasteland of calculated interests, an ethics that recasts the other as the crucial character in the process through which the moral self comes into its own.' The Levinasian self is distant from the narcissism of the Cartesian self. Levinas claims: I am because of the other. The relation of the I to the other is asymmetrical. This is not the lingo of equality or contract. This is an affirmation of one's responsibility for the other without any claims to reciprocity. This is not a model for legislation. It is a moral statement and morality, Levinas suggests, must have impractical foundations. It goes beyond the practical, the instrumental, the contractual and demands a standard of saintlines, 'a standard over and above the shared universal conventional or statistically average measure of moral decency'.⁸⁰ Gendering, one believes, is part of the immediacy of this dreamscape. To the general theory of democracy which holds that no man need be a saint, it looks at the saint in every person. To the worlds of risk analysis, technology assessment and election behaviour, it counterposes a theory of caring beyond legislation—an I profoundly responsible for the other. As Levinas puts it, 'My responsibility is always a step ahead, always greater than the other. I am denied the comfort of the already existing norms and already followed rules to guide me, to reassure me that I have reached the limit of my duty.'

Dwelling

Most dissenting movements today, whether rights, peace, feminism or ecology, are basically ways of being at home. We need to understand what it means to live in a place, unravel the poetry of hearth, home, hamlet, neighbourhood, locality, commons, cosmos. Enlightenment universalism is an attempt to create that abstract, symbolically emasculated, disembodied power-machine called man. To give such a creature rights is to create a further process of ecocide because the modern universalist man is a cosmic outlaw. A local person understanding the biology and the language of a region understands rights too. Locality embeds, but locality is not a procrustean notion. To have a sense of home, one must travel. A new notion of rights must move from the hearth to the cosmos. Also, the social contract that modern man has made is probably the most impoverished myth in history. Modern man without locality, nature, dwelling, motivated by utility, mastery, uncertainty, has created in the notion of rights his only poem. What Durkheim said for socialism needs to be inverted for rights. Durkheim claimed that socialism is not a science but a cry of grief uttered in pain. Modern rights theory pretends to be a science instead of a cry of grief uttered in loneliness. It is a science of estrangement, a contract for strangers. Vaclav Havel caught its basic problem when he stated recently that 'the idea of human rights and freedoms must be an integral part of any meaningful world order, yet I think it must be anchored in a different place and in a different way, than has been the case so far.'⁸¹

For this, a rights discourse must locate itself in a world beyond strangers and the contract. Humans who perceive each other only as strangers no longer dwell upon the earth. It is only when we are embedded in dwelling that we see the outsider, the wayfarer not as a threat but as a pilgrim. Pilgrims need hospitality. The world itself then becomes a *dharamshala*, a refuge, an invitation, a theory of hospitality. The world of Cain and Abel becomes not a genocidal opposition but a theory of two ways of being human, two metaphors of living, of the wayfarer and the dweller. As Erasm Kohak says, 'Dwellers need pilgrims'.⁸² And vice-versa.

It is only by understanding dwelling that the current notion of property can be altered. Possessing property is a one-way relationship; it is a matter of mastery. As Kohak insists, 'Belonging is always mutual. Dwelling is not a matter of gaining possessions but of gearing one-self to what I love and of receiving myself at its hands, as a gift. This is my relationship to the land I till, the work I love.'⁸³ Land is not only property; land is trusteeship. It is heritage. It is the soil we sustain for centuries passing it on from generation to generation. This is what millions of farmers and the writings of King, Howard and Wendell Berry have taught us. We belong to the land. We live it. It is us.

The idea of property is like conquest. Conquest is also a possession. We conquer nature, we strip mine forests, we factory-farm birds. Dwelling adapts to contexts while 'conquerors dominate contexts reducing them to dead

objects, the strategy of modern man.' In fact, rape is the paradigm for the modern style of possession whether it is nature or the other. We thus need a notion of rights that smells of dwelling and not of mastery.

We also have to confront a particular kind of homelessness, of what I am going to call the industrialization of exile. The notion of exile brings to mind the lives of Lenin, Herzen, Marx or even Cioran and Brodsky. The nineteenth century and early twentieth century notion of exile seems like a charmed existence today. The industrialization of exile has altered this. As Nicholas Xenos points out, the nation-state itself has become the defining ground of identity. As a result, stateless people have become homeless people. The nation-state, in its search for homogeneity, creates a forceful exchange of populations. Xenos cites the exchange between Turkey and Greece in the early decades of this century as an example. But the industrialization of exile takes place not just through warring nation-states but within the nation-state pursuing the project called development. Large dam projects, road construction, forest programmes are also creating refugees, huge blocs of people no one wants because they are considered different, irrelevant, recalcitrant, helpless or disposable. When the issue of the displacement and death of tribals in Brazil was brought before the UN, the Brazilian ambassador admitted that there were deaths, but held these were a part of the logic of development. By making the nation-state the repository of defining rights, we have created the most Machiavellian and tragic phenomenon of our times, the Boat people.

The Boat people are both a literal and a metaphorical category. They represent a new liminality of people who don't have a home because they don't have a homeland. The Boat people represent the modern equivalent of the ship of fools. At one time, when madness was not classifiable, the mad were put into ships which sailed indefinitely into the sea. The mad could not belong to the firmness of land, so were set adrift into the sea. The Boat people do not belong to their original nation-state and are not acceptable as exiles and so are set adrift indefinitely. Only this time it is the madness of the nation-state that creates this classificatory horror. What was caught poignantly at the end of the Vietnam war is now a permanent condition. What happened in Thailand is now happening in Haiti. The machiavellianism of the nation-state is also apparent in this act. When Romania expels refugees to Italy or Castro flings out criminals or Haiti sets them assail, what we have are moments of foreign policy where statelessness and homelessness coincide.⁸⁴

There is another aspect that we must emphasize. Boat people do not necessarily have to be in boats today. The continuous displacement of tribals is also a similar state of liminality because they have no home. The mechanical link between displacement and rehabilitation masks this, for displacement for many of these tribes is perpetual. The challenge before rights theory thus is to break the link between nation-state and rights.

Weaving

The idea of rights is centred around individuals who are enclosed in themselves. It is the equivalent in science of a theory of isolated systems, of order within and entropy beyond. Rights, in its notion of substitutionalist universalism, is a factory model of mechanical, standardized units. What one loses in a technology of this kind is a sense of context and of the concrete. In rights theory, we call each individual unique but apply to him a standardized stencil. Caring cannot be carried out under current notions of universalism. It needs a different kind of moral reasoning. Women's rights cannot mean just political and economic emancipation. It involves a different dream of thinking, a challenge to the current paradigms of thought.

Rights today is part of a scientist's epistemology, so that knowledge is seen as disinterested, a pure objectivity, a logos without an eros, reason without compassion. The atrocity becomes the objective report, the cold survey, the indifferent table, technical terms that do away with the voice of the other. So one has theories of poverty and welfare disembedded from theories of care and suffering. A mechanical mix of these will not do; even a pendulum swing between these oppositions is inadequate. One needs to knot them together, weave them. And weaving, as Mary Daly points out, breaks the linear logic of thought.⁸⁵ A linear view of rights can at best create a contract. A weave of rights can create a new dreamscape.

A linear, monadic view of rights creates a tragedy of the commons. The tragedy of the commons is one of the great fables of political theory. In Garret Hardin's scenario, the commons is a place where each individual maximizes his interest.⁸⁶ And the pursuit of individual interest leads to the destruction of nature whether as grazing ground, forest, lake or sea. Hardin argues that only coercion mutually agreed upon can protect the commons. Hardin's is a persuasive fable but his notion of the commons is an illiterate one. His commons is a space created by rights theory and rational choice. One wishes Hardin had read Gary Snyder.

Snyder shows that etymologically and historically the commons is not an anomic space. Snyder explains that

the commons is a contract people make with their natural system. The word has an instructive history: it is formed of ko, 'together', with (Greek) *moin*, 'held in common'. But the Indo-European root *mei* means basically to move, to go, to change. This has an archaic special meaning of exchange of goods and services within a society as regulated by custom or law. I think it might well refer back to the principle of gift economics; the gift must always move.⁸⁷

The commons is not an abstract space. It is a locality, a context, an institutionalized set of rules. There were customary rules which governed access and use of land. Also, because it is traditional and local, it is not managed by the state. Snyder captures the commons graphically:

Between the extremes of deep wilderness and the private plots of the farmstead lies a territory which is not suitable for crops. In earlier times it was used jointly by the members of a given tribe or village. This area, embracing both wild and the semi-wild, is of critical importance. It is necessary for the health of the wilderness because it adds by habitat overflow territory and room for wild-life to fly and run. It is ever essential to an agricultural village economy because its natural diversity provides many necessities and amenities that privately held plots cannot. It enriches agrarian diet with game and fish. The shared land supplies firewood, poles and stone for building, clay for kiln herbs, dye plants and much else just as in a foraging economy.⁸⁸

Thus commons was a community of sharing. There were rules for use. 'For example in earlier England and in some contemporary Swiss villages, the commoner could only turn out to the common range as many head of cattle as he could field over the winter in his corrals.'

Snyder shows that the commons is a web, a weave of thinking. Hardin's commons is a group of monad's with rights but illiterate as to land use or soil renewal. His model does not apply to the historical commons but it does to many present systems like Oceanic fisheries, global water cycles, air and soil fertility. What differentiates the two is an entirely different system of thinking. The latter operates monadically, linearly. The early commons was a web, or a weave of thought, of connections, of kinship with nature and land.

A commons is a mode of weaving, of webbing. And webbing and weaving do not work like a contract of monads, standardized, stencilled, substitutable. A weave is full of knots, niches, diversities. A contract is generally single-purpose and instrumental but a commons is an ecology of knowledges and uses, where a diversity of imaginations comes into play. A weave like a commons bonds, connects, unsnarls while the artifice called the contract fragments. Deep down, Hardin's is a patriarchal logic. If Hardin had seen the diversity of interests a commons serves, the chains of being it links up, the survival and the ingenuity of women who maintain themselves on it, he would have written a different story.

But the idea of weaving as a metaphor for rights is relevant across a whole range of issues. Consider the life-worlds called the road and a slum. A road is officially seen as a slab of tarmac connecting points A and B.

A slum is seen as a transient parasitic slot for the poor, the squatters of the city. But the notion of weaving with its knots and labyrinths alters the conception of a road. A road is no longer an instrumental piece of technology. It becomes in many slums and tenement areas a commons of conversation, a readymade *polis*, a site for a festival, a place for drying grain.

Johann Friedman in *The Right to The City* captures it poignantly. 'I come from a city without streets.' Los Angeles has only freeways for rapid movement. 'With windows rolled up, we race in our private capsules of steel and glass at 60 miles an hour . . . If you are caught walking the street, you feel guilty.'⁸⁹

Friedman remarks that in Spain or Mexico, a street is a diversity of festivities where at celebration time 'even collective breakfasts are improvised

on the streets.⁹⁰ By being on the streets the people express their sovereign rights to a city as a political community. Friedman claims that when a state decides when you can use a road and for what, you have the beginnings of a fascist city.

Once the road is seen as a commons, it embodies a diversity of rights and interests, a place for pedestrians, hawkers, entertainers, a place for the homeless to sleep, a playing field. Once a road is only a road, hawkers become criminals, the homeless vagrants. The idea of weaving the commons is also truer to biology of life, to the wisdom of the trophic cycle. The road as an instrumental device belongs to the monadology of rights. The road as a commons becomes, in Illich's words, 'a tool for conviviality.' When we economize the city, we turn it into a set of points in abstract space. 'The city disappears into thin air, and becomes a market configuration. What disappears are citizens in a polis and they are subsumed under the categories of an abstract urbanization process, while human concerns are reduced to property, projects and competitive advantage.'⁹¹

The slum, the *barrios*, the *havela* cannot be understood adequately in terms of current human rights theory. It fails to understand that it is in the *barrios*, the *jhuggis*, the *havelas* that the city as polis is alive. But as Jai Sen writes, the poor have no rights. 'There is little or no genuine attempt to accept the poor as equal and integral citizens. Quite the opposite. Not only are they exploited but their lifestyles and livelihoods are often made illegal; and even the illegality is exploited.'⁹²

But once we see the slum as a commons of skills, of the makings of vibrant polis, a different notion of rights is born. Rights must increase competence. It must realize that the squatter is a man of knowledge, that he is a builder, a craftsman. It must recognize that the right to housing will remain abstract and empty till the skills of the squatter are recognized. For example, the Indian state is incapable of providing housing for all its citizens. Yet it displaces the squatter, the hawker, the domestic servant without realizing that it is they who develop the Indian city and sustain it. A middle class of professionals cannot survive without the hawker, the domestic servant, the *dhobi*, the vegetable seller. A weave of rights would build the city around these citizens. Only recently S.K. Sharma, former chairman of the Housing and Urban Development Corporation (HUDCO), admitted that the state is incapable of providing shelter to the millions.⁹³ He recognized the squatter not as a lifestyle of squalour but as the true builder of the city. Once the slum becomes a commons of skills, a new notion of the city is born. Old skills are renewed, new conceptions of space are invented. New conceptions of architecture blend with local materials and gradually a new cityscape is born.

This also leads to new definitions and inventions. Once the slum becomes the centre of an inventive, organic city, food can be grown within the city and waste processed in new ways. All this becomes the basis of a true alternative economy.

A right is not a linear index. It is an icon. It is also what Mary Daly calls a

knot, a myriad set of connections, a labyrinth, a maze. What Gandhi said of khadi should be equally true of rights. Khadi, he claimed, is not about cloth but about love, freedom and self reliance. Around khadi, an inventive self-sufficient community is born. Khadi wove together a programme against malaria, an effort to improve cattle, an exercise in pedagogy, a panchayat programme and even a model of the ashram as a laboratory. Similarly, rights must knot together different words of conviviality so it is no longer a contract of monads. The world of rights is full of snarls and snarls, as Mary Daly points out, are unlike knots. 'Snarls are without harmony, order or sense. Unlike knots they are not characterized by the complexity of integrity but by inherent confusion.'⁹⁴ To unsnarl rights, we must think in terms of weaves. What also enters is a notion of play, of inventiveness which the puritan universalism of rights has frozen. It is a searching for connections, convivial, neighbourly, cosmic, that the enclosure movement called individualism lacks.

On Stories and Story-telling

We have been deconstructing rights to make one basic point, that rights is a story about the Western self. The construction of the self is central to this story.

The Western self has been subject to a series of internal displacements. The heliocentric revolution evicted Western man from the centre of the universe. The earth turned out to be a minor player in the cosmic theatre. The Christian notion that man was made in God's, image was shattered by the biological notion of evolution. The West became the one society where man instead of descending from the God's, arose from the apes. The Freudian breakthrough shattered man's sense of control further. Rational man who had mapped the colonies discovered that his house had attics, rooms which he never knew about. The three acts of eviction, however, brought no radical change. Man was still hostile to the earth in which he lived. His biological kinship to the animal world created no totemic ties. The irrationality of the unconscious was projected on to all the others he had suppressed within himself, especially the witch, the Jew and the madman. The modern creation of the self led not to notions of creative healing but to an evasion of responsibility, to the creation of the bureaucrat and the scientist who hid behind the masks of expertise. Fundamentally the humanist man remains an anthropocentric, patriarchal creature. But since rights is linked to the humanist project, a deconstruction of rights became necessary 'to save the phenomena'. Barbara Johnson has stated this lucidly: 'If the eighteenth-century French and American revolutions represent the moment of the codification of the ideology of human rights, and if the very language through which they were conducted succeeded in concealing the inequities they instated, then a rigorous reading of that language would be inseparable from the attempt to bring about social change . . .'⁹⁵

Central to this is the notion of the individual. The concept of the individual has the same status in social theory as the notion of the atom in physics. Phenomenologically the atom from Democritus and Dalton to Rutherford and Bohr has undergone tremendous redefinition. From the atom as hard, concrete indivisible, individual, we find it is now something of a chimera, a happy schizophrenic claiming to be both wave and particle. But it is not that Dalton has yielded to Bohr in an epistemic sense. It is as if they were bands in a spectrum where every interpretation adds to the spectroscopic virtuosity.

The individual invented by the Enlightenment thinkers is a brilliant fiction. But it is a moral fiction. Like all fictions we have to see its fruitfulness and its consequences, the creative possibilities of misreading. Each notion of the Enlightenment has been full of possibilities and ironies, begun like a child's drawing and becoming a hardened stencil.

But deep within, like wave and particle, we have the floating universal I and the ganglionic I, the moral fiction called the universal man and the moral fact called the filiated man. One is without ties with only the skin as cover, the other is linked by bonds of siblingship, friendship, clanship, and every other vessel one needs for life. We believe both are important. The filiated I is important to emphasize the cosmic connections, the nerves that connect man to every aspect of man and culture. One is reminded of one of Whitehead's lectures. He came into class and folded his hand into a fist, knocked his head and said, 'I have disturbed the most distant star.' Disturbed in the sense of a hello, a greeting, a caress, disturb as to implicate, unite, connect.

The notion of the Enlightenment I is also necessary to protect the individual from undue social pressure, from torture. The necessity for a universal right against torture cannot be overemphasized. No individual, regardless of caste, class, race, ethnic membership, should be tortured. At a time when every nation-state claims torture to be its patented right, this cannot be overemphasized. The old atomic I is as necessary as the new quantum I. But between the atomic I and the quantum I, we need a diversity of other I's, the ecolate I, the synecdochal I and especially the I as a commons. The I is a bundle of possibilities that the Enlightenment has suppressed so unhistorically: the womanly I, the insane I, the savage I, the ancestral I, the I as diversity reviving all the suppressed others within itself. One needs a plethora of I's and a plethora of the inventions, where between the invented I and the composted I, rights theory is continuously enriched. The roll call of I's—the I as property, the I as a cognitive self, the I that cannot exist without the other, the I in God's image, the I of romanticism, the berated I of Marxism, the marketized I, the totemic I, the I caring for all others as a thou, the I as the thou—meet in dialogue, or in a Brownian dance and seek to sustain the dynamism of rights theory. The strength of the feminist movement, like the ecological movement, has been to create this festival of I's so critical to rights theory.

Wayne Booth, in his Oxford Amnesty lectures, emphasizes the importance of this exercise.⁹⁶ Human Rights, he states, is an affirmation of the mystery, the inexhaustibility of personhood. In elaborating a case against torture, Booth adds one more element to the idea of personhood, the individual as a story.

Booth asks how does one argue against torture in this age of utilitarianism, socio-biology and the nation-state? The idea of universal rights based on the concept of the individual as monad and as number will not do. When you talk the language of the calculus, of the greatest good of the greatest number, the torture of 1/500 of a population seems feasible and defensible. The universality of Enlightenment theory is not adequate, because it was a universality full of caveats and silences; women, slaves and 'savages' were excluded from the whole. The self as scientific removes the halo around the individual, leaving him vulnerable. To talk of the individual as capital makes him disposable within the logic of resource use. A celebration of the individual originality will not do because one needs a theory that defends not just Rushdie but his potential assassin, not just Goethe but the most lumpish Nazi that we can imagine. Torture is wrong even if your victim is 'your lowest common denominator human being.'⁹⁷

Kafka understood this in his *Penal Colony* for the torture he writes of is of a victim without a halo, only 'a stupid-looking wide-mouthed creature with bewildered hair and face.'⁹⁸ Booth unravels a fascinating defence against torture.

Each life, he claims, is of course uniquely its own but the word 'own' marks not an isolated system with a definite boundary. 'My own' no longer belongs to me. 'I am part of an endless collection of selves. And that means when you torture me or destroy me, you are destroying not a calculable unit but an incalculable society of selves.'⁹⁹ Reflecting on a life-time work on rhetoric, Booth argues that each individual is a story and each story is an endless number of plots. Each individual is a potential and a story that develops in terms of the individuals, real or imaginary, he encounters. In place of the distinct self, what we have is a self that keeps growing, taking on new selves, sometimes sloughing old ones. 'Our lives', writes Booth 'are plot lines and the plots are plotted not just outside us but within us: my father and my mother are in me, encountering one another there, they meet there with my playmates from infancy, encountering one another there, they meet there with my playmates from infancy, my schoolmates, my teachers, my various friends and enemies, my favourite literary characters and authors, all of whom enter and some of whom remain forever.'¹⁰⁰ Within such a perspective the idea of the universalism of monads ends the story of the individual. It freezes individual properties embalming both rights and the individual. Booth argues that the self is an infinite possibility of stories. The self thus becomes an ever improvable drama, open to mystery and surprise. So when you torture me, it is not just an atomic isolated unit who is under attack. What is threatened is an endless fabric of stories. Torture is the end of the story but not one story, for torture is not an attack on an individual. With

every act of torture a whole culture, a world is under attack. The individual is a mystery and torture is an abortion of that endless possibility of plots and stories. It is the end of mystery and surprise.

What we wish to emphasize is not just the importance of I as an infinite story but of storytelling itself. It was Mario Vargas Llosa who captured the importance of story telling for rights in a novel aptly entitled *The Story Teller*.

The Story Teller is about the strange world of Saul Zuratas. Zuratas is a man born with two stigmas, the stigma of nature and culture. The right side of his face is covered by a huge leprous birthmark. Zuratas is also a Jew. To this inheritance, he adds that ambivalent legacy of the Enlightenment, for Saul Zuratas is an anthropologist. He is a man fascinated by the tribals of the Amazon and the forests that sustained them. He talked about the Indians and their culture with a respect that others had when talking of Sartre, Malraux and Faulkner.

The Story Teller is also about the tensions of Peru and Latin America. It is about development and its ethical dimensions. Zuratas' friends would irk him arguing that his obsession with the Machiguengas was futile asking, 'What did he suggest when all was said and done? That in order not to change the way of life and belief of a handful of tribes, many of them in the stone age, the rest of Peru abstain from developing the Amazon region? Should sixteen million Peruvians renounce the natural resources of three quarters of their national territory so that seventy or eighty thousand Indians could go on quietly shooting each other with bows and arrows?'

Saul Zuratas rarely got angry. Like his tribe he felt that anger distorts the lines that hold up the earth. But one thing provoked his fury. It was the Institute of Ethnology. Zuratas felt that the anthropologist was worse than the colonizer and the missionary. He was a chigger or a termite boring to the very core of culture, 'into its spirit, its subconscious, into the root to the very way of living to destroy it.' Zuratas says. 'the others steal their vital space. . . . At worst they kill them physically. Your linguists are more refined. They want to kill them in another way. Translating the Bible into Machiguenga!'

The Machiguengas are a scattered tribe, perpetually on the move, driven further and further into the interior. Their legends claim that they must keep moving, walking in rhythm with nature. Legend has it that if they stopped for too long, chaos would reign. The Machiguengas live in small isolated bands of ten to twelve people perpetually on the move. Yet deep down they share a secret, an 'information highway' that links them to all the other bands. They are connected by the story teller.

Like the shaman and the chief, the story teller is an old institution. One thinks of the medieval trabadours, the Vagantes, the Baul singers, the ancient bands of Hibernia, 'messengers from the time of myth and history.' A story teller is both memory and invention. He tells the past and he adds to it. In Spanish he is called the *håblador*:

Their names defined them. They spoke. Their mouths were the connecting links of this society that the fight for survival had forced to split up and scatter to the

fourwinds. They moved from tribe to tribe reminding each member that the others were still alive, that despite the great distances that separated them, they formed a community. The storyteller was the living sap that circulated and made the Machiguengas into a society.

For Saul Zuratas, civilization has no right to touch these people. 'Do our cars, guns, planes and coca-cola give us a right to exterminate them because they don't have such things', turning them into zombies and shoeshine boys? Zuratas realizes that it is anthropology that has become a genocidal text. Fundamental to it is the idea of acculturation, the notion that tribes, marginals would adapt to the dominant way of life. Acculturation is the cultural equivalent of the AIDS virus, a process in which a society loses its soul, its identity becoming a zombie-ized version of dominant culture. The last part of the story is a conversation between the narrator and two missionaries. The narrator realizes that in the Peru of dictatorship and development, Saul Zuratas has become a storyteller. Zuratas, the Jew and anthropologist, Zuratas, child of the Enlightenment, is now a *hablador*. It is the end of anthropology as an Enlightenment project.

Anthropology was the study of the other but it ended up objectivizing and museumizing them. In fact, one of the ground rules of anthropology is that objectivity must always be maintained. It is a science where one is repeatedly warned about going native. But in *The Story Teller*, Zuratas does not become the other. He dissolves the difference between self and other, breaking the rift, the dualism which is the root of all violence. It is not a Buberian essay maintaining a reverence for the other. In a strange way, this Latin American story virtually becomes an Advaitin tract. Zuratas' decision to become a storyteller is a non-violent act. It cannot be propagated, only lived out. It is a need for cosmology not a contract. The Storyteller's is a spiritual practice. All storytelling is. It is an act of listening. The *hablador* realizes that all of nature is a message, that every animal and plant is a story. 'Go on listening, carefully and respectfully. After a while the earth feels free to speak. There they are speaking. Bugs, thorns, pebbles. . . . The scorpion. The beetle as well. Even the louse you crack in two with your fingernail has a story to tell.' The storyteller becomes a witness, a memory. He is sayer and soothsayer. Recognizing the divine in the tribal, he abandons a science that needs to museumize, acculturate and vivisection them. He also realizes that the Machiguenga cannot be saved by a theory of rights which is merely political. There is no will to power here. Zuratas' is an act of renunciation.

He renounces the world. His was not a technological act of doing, a heroic act of bloodshed. I think he realizes that rights needs more than politics to sustain it. It needed to be placed in a different cosmology. What he is reminding us of is a failure of the vision called the West, an Enlightenment that sees only an epidemic of others. And manipulates it through technology, anthropology, missionizing Christianity, or development. He denies the dualism of self and other. The other is us.

As long as the storyteller is alive, as long as the Vaclav Havel, the Elie

Wiesels, the Nadime Gordimers, the Solzhenitsyns, the Octavio Pazs and the Joseph Brodskys, the Medha Patkars and the Aung Sung Suu Kyi, are alive, the vision of rights will be renewed. For rights is a gift and rights is a story. For the gift to survive, it must move, perpetually enriched. For the story to live, it must be told, lived out and retold again. And between the gift and the story, between the listener and the storyteller, the dream of rights as a commons will always survive.

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