

The Economic Context of the Development of the Concept of Human Rights:

Implications for Current Human Rights Issues

Soon Chang Yang

(Daegu University of Foreign Studies)

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[ABSTRACT]

This article examines how the progress of capitalist economy has developed and changed the concept of human rights. It analyzes the discord between the present world economic system and the international legal and political system in the age of globalization, and presents some requirements for the substantial and feasible

internationalization of human rights. The concept of human rights has been conditioned by the development of the capitalist economy. The process of human rights development from the legal and political to the social and economic was in parallel with the process of the capitalist development from *laissez-faire* to state-interventionism. The internationalization of human rights today is based on the globalization of the capitalist economy. Considering the correlation between human rights and the economic context, international cooperation in human rights issues and the legitimization of humanitarian intervention need to resolve the disarticulation between the principles of world economy and the present international legal and political system.

I . Introduction

The concept of human rights has been the core subject matter of political philosophy dedicated to the correct understanding of the relation between the individual and society. Although the form and content of human rights has varied with time and place, with a particular form of human rights needing a particular historical condition, there nevertheless has been a universal conception of human rights in each period of history that has corresponded to each stage of the development of capitalist economy.

The modern concept of human rights arose when the feudal system began to be replaced by a modern democratic one based on the newly developing capitalist economy. The contemporary concept of human rights developed along with the newly emerging socioeconomic problems that the progress of capitalist economy inevitably had to face. In this age of globalization, a new concept of human rights is under formation, differing with the previous ones in many aspects.

Under the new concept of human rights lies the overall tendency toward globalization that is witnessed in every aspect of human life. Increasing trade as well as expanding human contact facilitates the internationalization of human rights. This trend obviously leads to a contradiction between the collectivist ideas that appraise communal values higher than the human rights

of individuals and the Western liberalist ideas of human rights based on individualism.

With the globalized economy and the increasing interdependence among nations, the principle of domestic jurisdiction, which assumes national territory to be the spatial limit of national sovereignty and thus excludes foreign intervention in domestic affairs, confronts a new situation that no longer supports it as it once did before. Global issues such as environmental protection and human rights create challenges to the traditional concept of sovereignty. In the past, military intervention in another country on the ground of a certain domestic matter of the intervened country was considered to be unjust; but at the present time, so-called global issues such as environmental problems and human rights may not merely be treated as domestic matters and thus may become a just cause of military intervention in another country due to the interdependent and comprehensive nature of international security.

However, given the unequal phase of socioeconomic development in each country, which consequently conditions the difference in their conception and feasibility of human rights, globalization does not automatically bring forth a consensus on the concept of human rights, yet causes an intensifying discord between the globalized economy and the still reactive international legal and political system.

Studies on human rights so far have been mostly focused on the philosophical and political context. Those focused on the economic context have been performed by Marxists on the whole. However, in dealing with the economic context of the human rights development, Marxist perspectives have indulged in disclosing how unrealistic and abstract the capitalist concept of human rights is.

This article examines how the development and change of the concept of human rights have been conditioned by the progress of capitalist economy. The article analyzes the disarticulation between the world economic system and the international legal and political system in the age of globalization, and presents some implications for the substantial and feasible internationalization of human rights. By chasing the economic context in which the concept of human rights has evolved, the correlation between the economic condition and the concept of human rights will be clarified to a certain extent and such correlation will provide some clue to the new human

rights issues that the international society faces today.

The article lays emphasis on the economic context of human rights, but does not try to give a value-judgement to the moral nature of the capitalist economy. Rather, the author accepts the given economic system and simply assumes that the concept of human rights has been closely related with the economic condition of each period and, thus, the economic context would reveal continuous and consistent characteristics in the development of the concept of human rights.

II . The Economic Context of the Modern Concept of Human Rights

1. The Modern Concept of Human Rights

Modern Western political philosophy was inspired by the modern interpretation of natural law and the liberalist idea, which endeavored to establish the authority of human reason over social institutions and through which uphold the absolute and inviolable dignity of the individual person. Philosophers' logical inference was underpinned by their own concept of reason that was distinguished from those of the past.

The modern idea of natural law also regarded reason as the foundation of positive laws and political institutions, but it differed from the previous ones in the sense that it placed the individual person at the starting point in reasoning the objective world order and reduced the whole reasoning phases to the self-realization process of reason. The typical example of such logical process is shown in Hobbes.

Traditionally, the subject of political philosophy had focused on the concept of communal justice and the virtue of the ruler. However, Hobbes replaced them with the matter of individual freedom. He infers the whole political system from the real men who are selfish but reasonable. Selfishness no longer is thought to be negative to the communal justice or order, but is considered to be its source.

Hobbes vests the unalienable, inviolable and innate right in every person in the state of nature and calls it the right of nature.¹⁾ The right of nature enables a person to pursue his/her self-interest limitlessly in accordance with his/her

inborn preference and all men are equal as the subjects of such natural right.²⁾

However, the limitlessness of natural right is so conceived only in the light of logical premise,³⁾ because natural right in itself implies the self-determining moment. Men are supposed to face the conflict among natural rights and their reason later would recognize that the negation of other's natural rights may ultimately result in the negation of one's own. The self-determining moment inherent in natural right and found by reason is the law of nature.

The logical structure of the law of nature is reasoned in three stages as shown in Hobbes and his successors:⁴⁾ firstly, individuals can pursue their natural rights without reservation; secondly, individuals are faced with the conflict among natural rights; thirdly, individuals should accept the internal restriction of their natural rights found by reason. What needs to be pointed out here is that the logical process presupposes the concept of contract. As the mutual recognition of individuals as the subjects of natural right is equal, so should be the mutual recognition of the internal limit of their natural rights. Based on such equality, social contract can be founded on the authority of reason and thus be compelled to be abided by.

Though the state of nature is regulated by the inherent order of natural law, it nevertheless is a state of potential conflict, for there is no common authority over men which the men in conflict can resort to. Hence, the collective activity called social contract is needed to establish a higher authority, i.e., the political power to ensure the observation of the contract.

As for the method of social contract, Hobbes does not put forward any concrete point of view, but resolves it into a matter of *de facto* power. *De facto* power is treated to be equivalent to the legal power that is manifested

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- 1) The state of nature is a mere logical device from which the true nature of society and its functional objective is deduced. Refer to Jean-Jacques Rousseau, *Discourses on the Origin and Foundations of Inequality among Men* (1755), in Roger D. Master (ed.), *The First and Second Discourses* (New York: St. Martin's Press, 1964), pp. 92-93.
 - 2) Locke also recognized the equality of men as the subjects of natural right and the limitlessness of natural right. John Locke, *Two Treatises of Government* (1689) (New York: Cambridge University Press, 1965), pp. 309-318.
 - 3) Gauss regards the limitlessness of natural right as a fundamental principle for the logical foundation of liberalist ideas. Gerald F. Gaus, *Justificatory Liberalism: An Essay on Epistemology and Political Theory* (New York: Oxford University Press, 1996), pp. 162-166.
 - 4) Thomas Hobbes, *Leviathan* (1651) (New York: E. P. Dutton & Co., 1950), pp. 107-108.

by the sovereign as the personification of power. Even in Locke and Rousseau, social contract does not necessarily need to be explicit, and thus factual evidence such as residence or property ownership can suffice as a tacit agreement on the contract.

The fact that the contract is so designed as to overcome the incompleteness of the natural state in protecting natural right determines the nature of the contract and sets up an inherent limit on the political power established by the contract. Seen from the aspect of the content of the contract, the contract means the alienation of natural right, yet the core of natural right is still reserved.⁵⁾

Throughout the liberalist tradition, to set limits on political power has been essential in protecting the freedom of individuals. Political power is confined to the minimal operation of punishing the offense of the social contract, while the sphere of economic activity remains out of its reach, so the self-regulatory order by natural law in the pre-political society, or the civil society, is preferred to the artificial order of the political society based on the coercion of political power.

In short, theories of social contract connote the following two inferences: Firstly, the power to rule over others or community ensures validity only through the consensus of members⁶⁾; secondly, political value of a certain community does not exist *a priori*, but is established by the consensus of its members. The absence of *a priori* communal values and the relativity of the artificial communal values that are established through social contract, no doubt, have been indispensable to the liberalist ideas.⁷⁾

2. *The Economic Context of the Modern Concept of Human Rights*

The dignity of an individual as the basic unit of modern society had its social basis upon the disintegrative function of the capitalist economy that

5) Hobbes approved of the limitlessness of sovereignty resulting from contract, but he still reserved the right of resistance for the right of life and the freedom of economic activities (Thomas Hobbes, *op. cit.*, p. 116 and p. 180). In Locke and Rousseau, the sovereign power was strictly restrained by the purport of contract. Refer to John Locke, *op. cit.*, pp. 428-429; Jean-Jacques Rousseau, *op. cit.*, p. 77.

6) Refer to Jean-Jacques Rousseau, *The Social Contract* (1762), trans. by Maurice Cranston (Harmondsworth: Penguin Books, 1968), p. 53.

7) Charles Larmore, "Political Liberalism," *Political Theory* 18-3 (1990), pp. 339-360; Bruce Ackerman, *Social Justice in the Liberal State* (New York: Yale University Press, 1980).

detached individuals from the feudal system, while the social order resulting from the interactions of individuals had its social basis upon the integrative function of the capitalist economy that incorporated the individuals in the feudal territorial units into a national economy.

In capitalist economy, both labor-power and the means of production are reduced to commodities and individuals appear in market as bearers of commodities. A commodity embodies a certain use-value that is variable with the particular preference of an individual and, thus, is limitless in its quantitative determination of use-value. So as for a commodity to be exchanged with others, it should be reduced to a common criterion of comparison, that is, the abstract value. Abstract value is the outcome of social recognition with respect to the value of a commodity and through such mediating process the relative price relations are set up among commodities.

The contradiction between selfishness and reason shown in the law of nature corresponds to that between use-value and abstract value, and the rule of reason over selfishness coincides with the overall dominance of abstract value over use-value in commodity exchange.

The actual exchange of commodities is performed on the basis of parity exchange. The principle of parity exchange is further reflected upon the legal and political sphere and functions as the material foundation on which the legal and political system is established. For the parity exchange to be practically conducted in the market, it is necessary to equalize the legal and political statuses of the two parties of trade only as seller or buyer.

However, the legal and political system of the late feudal society did not comply with the requirements from the newly developing commodity economy. Despite the reaction from the privileged feudal class, the development of capitalist economy provided the material foundation for the disintegration of feudal society as well as the rapid spread of liberalist ideas. Though the actual process and outcome of civil revolution appeared differently in each country, civil revolution paved the way to the legal and political system suitable for commodity economy.

The legal and political system complying with capitalist economy refers to the totality of the legal and political institutions that are founded upon commodity economy, but the essential part consists in the two types of human rights, that is, the right of private property and the freedom of person. The right of private property refers to the exclusive right to dispose of one's own

property, which is vested solely in ownership, and thus any kind of extra-economic coercion is denied in trading the means of production in the market. The freedom of person is a basic requirement for free economic activity, especially for the free trade of labor-power that exclusively belongs to the laborer. Historically, the right of private property and the freedom of person constituted the core of the modern concept of innate rights and on which the basic principles of the civil codes such as the principle of free contract and other derivative principles of contract could be founded.

The equality of the two parties of trade in their social statuses put an end to the feudal hierarchical system and laid the foundation for modern democracy. However, such equality in social status did not automatically give birth to the nation as the political subject of modern nation-state. The birth of modern political subject still needed to integrate the separate territorial units of the pre-capitalist society into a single market under the dominance of the universal law of value. As the spatial limit of the market corresponded to the territorial boundary of the modern nation-state, so did the sum total of individuals in the market to the nation, the political subject of the modern nation-state. In short, the equality in the legal and political statuses of individuals and the formation of a nation brought forth the principle of people's sovereignty in a modern nation-state.

Seen from the aspect of space, as the territorial boundary of a nation-state was equal to the spatial limit of a social contract, the operation of sovereignty was strictly confined within the territory of the nation-state proper. Seen from the functional aspect of sovereignty, it was confined to the minimal operation of government, such as law-enforcement, punishment of the offense of laws, etc., and the economic sphere remained out of the sovereign intervention.

The idea of *laissez-faire*, rooted in the trust in the harmonious operation of capitalist economy, was deeply influenced by Adam Smith and other thinkers of the British Classical School. Smith assumes that men are selfish in nature and their complicated desires can be reduced to the one for economic interest. He contends that the totality of individual activities, seeking their own economic interests, results in the harmonious operation of the market and maximizes the wealth of the nation.⁸⁾ In such a way, Smith provides an economic

8) Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776) (New York: Modern Library, 1937), pp. 422-423.

rationalization for the free pursuit of self-interest in the capitalist economy.⁹⁾

Smith's rationalization of self-interest is best symbolized by the action of the 'invisible hand', which he considers as something natural rather than something intended or artificial. In other words, it is the natural law revealed in economic area and relatively independent from the human will. Intervention in the economic sphere guided by the invisible hand is regarded as an interference with natural law, which may destroy the natural harmony of the market. For that reason, Smith confines the responsibility of government to the narrow scope of public security and public works.¹⁰⁾

The Smithian *laissez-faire* was more consolidated by the Social Darwinism of the nineteenth century. Social Darwinism — a social interpretation of Darwinism developed mostly by H. Spencer in the late nineteenth century — was soon introduced into America and became more refined after the 1870s. W. G. Sumner argued that social progress was made through the human struggle against nature and the key role in that struggle was played by the capitalist, especially the monopolistic capitalists.¹¹⁾ Religious recognition of inequality also was added to Social Darwinism, as was well exemplified by W. Lawrence who identified religious faith with wealth and morality.¹²⁾

With such ideas being prevalent, *laissez-faire* seemed to be an indisputable truth under the cloak of scientific discovery. Thus it seemed that the only thing that society could do to its people was just to leave them alone in the competitive market.

9) Albert O. Hirschman, *The Passions and the Interests: Political Arguments for Capitalism before Its Triumph* (Princeton: Princeton University Press, 1977), p. 100.

10) Adam Smith, *op. cit.*, p. 651.

11) Richard Hofstadter, *Social Darwinism in American Thought: 1860-1915* (Boston: Beacon Press, 1955), pp. 13-66.

12) Gail Kennedy (ed.), *Democracy and the Gospel of Welfare* (Lexington: Raytheon/Heath, 1949), p. xii.

III. The Economic Context of the Contemporary Concept of Human Rights

1. The Contemporary Concept of Human Rights

As the capitalist economy developed, the disparity of wealth between capitalists and laborers expanded and the capitalist society became more and more heterogeneous in its composition. In addition, the accelerated concentration of capital challenged the competitiveness of the market and the ever-increasing economic inequality further threatened the equilibrium of the national economy.

The equality of individuals in their legal and political statuses as sellers or buyers in commodity exchange did not necessarily result in equality in their socioeconomic statuses and, in consequence, the Smithian optimism of the economic rationality based on the competition among self-interests could no longer be maintained. In particular, in the case of the trade of labor-power, *de facto* coercion coming from the laborer's inferior economic situation proved to be more decisive than the individual rationality in determining the terms of trade.

As for the trade of labor-power which is performed under the cloak of formal equality of capitalist and laborer in their merely legal and political statuses, Marx cynically describes it as follows: "The sphere of circulation or commodity exchange, within whose boundaries the sale and purchase of labor-power goes on, is in fact a very Eden of the innate rights of man. It is the exclusive realm of Freedom, Equality, Property and Bentham."¹³) It is a realm of freedom, because the trade of labor-power is determined by one's own free will. It is a realm of equality because of their formal equality in legal and political statuses in exchanging commodities. It is a realm of property, for they dispose of their own belongings. And it is a realm of Bentham, because each party of trade is solely concerned with his/her own interest.

Needless to say, there has been continuous improvement in the conditions of labor since the industrial revolution. Following the British Health and Morals of Apprentices Act in 1802, most European countries introduced some labor-related legislations in the mid-nineteenth century. However, such legislations could not change the inferior economic situation of laborers. Under such

13) Karl Marx, *Capital* (1867), Vol. 1 (London: Penguin Books, 1976), p. 280.

circumstances, Mill pointed out the following three evils of capitalist economy and insisted on the governmental intervention into market: Firstly, the existence of the laboring class who cannot be free from poverty despite their endless laboring¹⁴; secondly, the existence of the minor propertied class who are possessed of all the social privileges without laboring¹⁵; and thirdly, the existence of the non-competitive business that can be run only by large capital.¹⁶

Driven away from their work places, people began to realize that it was not their own fault that they lost their jobs or went bankrupt. They argued that poverty was not due to their spiritual defects¹⁷ but due to the structural defects of the capitalist economic system. The unemployed began to form organizations from the local to the national level. In most Western countries, the nationwide labor movement — mostly led by socialists and radicals — and some reformist movements — led by the Rightist intellectuals and politicians — began to impose pressure upon their governments. Although the actual governmental countermeasure against unemployment was not yet adopted until the beginning of the Great Depression in 1929, people's concern with social welfare system and their support for the governmental intervention into the capitalist economy increased markedly.

It was in Germany that a new concept of human rights was introduced with a legal foundation. The idea of *Sozialrechtstaat* (Social Law State) was presented by the Social Democratic Party (Sozialdemokratische Partei Deutschlands: SPD) in the early twentieth century and was reflected in the Weimar Constitution in 1919. With a strong emphasis upon the social nature of property ownership and the right to live, the constitution prescribed some new forms of human rights, though they were unfeasible under then German socioeconomic condition. Thus, it became no more than a mere declaration of the need to regulate the capitalist economic system from the perspective of

14) John Stuart Mill, *Dissertations and Discussions* (1859), Vol. 3 (New York: Henry Holt & Co., 1882), p. 59.

15) *Ibid.*

16) John Stuart Mill, *Principles of Political Economy* (1848) (New York: Augustus M. Kelly, 1965), p. 449.

17) In the history of Western thought, Malthus was a classic thinker who attributed wealth and poverty to the individual morality. He saw the division of class between the wealthy and the poor as the necessary consequence of natural law. See Thomas R. Malthus, *An Essay on the Principle of Population and a Summary View of the Principle of Population*, A. Flew (ed.) (Baltimore: Penguin Books, 1970), p. 144. Hence, the redistribution of income would increase the number of the poor due to their moral corruption (*Ibid.*, p. 98).

social welfare.

The actual advance in the concept of human rights took place in the United States. The adoption of the New Deal since the Great Depression in 1929 was supported by those intellectuals who ardently advocated state-interventionism. Since 1870s, Social Evangelism tried to present a new Christian social moral. R. T. Ely, J. R. Commons, L. F. Ward, E. A. Ross, and W. W. Willoughby criticized *laissez-faire* and upheld positive state intervention from the liberalist perspectives. H. George and E. Bellamy supported state intervention from the socialist perspectives. Philosophical instrumentalism of W. James and J. Dewey also became a powerful theoretical background in criticizing the classical political economy and Social Darwinism.¹⁸⁾ The New Freedom movement represented by W. Wilson and L. D. Brandeis and the New Nationalism led by T. Roosevelt and H. Croly emphasized state intervention to regulate large capital.¹⁹⁾

With a strong Keynesian orientation, the New Deal aimed to establish a comprehensive social welfare system. The welfare policy of the New Deal was different from the previous ones in the sense that it made social welfare a new form of human rights. In Britain, for example, those welfare policies provided in the Old Age Pension Act in 1908 and the National Life Insurance Act in 1911 still belonged to the tradition of the Poor Law from 1601 to 1834. Although the responsibility for the poor relief was shifted from the local government and civilians to the central government, welfare policy still remained a matter of charity or purely humanitarian practice.

Since the New Deal, social problems related with poverty have become the routine but crucial concern of the state. Likewise, the problem of poverty no longer remains a matter of naive moral issue depending on charity; rather, an individual, based on his/her citizenship, has a legal right to demand assistance from the state. Accordingly, in such a way, the scope of human rights expanded from the legal and political ones to the social and economic ones.

18) Eric F. Goldman, *Rendezvous with Destiny: A History of Modern American Reform* (New York: Alfred A. Knopf, 1952), pp. 93-159.

19) Robert H. Wiebe, *The Search for Order, 1877-1920* (New York: Hill and Wang, 1967), pp. 164-223.

2. The Economic Context of the Contemporary Concept of Human Rights

1) The Rise of State-Interventionism

The emergence of the contemporary concept of human rights had its root in the economic crisis that the development of capitalist economy inevitably had to face. As capitalist economy developed, proof against the trust in the invisible hand began to emerge along with the impoverishment of the masses. Above all, the impoverishment of laborers resulted in the weakening of purchasing power and was ultimately unfavorable for the continued and balanced development of the national economy.

In the United States in the late nineteenth century, some legislations to check market mechanism existed, such as the Interstate Commerce Act in 1887 and the Sherman Anti-Trust Act in 1890. However, they were not so effective as expected, for *laissez-faire* still was a dominant principle. Those legislations did not mean the adoption of the governmental intervention in the market, but an approval of expanding governmental activity.

The economic mechanism of the cause of the inevitable economic crisis and the policy objective of welfare policies in the early twentieth century can be shown as follows:

$$\begin{aligned} W &= C + V + S \\ D &= C + V + \delta S \\ W - D &= (1 - \delta)S \end{aligned}$$

W: total supply or production

D: total demand or consumption

C: constant capital

V: variable capital or total wages

S: surplus value or profit

δ : propensity to consume

δS : effective demand

Given the premise that the products proportional to C and V are consumed one hundred percent, it is inevitable that some portion of the products pertaining to $(1-\delta)S$ faces a lack of demand. The policy objective to solve the realization problem constituted the economic context of the social welfare

system since the New Deal.

To promote the unproductive consumption, which mostly depended on the transferred income effect through the governmental spending, the social welfare system in its earlier phase was focused on the immediate work relief program, but later on the increase of employment and other social welfare programs. As for the welfare policies, most unemployed people advocated them, while enterprises did not, for such policies would increase their tax burden and gradually eat away their own business area. Between the two contradicting interests, to keep balance between demand and supply, i.e., consumption and production, most governments operated the social welfare system on the basis of insurance system. Part of the social insurance depended on payments by the employee themselves, thus they were sort of reserved salaries for the future.

The advent of the welfare state, in fact, was the abandonment of *laissez-faire* and the adoption of positive state-interventionism. The social welfare system gradually became an indispensable leverage for the macro-economic regulation of the national economy. Nevertheless, it did not negate the existing capitalist relations of production and the basic values of the liberalist ideas.²⁰⁾

In short, the rise of state-interventionism, on the one hand, paved a new phase of human rights development and, on the other hand, provided a new economic measure to sustain the capitalist economic development.

2) The Revival of *Laissez-faire*

Since the New Deal, state-interventionism has become a sort of dogma in most countries and the state intervention into the capitalist economy has been regarded as ordinary business of government. The state acted as a third actor of capitalist economy by executing the intermediary function between capitalists and laborers to keep balance between production and consumption or profit and welfare. However, state intervention in the market nevertheless

20) As for the New Deal, Schlesinger characterizes it as a progress of liberalism. Arthur M. Schlesinger, *The Coming of the New Deal* (Boston: Houghton Mifflin, 1958), pp. 303-304; Greenberg defines it as a counter movement against radical labor movements. Edward Greenberg, *Serving the Few: Corporate Capitalism and the Bias of Government Policy* (New York: John Wiley & Sons, 1974), p. 114 and p. 118; Bernstein evaluates it as the conservative achievement of liberal reform. B. J. Bernstein, *New Deal: The Conservative Achievement of Liberal Reform* (New York: Random House, 1968), pp. 263-288.

was concomitant to the competitive and autonomous operation of the market. Paul Samuelson, a neo-classical theorist with a liberalist orientation, warns that excessive reliance on the efficacy of the market may cause inequality and destroy the harmony of the market after all and insists that a mixed economy of the competitive market system and the state-intervention into the market would solve the problem of the capitalist economy.²¹⁾

On the other hand, in the course of the expanded state-interventionism, its side-effects also began to appear and the traditional liberalist ideas on market autonomy gained support again. The governmental management of the effective demand required an ever-expanding governmental spending that resulted in increasing taxation and, at times, the excess liquidity causing chronic inflation pressure. As inflation turned out to be unfavorable to price competitiveness, so was the increasing tax burden to investment and labor productivity. In consequence, some theorists criticize the interventionist policy as one that may aggravate the conditions of producers and cause rather negative effect in the long run.

The criticism of state-interventionism brought forth a new tendency in economics, such as, for example, the supply-side economics. M. Friedman, a neo-liberalist with a strong conservative orientation, and his successors, the so-called “Chicago Boys,” advocate a sort of extremist view of *laissez-faire*. Although it is not yet defined in strict scientific terminologies and sometimes cited as an insulting terminology by its opponents, neo-liberalism generally is seen as the revival of *laissez-faire* as well as a counterattack to state-interventionism based on Keynesian economics.

From the ideological aspect, neo-liberalists argue that in case the state intervenes in the market to solve the economic inequality caused by free competition in the market, it is a new discrimination to those who are not favored or even harmed by state-intervention and thus does not comply with the liberalist idea of equal opportunity. Friedman asserts that the realization of ethical and social values belongs only to the realm of individual responsibility that the state should not interfere with.²²⁾

From the functional aspect, neo-liberalists assert that state-intervention cannot be an effective countermeasure against the disturbance of the market.

21) Paul A. Samuelson, *Economics*, 10th Ed. (New York: McGraw-Hill, 1976), p. 47 and p. 267.

22) Milton Friedman, *Capitalism and Freedom* (Chicago: University of Chicago Press, 1962), p. 12.

Friedman argues that even the Great Depression was not due to the inherent instability of the private sector, but rather due to the policy failure of government.²³⁾ Furthermore, he adds that the monopolistic power of large capital is not as dangerous as is anticipated.²⁴⁾

The economic policies directed toward the improvement of the conditions of producers relatively weakened the governmental role in social welfare and decreased the governmental spending, while the degree of reliance on the effectiveness of competitive market was raised, as exemplified by the so-called Thatcherism and Reaganism. Moreover, as the belief in the effectiveness of competitive market began to be institutionalized in an international dimension in a more extended form, *laissez-faire* once again secured its position as a dogma of world capitalism.

IV. The Economic Context of the Internationalization of Human Rights

1. The Internationalization of Human Rights

Apart from the human rights issues that still had been confined to the domestic matters of each nation-state, the development of world capitalism raised new human rights issues that reflect the economic interdependence among national economies.

Two world wars made it clear that human rights issues cannot be confined to the mere domestic sphere of a country. There were some international covenants of humanitarian consequence before World War I, but there had been no comprehensively and universally declared international charter on human rights before the Universal Declaration of Human Rights in 1948. International conventions on human rights such as the Geneva Convention for the Amelioration of the Condition of the Wounded in Armies in the Field in 1864 and the General Act and Declaration of Brussels in 1890 were still confined to the particular humanitarian issues.

The origin of the Universal Declaration of Human Rights traces back to the

23) *Ibid.*, p. 38.

24) *Ibid.*, p. 121.

Atlantic Charter in 1941 and the Declaration by the United Nations in 1942. However, the latter two had inherent limits in their composition of members in the sense that they were initiated by those countries fighting against the Fascist countries during World War II.

To put the Universal Declaration of Human Rights into practice, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were signed in 1966. However, they were not endowed with the necessary historical condition due, above all, to the Cold War system in which the opposing two blocs differed with each other on the concept of human rights. In addition, the two blocs tried to make use of human rights issues as a means of ideological warfare.

Since the United States and NATO (North Atlantic Treaty Organization) intervened in Kosovo in 1999, humanitarian intervention has become, on the one hand, a conspicuous human rights issue in the post-Cold War international relations and, on the other hand, a new area of research among political theorists. Compared with direct military intervention, humanitarian intervention is more appealing to the world community and more effective in obtaining domestic support for the interventionist foreign policy. Such merits made it a new foreign policy objective of the Western countries and provided them with a new foreign policy initiative.

Humanitarian intervention executed or attempted by the Western countries is either advocated as such or criticized under the name of new interventionism or new imperialism. Those who are or would-be objects of humanitarian intervention of the Western countries deny its legitimacy. However, Western countries and the United States in particular have advocated highly the legitimacy of humanitarian intervention ever since the terrorist attacks of September 11, 2001, regardless of the terminology used (i.e., humanitarian intervention, humanitarian interference, or anti-terrorism). It is still arguable whether or not the so-called humanitarian intervention complies with the principle of domestic jurisdiction or non-intervention in domestic matters that so far has been regarded as a basic principle of international relations.

The Charter of the United Nations in its Chapter 1, Article 2-7 and three major international declarations adopted by the UN General Assembly in 1965, 1970 and 1981 make clear the principle of non-intervention in domestic

matters. Various regional declarations²⁵⁾ also reaffirm this principle. Seen from a purely legal perspective, the opposition to humanitarian intervention on the whole resorts to the following two grounds: firstly, many international declarations and treaties explicitly provide the principle of non-intervention in domestic matters; secondly, there is no international law that authorizes humanitarian intervention in domestic matters.

On the other hand, there have been some attempts to reinterpret both the Charter of the UN and several important concepts of international law to justify the humanitarian intervention in domestic matters. During his visit to Chicago in 1999, Prime Minister Tony Blair of Britain, in his address titled "Doctrine of the International Community," described genocide, massive flows of refugees produced by oppression, and regimes based on minority rule as threats to international security.²⁶⁾ President Bill Clinton of the United States also expressed a similar point of view in his remarks to the Kosovo Force troops in Macedonia in June 1999.²⁷⁾ Furthermore, the Canadian government established the International Commission on Intervention and State Sovereignty in September 2000 and submitted to the Secretary-General of UN the report of the commission, *The Responsibility to Protect*, in December 2001. The report argues that the protection of a certain group in a certain country could be carried out without infringing on the national sovereignty of the country proper. It uses the term intervention instead of humanitarian intervention and defines it as "action taken against a state or its leaders, without its or their consent, for purposes which are claimed to be humanitarian or protective."²⁸⁾ The report presents three types of responsibility to protect: the responsibility to prevent, the responsibility to react, and the responsibility to rebuild.

In accordance with the official governmental or intergovernmental efforts to

25) The Charter of the Organization of American States in 1948, the Charter of the Organization of African Unity in 1963, the Bangkok Declaration in 1967, and the Treaty of Amity and Cooperation in Southeast Asia in 1976.

26) See Public Broadcasting System, "The Blair Doctrine" (22 April 1999), available at <http://www.pbs.org/newshour/bb/international/jan-june99/blair_doctrine4-23.html>

27) See the White House, Office of the Press Secretary, "Remarks by the President to the KFOR Troops," Skopje, Macedonia (22 June 1999), available at <<http://clinton2.nara.gov/WH/New/Europe-9906/html/Speeches/990622d.html>>

28) *The Responsibility to Protect*, p. 8, available at <<http://www.iciss.ca/pdf/Commission-Report.pdf>>

justify humanitarian intervention, there also have been some noticeable academic approaches to the matter.

In his article "The New Interventionists" in 1993,²⁹⁾ Stedman advocates the obligation of international society to intervene in the civil wars that threaten international security or the massive governmental abuses of the rights of their people. He redefines the concept of sovereignty as a "political constraint" on international action³⁰⁾ and contends that sovereignty refers not to the right of the state but to the right of its people.

Glennon also argues that the Charter of the UN does not comply with the current situation of the world, because it prohibits only the wars between or among countries, but has no provision for the civil wars or violence within countries that are more prevalent and threatening today.³¹⁾

Rotberg presents a challenging definition of, what he calls, the 'failed state' or 'state failure' with the following three factors: the enduring character of violence, inability to control their borders, and growth of criminal violence.³²⁾ The extreme version of a failed state, he calls, is the 'collapsed state.'³³⁾ Because the failed state or the collapsed state has no reason to exist as a state and, in consequence, tends to be a serious threat to international security, international society has the right to intervene for self-defense.

Cooper delivers the concept of 'New Imperialism' or 'New Liberal Imperialism'.³⁴⁾ He argues that the traditional concept of sovereign state and the relevant political values such as national self-determination and the equality of sovereignty can no longer be maintained in this "postmodern world." The postmodern world needs a new form of imperialism, not one of the past in which one power rules over the other, but a liberalist one based on liberty and equality of the states. He presents three types of imperialism, that is, the voluntary imperialism of the global economy, the imperialism of neighbors, and the cooperative empire, the last of which he identifies with the orderly world system.

29) Stephen Stedman, "The New Interventionists," *Foreign Affairs* 72-1 (Spring 1993), pp. 1-16.

30) *Ibid.*, p. 3.

31) Michael Glennon, "The New Interventionism: The Search for a Just International Law," *Foreign Affairs* 78-3 (May/June 1999), pp. 2-7.

32) Robert I. Rotberg, "The New Nature of Nation-State Failure," *The Washington Quarterly* (Summer 2002), pp. 85-87.

33) *Ibid.*, p. 90.

34) Robert Cooper, "Why We Still Need Empires," *Observer* (7 April 2002).

In short, the theories advocating humanitarian intervention insist that it is not a violation of the Charter of the UN, for it does not deny the territorial integrity or political independence of the intervened country. However, those theories still need to be refined in the very definition of 'humanitarian', so as to avoid the production of humanitarian intervention by means of humanitarian intervention.

Despite the dispute over the legitimacy of humanitarian intervention, the strategic significance of humanitarian intervention already is well reflected upon the foreign policies of powers as shown in the concepts 'preventive defense' and 'comprehensive security' of the United States.

2. The Economic Context of the Internationalization of Human Rights

The shift of focus in human rights issues from the domestic level to the international level is in parallel with the expansion of the scope of capitalist economy from national economy to world capitalism.

Despite the adoption of state-interventionism, capitalist economy faced problems that could not be solved within the boundary of the individual national economy. As the capitalist economy developed, the increasing interdependence among national economies made it more probable that the failure of a certain national economy could threaten the whole world economy. The Second World War was the very disaster caused by the collapse of the European economy, which disclosed the potential impulse of the capitalist economy in crisis to settle economic conflict in a radical and violent way.

The establishment of the post-Second World War world economic system was based on the diagnosis that found the causes of the overall breakdown of the world economic system in the collapse of the world financial system and the excessive protectionism that the European countries competitively ushered in. Faced with the general economic regression in the 1930s, the European countries allegedly devaluated their national currencies and set up all the possible trade barriers to protect their national economies. The postwar plans for the world economic system were focused on the establishment of a new financial system and the elimination of protectionism.

Through the initiation of the so-called Bretton Woods system, key-currency system with the fixed rate of exchange replaced the former universal system

and the two major international financial organizations, namely, the International Monetary Fund (IMF) and the World Bank (IBRD), were established soon after. On the other hand, for a more competitive world market, the General Agreement on Tariffs and Trade (GATT) was founded in 1947 and was followed by a series of talks to deal with more specific issues, based on the principle of reciprocity as the basic rule of international trade, to remove trade barriers and reduce the tariff rate.

Along with the above mentioned measures, the United States endeavored to establish a more competitive world economic system. For her own national interest, the United States aimed at the general trade balance policy through a more competitive world market rather than a globalized colony to secure her own economic stability.³⁵⁾ However, the actual process of establishing a stable world financial system and a competitive world trade system was not so smooth.

Concerning the fixed rate of exchange system, both the relative and the absolute oversupply of dollars threatened the system: as the economies of some European countries and Japan grew, their national currencies attained external currency convertibility and, in consequence, there was less demand for US dollars; the supply of dollars exceeded the amount of gold convertible in 1964.³⁶⁾ In addition, excessive military spending and unfavorable trade balance beginning in 1971³⁷⁾ made the United States suffer from financial deficit, further causing the devaluation of the US dollars. In 1971, the guarantee of the convertibility of the dollar to gold was officially abolished and the price of gold was granted a wider range of fluctuation. After the Kingston Agreement in 1973, the official exchange rate of gold was eliminated, thus eliminating the system of the fixed rate of exchange.

Establishing a competitive world market also was not in favorable motion under GATT. Due partly to the Cold-War system after World War II, the United States allowed some strategically important countries to set up tariff barriers until the settlement of the Kennedy Round in 1967. Multilateral talks to supplement GATT were executed at the Uruguay Round (UR) since 1986. The objects of free trade expanded from tangible goods to services and

35) Refer to James Petras, "Military or Market-Driven Empire Building: 1950-2008," *Global Research* (29 April 2008).

36) John P. Koning, "The Losing Battle to Fix Gold at \$35," *Mises Daily* (18 February 2009),

37) Refer to Congressional Quarterly, *Congress and the Nation*, Vol. 4 (1973-1976) (1977), p. 128.

intellectual property. After seven years of talks, the final UR protocol was signed in April 1994 and the World Trade Organization (WTO) began operation in January 1995.

The acceleration of UR in the 1980s and the advent of the WTO in the 1990s were backed up by the overwhelming process of globalization in the 1980s. As a historical process resulting from human innovation and technological progress, globalization accelerated the integration of national economies through more effective and expanded trade of commodities and capital.³⁸⁾

With respect to human rights issues, globalization functions in both an integrative and disruptive way. On the one hand, globalization enhances interdependence among countries and gathers them together for a common agenda-building of human rights. Former socialist countries that were very antagonistic to the Western conception of human rights are now getting incorporated into the world economic system, and many of them have shown a changing attitude toward human rights issues.

On the other hand, globalization intensifies the discordance between the world economic system and the international legal and political system. As is well witnessed by the unequal voting power of the UN, the present international legal and political system does not comply with the requirement for commodity economy, which is based on the equalization of the parties of trade in their legal and political statuses. In addition, the increasing global standards may seem like a sort of economic coercion to those countries of relatively inferior economic power. Insofar as they want to participate in international trade, they cannot but accept even the unfavorable systemic requirements, as laborers' inferior economic position make them accept the relatively unfavorable terms of the contract.

V. Conclusion

Seen from the perspective of the capitalist economic development, the concept of human rights has been determined by the power relations among

38) Negri and Hardt conceptualize the process from imperialism to empire. Michael Hardt and Antonio Negri, *Empire* (Cambridge: Harvard University Press, 2000).

various social classes and factions, which, in turn, have been conditioned by the degree of development of the capitalist economy. The modern concept of human rights was the ideology of the newly rising capitalists who were against the feudal system and struggled mostly for their political and civil rights. The contemporary concept of human rights was focused on 'the right to live' of laborers who were in relatively inferior economic position. The process of shifting the preponderance of human rights from the legal and political rights to the social and economic rights depended on the economic context that needed the governmental intervention into the national economy.

The ongoing process of globalization brings forth a new phenomenon with respect to the concept of human rights. As globalization intensifies, the past historical process of human rights development shown on the national level is now replayed on the international level. To put it in Hobbesian words, as far as human rights issues are concerned, the world has just begun its earlier phase to move from the state of nature to the political society. International human rights issues that previously seemed to be ideal and unrealistic are now on the table of rounds of talks and the area of concern is not simply confined to the political and civil rights.

As individuals are equalized in their legal and political statuses as sellers or buyers in commodity exchange, so are the countries of the world under the WTO system. As the equality of individuals in their legal and political statuses put an end to the feudal hierarchical system and excluded any kind of extra-economic coercion in commodity exchange, even superpowers, in principle, are not allowed to use their diplomatic or military power in international trade. Resorting to any kind of extra-economic means is considered to be destructive of the world trade order.

As the advent of state-interventionism in the early twentieth century was a reaction to the broken equilibrium of the national economy, which then was believed to be due to the impoverishment of the masses, the sustainable development of the world economy in the twenty-first century would not be possible without solving the problem of serious economic inequality between the developed and the underdeveloped countries. The world capitalist system reproduces the existing relations of production and the division of labor which enable the developed countries to enjoy affluence and the higher standard of living at the cost of the cheaper labor-power of the underdeveloped countries. The progress in technology and innovation are the

indisputable sources of growth; but as the history of the capitalist development witnessed, they would not meet the proper counterpart, that is, the purchasing power without extracting economic surplus from the underdeveloped countries.

The sustainable development of the world economy will need stabilization funds similar to welfare funds and other governmental spending that have been utilized after the New Deal. Those funds run by the IMF and IBRD partially handle that role, but more expanded and specified funds will be needed to meet more specified problems. For instance, a fund specific to environmental problems will be relatively more effective and efficient in dealing with environmental issues.

In taking care of the global issues, consensus among nations would be the most effective means to legitimize policies. However, in reality it seems to be the general practice to consider the *de facto* participation in international trade or international politics to be equivalent to the tacit agreement on the respective issue -- as in the theories of social contract, some factual evidence or *de facto* power was assumed to be an alternative of the agreement on the contract.

The intensifying globalization will provide better environment with respect to the worldwide consensus on human rights issues. In the course of getting incorporated into the world capitalist system, most underdeveloped countries and former socialist countries are trying to adapt themselves to the capitalist system through necessary legislation and reformation of their internal systems. Without such changes the long-term economic efficacy would not be procured.

However, considering the different phase of socioeconomic development of each country, imposing a uniform standard of human rights and requiring uniform degree of enforcement will not be helpful for international cooperation. To secure substantial international cooperation in human rights issues, it seems practical to set up a differentiated enforcement plan commensurate with the different level of socioeconomic development of each country.

At the present time, the world community confronts two tasks that need to be handled for the substantial progress in human rights. The first is the establishment of just and fair international system, in which each country is treated equal at least in the legal and political sense. This would be

imperative to acquire support for the leadership of the developed countries in administering global issues. The existing inequality of political power in international organizations does not comply with the principles of a globalized economy, as is well exemplified by the veto power of the five permanent membership countries of the UN Security Council or the Nuclear Nonproliferation Treaty (NPT) system. The second is the concept of humanitarian aid should be understood in a broader sense and should not be confined to the simple emergency relief. Like the policy objective of state-interventionism, it should cover the area of economic rehabilitation and development. In such a way, threats to international security causing disputable humanitarian intervention could be reduced or removed substantially in the long run.

As globalization intensifies and the interdependence among countries increases, the disarticulation between the principles of world economy and the existing international legal and political system would be expanded. Not until this discord is resolved can substantial and globalized cooperation in human rights issues be possible, nor can humanitarian intervention in domestic matters gain legitimacy and consensus from the world community.

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