

Toward the Establishment of a Fundamental Doctrine of Human Rights

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1. HUMAN RIGHTS AS THE KEY CONCEPT

The latest trends of our age seem to indicate an increasing emphasis on respect for and protection of human rights, which are in my opinion the most crucial issues in this decade preceding the dawning of the 21st century. This shows that people are yearning for a new age of humanism.

In June 1991, Apartheid was abolished. This is certainly a decisive victory in the fight for human rights. But we should also be aware that this doesn't necessarily mean that circumstances for human rights, from the global point of view, have been completely improved. There are still many problems concerning human rights which need to be solved on our planet, and the victory in South Africa is only the starting point of the "Age of Human Rights."

When we take a look at the dramatic events that shook the world in 1989 and 1990, we can see a characteristic trend clearly emerging. Revolutions in Eastern Europe, racial disturbances in the Soviet Union, the fall of the Berlin Wall and the unification of Germany, nuclear disarmament treaties between East and West, the World Summit Conference on economic matters, etc. . . . Those events reflect the people's objection to, or rather rejection of the political and military confrontations which have characterized the international

society since World War II. In other words, people regard such confrontations as meaningless, and they are yearning for an economically and culturally stable existence. Indeed, those reformations are the materialization of the sincere cry of the people for a more human life.

Since the late 1980's, many factors have been on the rise, which hinder the improvement of human rights. These include environmental destruction, economic gaps, poverty and injustice, and the threat of nuclear war. "Structural violence", as Johan Galtung advocates, is prevailing among human beings, regardless of the economic status of countries and classes. In that sense, it is clear that immediate solutions to the problems of human rights are required.

By the way, how have the problems of human rights been dealt with since World War II? We may identify two points. First, human rights in the fifties, sixties and seventies were used merely as a means for justifying ideologies, and second, human rights have easily been violated under the name of peace and development since the onset of the 1980's. Referring to those two points, I would like to show what is the main problem in the basic attitude toward human rights.

(1) Human Rights as a Purpose

After World War II, the international society was faced with the "Cold War" dividing the United States and the Soviet Union, each camp claiming that its own political and economic system was absolute. Other ideologies were totally excluded, and this was actually a structural oppression of human rights. This is only one example showing how human rights have been a means for ideologies and political systems until the 1970's. But human rights should always be the main purpose of any endeavor. That is why the idea of "human rights as a purpose" is essential.

(2) Peace and Development for Human Rights

In the 1980's, the threat of nuclear war and the economic gap between North and South became the central issues among nations. The theme of peace, development and human rights was often used in the context of international society. The theme itself is quite important, and we should strive for its actualization as we advance toward the 21st century.

But there is one point we should pay attention to. Peace, development and human rights should not be dealt with equally nor individually. What I mean is that human rights should be given top priority. If "peace" comes first, the expansion of armaments will be possible under the name of peace, and assistance to the third world might turn into a means to win the arms race. Ultimately, "peace" could be a cause for threatening or hindering human rights.

And if "development" is considered our final purpose, it often leads to environmental destruction, or to some "development-oriented" political system such as authoritarianism of development. It is well known that sudden modernization in the third world sometimes destroys people's social life and causes them to lose their own identity as well. That is why we should also be aware of the fact that random development causes critical violations of human rights.

To sum up, I do not believe that peace, development and human rights should be given equal attention: I hope it is now clear that human rights should be given the absolute priority. Peace and development must carry the idea of human rights. This reminds me of those three words which symbolize the spirit of the French Revolution: "liberty", "equality" and "fraternity". In fact, those three words should not have been emphasized equally, but "fraternity" should have been fundamental. During the French Revolution, however, "liberty" and "equality" preceded "fraternity".¹⁾ If we agree that politics and society after the French Revolution were not stable and did not meet people's expectations, it is mostly because the value of "fraternity" was

neglected. Similarly, among “peace”, “development” and “human rights”, “human rights” should be fundamental.²⁾

2. THIRD GENERATION OF HUMAN RIGHTS

Needless to say, human rights are the inherent rights which every human being naturally possesses. No one can violate them. They are truly natural rights. Today’s political and social systems have been formed in order to find better means to protect human rights. Karel Vasak, formerly Director of the UNESCO Division of Human Rights and Peace, provides an up-to-date description of the problems of human rights in his address: “For the Third Generation of Human Rights” “Pour les droits de l’homme de la troisième génération.”³⁾ Some have said that his doctrine on human rights reflects the straight demands from the third world countries which became independent from the industrialized nations after World War II. A quite original and modern concept of human rights is also developed: he advocates a new type of thought on human rights, such as is demanded by the people on a global level, referring to recent transitions in the idea of human rights.

In the address, the transition is explained as follows:

“The first generation of human rights.” Those human rights were established at the end of 18th century as a universal principle, which secures legal and political freedom. Anyone is entitled to be attributed those rights, so they are also called “attributed rights” (droits attributs). Those rights have mainly been obtained from the state by opposing it. That is to say, they were directed at the protection of the basic civil rights of the individual vis-a-vis the authority of the state.

“The second generation of human rights.” We can see examples in the Mexican Revolution and especially in the Russian Revolution at the beginning

of the 20th century. Those rights aim at economic, social, and cultural equality, the provision of which can be required from the State. We also call them "the rights of requirement".

Both generations of rights have their origin in Western rationalism and have been formed in relation to sovereign states or nation states. In other words, human rights were only protected legally, organically, economically, and physically within the framework of the sovereign state. The political history of Western Europe during the past one hundred years can be seen as the process of the birth and development of the sovereign states. It is natural that the idea of human rights was also influenced by the definition of the sovereign states.

But in the end of the 20th century, the definition and function of the sovereign states have gradually been changed and the sovereign states have developed much closer relationships with each other, to such a degree that we now speak of the "international society". As a result, concepts of human rights which were prevalent during the above-mentioned "first and second generations" are no longer valid. For example, problems such as economic differences between nations, poverty, population increase, food shortage, environmental destruction and the threat of nuclear war are rampant today. Old ideas about human rights did not take those problems into account, and therefore a "third generation of human rights" can now be perceived.

Vasak calls the old idea "the classic human rights", then he lays stress on the fact that human rights are not a static concept nor a universal value but a value we dynamically attain. That is why he has developed the concept of "the third generation of human rights", which is composed of the following five rights: first, the right to development (*droit au développement*); second, the right to peace (*droit à la paix*); third, the right to a clean environment (*droit à l'environnement*); fourth, the right to ownership of the common heritage of mankind (*droit de propriété sur le patrimoine commun de*

l'humanité). And finally, the right to communicate (droit de communiquer).

These five rights had never been classified as human rights. Vasak claims that these are quite new rights which can oppose the authority of the states, and at the same time one can require these rights from the states. But these rights cannot be attained unless all the actors in the social arena such as individuals, states, official and private organizations as well as the international society participate with the spirit of solidarity. Therefore, the rights to solidarity (droits de solidarité) are based on these five rights. Considering the current global problems which threaten the human right to live (such as wars, environmental problems, food shortage and population increase), it is obvious that all the actors should cooperate and unite in order to protect human rights.

3. EVALUATION OF THE DOCTRINE "THIRD GENERATION OF HUMAN RIGHTS"

"The third generation of human rights" could be a highly valuable concept in the sense that it provides a new point of view which conforms to the needs of the new age. But of course there are criticisms of that idea being presented, which I show as follows:

First, who are the people entitled to (titulaire) those human rights? Are they individuals or groups? In that sense, the concept of opposability (opposabilité) is also unclear. To whom should we oppose and from whom should we require these rights? Are "titulaire" and the "opposabilité" identical?⁴⁾

Secondly, even "the first and second generation of human rights" do not seem to have already been realized. Besides, there is also a doubt that if we label "the third generation of human rights" (a concept which is ambiguous and merely desired) as "rights", the definition of human rights would be inflated and as a result, the importance of human rights would become rather

diluted.

The counterarguments against the above-mentioned criticisms have been justly expressed and I will mention them here, if only briefly. The first argument is that the first and second generations of human rights (the so-called classical idea) were also merely a desire and their "opposabilité" was ambiguous too, when they first appeared. In later years, they have gradually been defined. Certainly, "the third generation of human rights" are, at this stage, only a type of declaration, but they are nevertheless human rights in the making.

The second argument is that "the third generation of human rights" will not dilute the definition of human rights but rather refine and systematize it, referring to the developmental processes of human rights seen from the historical point of view.

Here I will present two points which indicate how "the third generation of human rights" relate to important matters in modern society.

First of all, they include "the right to solidarity". The classical human rights of the first and second generation mainly deal with individual rights, whereas the third generation of human rights, while still dealing with individual rights, emphasize the rights of groups or organizations. Since to exercise one's rights in society means to relate to others unless one leads an isolated existence, the aspect of rights for groups is necessary. It is important that "the third generation of human rights," in the complicated human society and also in the international society which is getting more and more interdependent, claim that the essence of human rights does not merely mean "freedom for individuals", but also "freedom of relationships".

Secondly, "the right to development" to which Vasak refers means partly the economical development of the state and partly, Vasak adds, the development of people's personal potential. In other words, to protect human rights

is to secure the opportunity for self-fulfilment.⁵⁾ To create political, economic, cultural and social conditions which enable us to use our abilities satisfactorily is, in fact, to secure "the right to development." It protects human rights in the true sense of the word.⁶⁾

Thus the third generation of human rights calls for human rights to be considered as they ought to be, from the global standpoint—beyond the framework of individuals and states—and also from the standpoint of the development of one's personal potential, which was not included in the old conception of human rights. But the third generation of human rights still concentrates also on the analysis of the surface of human rights, and the imminent aspects of human rights have not been fully delved into yet. In other words, the third generation of human rights does not deal with what the basic index for determining what makes human rights meaningful is nor does it deal with how we should understand the essence of human rights. How do we understand human nature and human life? This should be the central issue in discussing human rights, if we are to make human rights more universal and systematic. Indeed, that question is the common idea underlying all kinds of human rights. In that sense, I would like to introduce the Buddhist view of life and human beings here, which is to be of help toward the clarification of the basic idea of human rights.

To state my conclusion first, I would like to suggest that the Buddhist view on life and human beings can make a great contribution to the establishment of the fundamental doctrine of human rights. In other words, I believe that Buddhist thought can provide us with an excellent means to investigate and analyze the latest problems concerning human rights.

4. THE BUDDHIST VIEW ON HUMAN RIGHTS

Buddhist thought has formed a magnificent view of human beings and life. It also seems to be applicable to the fundamental doctrine of modern human rights. I will briefly consider that point from five different angles.

(1) The dignity of life

Buddhism explains that all humans possess the Buddha nature. The Buddha nature is the Buddha's life, meaning a life of the highest value. The Buddha does not mean some special existence which is far away from human beings, but the value of the greatest treasure which everyone has within his or her own life. Therefore, the life of human beings should be respected to the greatest extent, and the value of life itself is the most important. Fundamental to human rights is the dignity of human life.

(2) Equality

That everyone has the Buddha nature within their own life means that we are all equal. Human beings should be equally respected regardless of race, nationality, sex and social status. It is Buddhism that claims absolute equality for all people. There is a Buddhist expression that "the inherent dignity of one person serves as an example of all." This means that all human beings should be regarded as equal. A thorough search into the depth of life itself leads one to realize the absolute equality and sanctity of all human beings. In short, it explains the principle of "inner universalism."⁷⁾ Because of "inner universalism," all the people are universally equal regardless of race, nationality, sex or class. The idea of equality is the nucleus of human rights.

(3) Nonviolence

Since Buddhism emphasizes the dignity of life in all people, it is naturally related to the idea of nonviolence. In the Lotus Sutra, there appears the term "Jofukyo Budhisattva" which means "to never despise". Even when proud and boastful people denounced the bodhisattva, struck him with their staffs, and pelted him with stones, he still refused to despise them, believing that to belittle them would be to belittle the Buddha. In other words, "Jofukyo" means to respect human beings and their lives as the highest value. People persecuted Jofukyo with every kind of violence but Jofukyo's belief that all people have the Buddha nature was unshakable, and he never despised others. It demonstrates an attitude toward the dignity of life based on faith in nonviolence. The Buddhist spirit is to fight against violence with faith in nonviolence and without compromise. To respect human rights is to exclude violence absolutely.

(4) Self-Restraint.

Another Buddhist concept is the idea of "engi". "En" means relation or connection, and in Buddhist thought, all phenomena are caused by "en." All phenomena such as social or natural phenomena are related to each other, and moreover, are related to the life of the cosmos. The Buddhist view on life is in fact that human beings, nature, the environment and the cosmos exist in harmony as a total system. "En" is also divided into "jun-en" and "gyaku-en." Jun-en is a peaceful, friendly relation and gyaku-en is a hostile relation. Buddhism explains both relations as "en." That is to say that whether it is peaceful or hostile, en is en, nothing else. Therefore a hostile relation in the present stage will not last forever, but it can change into a peaceful and friendly one in the future. Consequently, the present confrontation is understood to be only the process toward relations of a higher level. In a more

profound sense, it teaches that it is necessary to perceive the positive as well as the negative in others, and to perceive both the positive and negative sides in oneself. Taking the Buddhist perspective then allows one to see oneself objectively and avoid self-righteousness, which unilaterally regards others as the negative and oneself as the positive. In Buddhism, there is no fixed concept of the duality of good and evil, which we encounter in Western philosophy. Everything is understood through the idea of coexistence. A multiple, pluralistic, fluid, progressive and total view, not a monolithic one, will be necessary for the future of human rights.

(5) Self-fulfilment.

There is also the Buddhist principle of “kai-ji-go-nyu” which means to teach that all people are equally entitled to develop their own potential and personality to the utmost. It means not only to teach this principle, but also to help everyone realize that fact, and moreover help everyone to use their abilities. In other words, it is self-fulfilment. Buddhism teaches both that life deserves the highest respect and that the real dignity of life is realized only when the conditions necessary for everyone to live a human life are satisfied. Buddhism is the practical principle which helps human beings to become most human. Lost identities can be regained, too. Respect for human rights is not just a slogan but a value principle which must be actualized.

These are five characteristics of the Buddhist view of life and human beings. Each is an important condition to help human beings to be truly human. The Buddhist way of understanding human beings fully takes into account the relationships between human beings, and moreover it says that human beings, nature and the cosmos (universe) are closely linked together. It might be necessary to establish these ideas on human beings and life as the foundation of human rights in order to establish the universal principle of human rights,

and to spread this principle in our global society.

5. FOR THE SPIRITUAL UPLIFTING OF THE RESPECT FOR HUMAN RIGHTS

Finally, I would like to suggest some measures which might be implemented in order to spread the idea of respect for human rights, and establish it in the international society.

First, to establish a “Universal Charter of Human Rights” (tentative name). Needless to say, there is already a “Universal Declaration of Human Rights” and “International Covenants of Human Rights” to protect human rights, and they are of deep significance. These Declaration and Covenants include only the first and second generation of human rights, but the viewpoint of the third generation of human rights is not included yet. They also fail to address the role of NGOs, the threat posed by nuclear weapons and environmental destruction. That is why I suggest establishing a “Universal Charter of Human Rights” to protect all the people from the global threats which I have described in this paper.⁸⁾

Second, to hold a “United Nations Special Session on Human Rights”. In the 1980’s, a series of UN Special Session on Disarmament (SSD) were held and the fact that they functioned, to a certain degree, as a brake on the arms race between the United States and the Soviet Union is fresh in our memory. Similarly, I would like to suggest holding a Special Session on Human Rights and promoting a campaign for the protection of human rights. And to make the campaign lasting, I also suggest that the Session resolve to take the following measures.

- i The establishment of a “UN Conference on the Security of Human Rights.”

- ii The preparation of an educational text on human rights.
- iii The establishment of the Memorial Museum for Human Rights and the holding of exhibitions.
- iv The establishment of a "Computer Network Center" for the Protection of Human Rights.

Third, the establishment of a "Human Rights Protection Fund." It takes an enormous amount of money to protect and campaign for human rights. Of course domestic matters should be solved by individual countries, but there are also many problems which should be solved internationally. I propose the establishment of the above-mentioned fund as the means providing economic support for human rights. For example, the United Nations might assess a certain amount of money from each of its member nations in accordance with the size of their respective GNP. Especially it is desirable that armaments and defense expenditures be reduced so that the amount saved might be invested in the fund.

Fourth, the establishment of regional organizations for the security of human rights. Certainly, protection of human rights by a global organization such as the United Nations is essential, but at the same time we should not fail to notice the importance of creating campaigns at the regional or local levels. A carefully thought-out campaign for human rights conforming to each regional circumstance might be conducted by establishing organizations for the security of international human rights regionally, by continent, for example. These organizations might exert a great influence. For these reasons, it is highly regrettable that the Treaty on Asian Human Rights has not yet been concluded. Let us entertain the greatest hopes for the earliest conclusion of such a treaty.

Notes

- 1) Michel Baroin, *La Force de L'Amour*. (Paris, EDITIONS ODILE JACOB, 1987).
- 2) Yosikazu Sakamoto, Professor of Meiji Gakuin University, also points out this problem. See Y. Sakamoto, *Tikyū Zidai no Kokusai Seizi* (Tokyo, Iwanami Syoten, 1990), 241–265.
- 3) Philip Alston, "A third generation of solidarity rights: progressive development or obfuscation of international human rights law? ", 29 Netherlands *International Law Review*, p. 309.
 Opening address of Karel Vasak at the tenth annual Study Conference of the Strasburg International Human Rights Research Institute.
 Pour les droits de l'homme de la troisième génération: les droits de solidarité.
- 4) For example, Dominique Rousseau, professor of Montpellier University, criticized this idea. As for it, see "Les droits de l'homme de la troisième génération, Droit constitutionnel et droits de l'homme", *Economica*, 1989, p. 125 ets.
- 5) Johan Galtung pointed out this concept.
- 6) In 1986, the General Assembly of the United Nations accepted the Right to Development as a human right, and it adopted Declaration on the Right to Development. But there are many criticism of the Right to Development. The main point of critics is that the Right to Development is not legal right in the strict meaning. However we can say that the Right to Development is Development as an Emerging Human Rights.
- 7) As for this point, refer to the PROPOSALS of SGI President Daisaku Ikeda, *Seikyo News Paper*, Japan, January 26, 1989.
- 8) Cf. Tabata Sigegirou, *Kokusaika zidai no zinken mondai* (Tokyo, Iwanami Syoten, 1988).

Referneces

- Buddhism and Leadership For Peace, (Tokyo, Soka University Peace Research Institute, 1986).
- Johan Galtung, *Buddhism: A quest for Unity and Peace*, (Tokyo, The Institute of Oriental Philosophy, 1990).
- Tadashige Takamura, *Heiwa no sozo to syukyo (Peace building and religion)*, (Tokyo, Dai San Bunmei Sya, 1986).