

## Human rights situation in Asia and controversy on human rights in Asia

### Outline of today:

The human rights situation in Southeast Asian countries changed radically around 1990s. Until 1990s, most Southeast Asian regimes are authoritarian or one-party systems. Under these regimes, governments strictly restrict people's rights, especially political and civil rights. Indeed, there have been a lot of case of serious human rights violation against political opponents, such as arbitrary arrest, lengthy detention without trial, torture, involuntary disappearance, murder, and even massacre. International society, such as the United Nations and Western countries criticized Southeast Asian governments for human rights violation in their countries. However, those governments, especially Singapore, Malaysia and Indonesia that achieved a rapid economic growth, refute such criticism and insist that Western countries should refrain from intervention to domestic human rights because those are internal issues.

Lecture today will examine discourses in this controversy over human rights in Asia, and then will overview new approaches for current human rights issues.

### Points of today:

1. What are the controversy of "Asian human rights" or "non-Western human rights", and how extent those claims have legitimate reason?
2. Whether do "Asian human rights" discourses still have a relevancy to contemporary world situation, and how, if any, extent?

### 1. Background

1989 June: Tiananmen Square Incident in PRC

1991 November : Santa Cruz (Dili) Massacre in East Timor, Indonesia

1993 March : The Regional Meeting for Asia of the World Conference on Human Rights

1993 June : World Conference on Human Rights in Vienna

### 2. Typology of "human rights" controversy

#### (1) Cultural discourses

- A. Particularism ("Western" versus "Asian")→particularity of Europe as well as Asia
- B. Relativism (Universalism versus Relativism)→great diversity among states
- C. Communitarianism (community interest versus individual interest)
- D. "Wise leader" discourse (privileges versus entitlements)

*ex.* Indonesian "*Pancasila*" ideology and *integraliststaat* concept --> State as family, Integrity of ruler and the ruled, harmonious life ... (analogy from traditional village, as well as Nazis and Japanese Imperialism, *Organic State*)

#### (2) Economic discourses

Right to subsistent (human rights and development) --> authoritarian developmentalism

#### (3) Security discourses

Fragile state, threat either of communism or counterrevolution, secessionist insurgency...

#### (4) historical discourses

sin of the West:

- A. history of invasion -- slave trafficking, colonialism, neo-colonialism (dependency theory)
- B. history of their own human rights violation -- terror after French Revolution, child labor in the industrial revolution, oppression against labor union,...

*cf.* PRC's white paper on human rights "Human Rights in China" (1991):

Chapter 1 "The Right to Subsistence--The Foremost Human Right The Chinese People Long Fight for"  
 Preface: "Under long years of oppression by the "three big mountains" -- imperialism, feudalism and bureaucrat-capitalism -- people in old China did not have any human rights to speak of."

### 3. Contemporary discourses about human rights

#### (1) Universalist approach

-rigorous conditionality for human rights  
 -"thick" concept of the rule of law (human rights and liberal democracy as elements of the rule of law)

#### (2) "put-aside-the-issue" approach

-"thin" concept of the rule of law --> "formal or institutional aspects of rule of law"  
 (see: Randall Peerenboom, "Varieties of Rule of Law: An introduction and provisional conclusion", in Randall Peerenboom ed., Asian Discourse of Rule of Law: Theories and implementation of rule of law in twelve Asian countries, France and the U.S., Routledge, 2004, pp.1-55.)

-PRSP (poverty reduction strategic paper)  
 -partnership among government, civil society and aid agencies  
 (see Uvin, Peter, Human Rights and Development, Kumarian, 2004)  
 --> put the priority on the dialogue between donors and recipients

#### (3) "freedom-as-development" approach

-integrating political rights and economic social rights  
 "right to rice" --> If we do not have right to say about the quality of rice, we do not have right to rice.  
 (Prof. Vitit Muntarbhorn at the human rights law seminar in Strasburg, France)  
 capability approach --> Freedom (including "political participation") is an element to extend capability.  
 right and poverty reduction -->protecting right to identity (legal recognition as citizen, property owner, labor, entrepreneur) and right to voice (access to information, education and organization)

#### Ref.

Sen, Amartya, Development as Freedom, Anchor, 2000.  
 De Soto, Hernando, The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else, Basic Books, 2000.  
 Commission on Legal Empowerment of the Poor, Making Law Work for Everyone: Volume I Report of the Commission on Legal Empowerment for the Poor, UNDP, 2008.

	Ecosoc	Civpol	Women	Child	Discrimination	Torture
インドネシア	A:2006.2.23	A:2006.2.23	R:1984.9.13	R:1990.9.5	A.1999.6.25	R:1998.10.28
カンボジア	R:1992.5.26	R:1992.5.26	R:1992.10.15	A:1992.10.15	R.1983.11.28	A:1992.10.15
シンガポール			A:1995.10.5	A:1995.10.5		
タイ	A:1999.9.5	A:1996.10.29	A:1985.8.9	A:1992.3.27	A:2003.1.28	A.2007.10.2
フィリピン	R:1974.6.7	R:1986.10.23	R:1981.8.5	R:1990.8.21	R.1967.9.15	A:1986.6.18
ブルネイ			A:2006.5.24	A:1995.12.27		
ベトナム	A:1982.9.24	A:1982.9.24	R:1982.2.17	R:1990.2.28	A.1982.6.9	
マレーシア			A:1995.7.5	A:1995.2.17		
ミャンマー			A:1997.7.22	A:1991.7.15		
ラオス	R:2007.2.13		R:1981.8.14	A:1991.5.8	A.1974.2.22	
東ティモール	A:2003.4.16	A:2003.9.18	A:2003.4.16	A:2003.4.16	A:2003.4.16	A:2003.4.16
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