

HUMAN RIGHTS, THE RIGHT OF SELF-DETERMINATION AND THE RIGHT TO FREEDOM

Munakata Takayuki

Human Rights are Universal Rights Shared by All Mankind

In recent years concern for human rights problems has heightened and policies of guaranteeing human rights are being developed. However, this development is due to the leadership of the advanced countries. Not all developing nations are actively dealing with human rights problems.

When the world human rights conference was convened in Vienna in 1993, the advanced nations asserted that "human rights are a universal concept applicable to the whole of mankind," but the developing nations opposed this position, saying "the concept of human rights varies by region." For historical events which caused considerable progress in human rights, one could mention the American Revolution and the French Revolution in the 18th century.

The American Declaration of Independence of 1776 states:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.

Also, in the midst of the French Revolution, the French constitutional convention adopted in 1789 the "Declaration of Human and Citizens' Rights," which states:

Men are born and exist free and with equal rights. The purpose of all political unions is to preserve men's inalienable natural rights. These rights are freedom, ownership, security and opposition to repression. All principles of sovereignty reside in the citizens. Liberty means the ability essentially to take any actions without hurting others.

In these two Declarations human rights are deemed universal rights shared by the whole of mankind. However, the infringement of human rights such as discrimination against races and nationalities continued for many years both in post-independence America and in post-revolutionary France.

In the colonies, the ruler and the subjugated were divided by nationality, and the notion of universal human rights was completely ignored. The height of imperialism, when the advanced nations colonized most of Asia and Africa, was at the end of the 19th century, one century after American Independence and the French Revolution.

In the 20th century, human rights were mercilessly violated in various regions of the world due to wars and disturbances (including the two World Wars) and the advent of dictatorial regimes with creeds of class discrimination or racial discrimination.

It was only after World War II that the notion of universal human rights became widespread based on retrospective understanding of the grievous historical reality.

The Universal Declaration of Human Rights was adopted by the UN General Assembly in 1948. The preamble of this Declaration states:

...recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world....

It was declared that the affirmation of human rights as universal rights common to all mankind, regardless of any differences in race, national origin, religion and class, is the foundation of freedom, justice and peace in the world.

Furthermore, the International Covenant on Human Rights adopted by the UN General Assembly in 1966 defined in detail the substance of human rights and also stipulated the obligations of each signatory state to promote the observance of human rights.

This International Covenant on Human Rights is divided into “International Covenant on Economic, Social and Cultural Rights” (A Covenant) and “International Covenant on Civil and Political Rights” (B Covenant). The language in Article 1 of both A Covenant and B Covenant shows the same “peoples’ right of self-determination.” Article 1, item 1 is as follows:

All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Why is the peoples’ right of self-determination emphasized to this extent? Because if the right of self-determination of people as a group is not secured, then the basic right of each individual in the group will not be secured.

So let us consider the historical origin of the right of self-determination.

The Right of Self-determination and the Right to Freedom

I consider the origin of both the right of self-determination and the right to freedom to be the same thing.

The ancient Greeks were the first to reflect most deeply on freedom. As a result, ancient Greeks considered that nothing was as important as freedom and they invented a system of society called democracy to protect their freedom.

Why did the ancient Greeks deliberate over freedom? Perhaps because they were constantly exposed to the risk of losing it. At that time there were several hundred cities (polis) in Greece and the cities were incessantly at war with one another. The city was the state for the Greeks and wars never ceased due to conflicts of state interests. Naturally there were occasional wars with alien races but most of the fighting was among the Greeks themselves. When captured in a war, payment of a ransom would usually bring release. If unable to pay the ransom, the prisoner would be sold as a slave. Thus even a free person couldn’t tell when he might be reduced to the status of a slave.

Even among slaves, their circumstances varied. In the case of Athens, ordinary families owned only one or two slaves, so many of the slaves lived with the master or his family. Some

slaves were treated as members of the family by a magnanimous master. Many slaves, however, received inhumane treatment.

For example, slaves who worked at mines were forced to labor strenuously in dangerous underground shafts. But quite often a slave would supervise these mining slaves. A slave who was entrusted by the master with the management of the mine would rule over many slaves and earn a high income. To do business with the mine, even a citizen had to please the manager-slave. Athens was a commercial metropolis and also one of the centers of world trade and businesses and trades thrived there. In many cases, a slave was appointed to manage the businesses and trades. Such slaves would control many other slaves and enjoy good wages. So more than a few slaves were richer than ordinary citizens and ruled over numerous underlings.

Observing such conditions, some citizens must have thought about the difference between themselves and slaves.

Even in the case of rich and somewhat powerful slaves, such privileges were given to them by their master. When the master changed his mind or when he was angered, a slave who had been acting as a manager might suddenly find himself working in the mine shaft or be demoted to a low class laborer in business or trade. In contrast, a citizen would not have his life style dictated by another even if he was poor. The ancient Greeks must have considered this the dissimilarity between slaves and free men.

Slaves have their life style decided by their master. Citizens who can determine their own lifestyle are free men. Therefore, I believe the origins of the right of self-determination and of the right to freedom are one and the same.

The ancient Greeks, who considered having or not having the right to freedom as the difference between free men and slaves, reasoned “even the pompous governor of Egypt or Syria who reigns over tens of thousands of troops and bureaucrats is nothing but a slave of the great king of Persia.” At that time Egypt and Syria took pride in their ancient civilizations and were wealthier than the whole of Greece. Still they were just a part of the Persian empire, then the world’s only superpower. No matter how great the wealth and power possessed by the governors, these were merely things bestowed by the great king of Persia. Once the governors aroused the displeasure of the great king, their heads were immediately chopped off. Thus the ancient Greeks called people who were ruled by a dictator “king’s subjects” and despised them, because unlike the Greeks who could determine their own way of life as free men, these people were all slaves.

In order for a people to determine their own way of life, it will be necessary for them to decide the laws and policies of their country by themselves. For example, if a country declares war on another, its citizens will be obligated to serve in the armed forces. However, if a people is compelled to risk their lives and fight due to a decision made by someone else, then such people do not have the right of self-determination. To ensure their own right of self-determination, a people must hold in their grasp the right to decide on laws and policies of their country. This is why the ancient Greeks created the democratic system.

Because the ancient Greeks deemed freedom precious above all and were proud to be living as free men, they resisted the invasion by the superpower Persia, proclaiming “liberty or death.” The Persian War was like a war between a gigantic elephant and a mouse. Miraculously the ancient

Greeks beat back the Persian force and won the war. But for this historical event democracy would have been forgotten in human history and the Europeans would not have rediscovered democracy after the Renaissance.

The Need to Delineate Territory is Urgent

Many Hong Kong residents have escaped to foreign countries ever since the decision was made to return Hong Kong to China. Those who have decided to remain in Hong Kong are in mortal fear of Hong Kong's reversion to China. When asked "what are you afraid of?" Hong Kong residents answer in unison "we worry about losing our freedom." If the ancient Greeks had heard such a story, they would have been surprised and said: "So you thought you have had freedom till now? Have you been making by yourselves the laws of Hong Kong, which you must obey? Haven't such laws been drafted by England and the governor? You were not even involved in the return of Hong Kong to China, an event which would control your fate. You people have been slaves of Great Britain. What you fear is actually not a loss of freedom, but your transfer from a lenient master to a cruel master."

The example of Hong Kong shows vividly that the individual's right of self-determination cannot be preserved when a people does not possess the right of self-determination as a group. The Taiwanese people have been suffering for 400 years because they have always been ruled by alien powers and have not been able to have the right of self-determination. Until very recently the Taiwanese people were slaves of emperors named Chiang Kaishek and Chiang Chingkuo. But not anymore. The laws and policies of Taiwan are now being determined by officials chosen in free elections. By their own blood and sweat over the last several decades, the Taiwanese people have won the right of self-determination and are now free.

If the Taiwanese people want to continue living as free men then they must protect and further develop the hard-won right of self-determination.

The greatest tasks facing Taiwan today are to be officially recognized as an independent state equal to other countries of the world and to be admitted to the international community.

The international community makes agreements in various fields based on national units. That is to say, a group's rights of self-determination are exercised in the international community with nations as component units.

If a country is unable to participate in an international agreement affecting its interests, that country is not free and it does not possess a full right of self-determination. Such a country is not a full-fledged independent state with perfect sovereignty even if it is an independent entity.

This is exactly the case with Taiwan: Taiwan has achieved economic prosperity and has succeeded in democratizing its polity. So why is Taiwan denied participation in the international community as a full-fledged independent state?

Because Taiwan's national sovereignty is imperfect. The reason is immediately clear when one looks at the map of the Republic of China. It includes the territory of the People's Republic of China and that of the Mongolian nation. To be recognized as a sovereign state, an indispensable

precondition is that the government effectively rules the country. It is a basic principle of international law that a country which does not govern at least the main part of its national territory will not be recognized as a sovereign state.

In the international community, recognition of the right to independence and the right to equality is predicated on recognition as a sovereign state. The right to independence is the right to be recognized as a full-fledged independent nation, eligible to join the international community as such. The right to equality is the right to be treated as an equal independent state regardless of the size of the country.

The Kuomintang regime demands the recognition of the rights to independence and equality for the Republic of China (ROC) and admission to the United Nations and other international organizations since ROC is a sovereign state. But the ROC government does not rule any part of the Chinese mainland. The Republic of China governs only a small part of its official territory. It is logical that the international community does not recognize ROC as a sovereign state since it effectively controls only a small part of the country.

The ROC regime blames China for its inability to join the international community. But this is merely an excuse.

The international community is not so devoid of common sense that it will keep ignoring a basic principle of international law. Once Taiwan meets sufficient conditions of a sovereign state under international law, the international community will accept Taiwan.

It is the ROC regime itself which is excluding Taiwan from the international community. Witness the August 1992 resolution of National Unification Committee, Office of the President: "The sovereignty of the Republic of China extends to all of the Chinese mainland." This is tantamount to proclaiming to the world "the Republic of China is not a sovereign state." To be accepted into the international community, Taiwan needs to discard such nonsensical fiction. Haven't the leaders of the KMT regime been emphasizing "the Republic of China in Taiwan" recently? What's needed is to stipulate this in law.

The Republic of China will fully satisfy the prerequisite of a sovereign state by legally stipulating that "the territory of the Republic of China is the region presently being governed by the government of the Republic of China."

Even then the name Republic of China will obstruct its admission to the international community since it includes the word China. This is because most nations of the world have declared "non-recognition of two Chinas." But this problem can be solved by merely changing the country's name. There wasn't any problem with the international community when Ceylon changed its name to Sri Lanka or when Burma became Myanmar.

What is important is the establishment of territory based on reality. If that is done, the international community will most likely be inclined to accept Taiwan with the condition that its state name be changed. At that time few people in Taiwan will say "to preserve the name of the state we would rather forfeit admission to the international community."

The problem of assuring Taiwan's security will be virtually solved once Taiwan is admitted into the international community as an independent nation, a peer of the countries of the world, because unilateral use of force against a nation, which is recognized as an independent state by the

international community, is an act of aggression subject to condemnation and sanction by the international community.

The people of Taiwan have won the right of self-determination through their own efforts, but Taiwan does not yet have the right of self-determination as a full-fledged country. In order for Taiwan to win the right of self-determination as a nation equal to other countries of the world, the right of self-determination possessed by each individual resident of Taiwan must be exercised wisely.

At present, the most essential task for Taiwan is to establish a territorial boundary which conforms to reality as soon as possible. It is most important for the people of Taiwan to pool their strengths and make every effort to that end.