

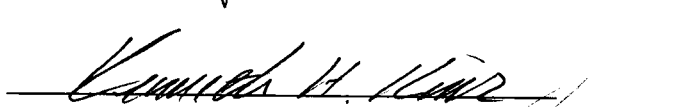
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Associate Vice Chancellor and
Dean of The Graduate School

**ASIAN PERSPECTIVES ON HUMAN RIGHTS AND TRADE-OFF
THESIS: FOCUS ON SOUTH KOREA**

**A Dissertation
Presented for the
Doctor of Philosophy
Degree
The University of Tennessee, Knoxville**

**Young-Sun Chung
August 1999**

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DEDICATION

**This dissertation is dedicated to those
who have suffered from human rights violations during
the democratic transition in South Korea.**

ACKNOWLEDGMENTS

There are many people to whom I am grateful for making my study so fruitful. Special appreciation first goes to the members of my dissertation committee. Professor Robert Peterson, my major advisor, has provided invaluable guidance and helped me in various ways to complete the Ph. D. program at the University of Tennessee, Knoxville. He richly deserves my most sincere thanks, especially, for his guidance and patience in reading my dissertation and other studies. My gratitude is also extended to the other committee members, Dr. Robert Gorman, Dr. Jeffrey Berejikian, Dr. Patricia Freeland, and Dr. Kenneth Kim, for their comments and assistance. Their generous support and invaluable comments were indispensable to the completion of this dissertation.

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ABSTRACT

The primary objective of this study is to elucidate the nature of the Asian concept of human rights and to examine the interrelation between the process of economic growth and contingent human rights policies, using South Korea as a case study.

In the aftermath of the Cold War, several East Asian states in particular mounted a “challenge” to Western beliefs about human rights. Based on a successful economic growth and on the Confucian logic inherent in their tradition, East Asian states sought to redefine the concepts of human rights by questioning the applicability of universal human rights in different cultural, economic and socio-political settings.

Such an Asian concept of human rights has been supported for decades by several East Asian authoritarian leaders including those of Singapore, China, Indonesia, Malaysia, and the former ones of South Korea. In its most basic version, this “special” concept holds that economic development has to precede the full flowering of political and civil rights; that East Asians place greater value on the harmony of the community than on individual freedoms; and that individual states should be able to interpret international standards on human rights in accordance with their history, culture, political system, and level of economic development. These arguments are often labeled “soft authoritarianism” or “Asian-style” democracy.

The logic of Asian style democracy has been used by Asian repressive states to support the trade-off proposition: that a certain degree of authoritarianism is necessary to make the hard political and economic decisions that produce a state’s spectacular growth, and that such growth will facilitate the promotion of human rights.

However, in recent decades the history of human rights in South Korea offers no promise or proof that civil and political rights will be extended to citizens upon the realization of economic development goals. Authoritarian leaders have justified their failure to respect human rights not only as a sacrifice necessary to ensure the successful development of their economic growth strategy, but also as essential for the maintenance of "law and order."

Basing itself on an understanding of Asian perspectives on human rights and on human rights practices characteristic of modern Korean history, this study concludes that if the economic growth of a country does not facilitate the realization of human rights after the country reaches a certain level of economic development, then various restrictions on human rights cannot be justified in the name of economic growth, and that human rights, a critical factor of desirable democracy, cannot be pushed aside until economic development is consolidated. In the same context, a country's economic policies should promote the rule of law and not the political interests of abusive governments.

TABLE OF CONTENTS

CHAPTER	PAGE
<u>I. INTRODUCTION.....</u>	1
1. Identifying the problem area	1
2. Significance of the study.....	4
3. Ongoing Debates on Human Rights – brief history.....	6
4. Outline of chapters.....	10
<u>II. THEORETICAL BACKGROUND</u>	14
1. Modernization and Economic Development.....	16
2. Democratic Transition and Trade-off Debates.....	18
3. Political Repression and Human Rights	22
4. Asian Values and Trade-off.....	26
<u>III. RESEARCH DESIGN AND METHOD.....</u>	32
1. Key Concepts and Definitions.....	32
2. Research Thesis.....	41
3. Methodological Framework and Data.....	43
<u>IV. EAST ASIAN CHALLENGE TO UNIVERSAL HUMAN RIGHTS.....</u>	50
1. The Expansion of the Universality of Human Rights and Relativism.....	50
2. Asian Perspectives and Challenge to the Universal Human Rights.....	54
3. Contrasts in Human Right Tradition in the West and East Asia	60
4. Priority of Rights and Morality Conflicts.....	63
5. Policy Implications – Is the Asian Perspective defensible?.....	67
<u>V. ECONOMIC DEVELOPMENT OF EAST ASIA AND HUMAN RIGHTS – TRADE-OFF</u>	75
1. The Stages of Economic Development and Trade-off.....	76
2. Trade-off: Economic Reality or Political Expediency?.....	83
3. Economic Development leads to Democracy?	88
4. Policy Implications	97

CHAPTER	PAGE
<u>VI. ECONOMIC GROWTH, THE RULE OF LAW, AND HUMAN RIGHTS – SOUTH KOREA</u>	101
1. The Korean Model: A Fabulous Notion.....	101
2. Economic Growth and Human Rights – Historical Overview.....	104
Early Modernization Stage (until the 1970s)	106
Human Rights in the Pre-Modernization Era (until 1960).....	107
Human Rights in the Modernization Era (1960-1979).....	109
The 5 th Republic and Human Rights (1980-1987).....	113
The 6 th Republic and Human Rights (1988-1992).....	120
The Civilian Government and Human Rights (1993-1997).....	125
Enforcing Human Rights: Economic Growth or Democracy?.....	129
3. The Rule of Law and Human Rights in South Korea	131
Anti-Communism Ideology and the Reliability of Domestic Laws ...	134
Antidemocratic Laws and Human Rights	136
Illegally Operating Government Agencies.....	140
Due Process and Human Rights Practices.....	142
The Rule of Law or the Security of Powers?.....	146
4. Economic Justice and Human Rights.....	149
Unemployment.....	150
Poverty and Income Inequality.....	152
Social Security and Welfare Expenditures.....	155
5. Policy Implications.....	157
<u>VII. SUMMARY AND CONCLUSION</u>	161
1. Assessment of Asian Values and the Trade-off Thesis	
--Policy Implications	161
2. For Future Study: Joining East and West	173
<u>BIBLIOGRAPHY</u>	179
VITA	205

LISTS OF TABLES

TABLE	PAGE
<u>3-1. Arrest, Detention, and Trials under the NSL in 1990 and 1991</u>	49
<u>5-1. Trends in Economic Development and Human Rights Indices in Selected Countries</u>	91
<u>5-2. Social Investments in Selected Countries</u>	95
<u>6-1. Selected Economic Indicators: The Early Modernization Stage (1963-1979)</u>	112
<u>6-2. Economic Indicators for the 5th Republic (1980-1987)</u>	116
<u>6-3. Cases of Indictments by Anti-Democratic Laws (1980-1987)</u>	117
<u>6-4. Economic Indicators for the 6th Republic (1988-1992)</u>	121
<u>6-5. Cases of Indictment by Anti-Democratic Laws (1988-1992)</u>	122
<u>6-6. Economic Indicators for the Civilian Government (1993-1997)</u>	126
<u>6-7. Cases of Indictment by Anti-Democratic Laws (1993-1996)</u>	128
<u>6-8. Trends of Cases of the Indictment by Anti-Democratic Laws (1980-1996)</u>	145
<u>6-9. Statistics for Those Indicted by Anti-Democratic Laws (1980-1996)</u>	145
<u>6-10. Comparison of Economic and Social Indicators (1980-1997)</u>	151
<u>6-11. Income Share and Poverty</u>	153
<u>6-12. Social Services on Central Government Expenditures in Selected Countries</u>	157
<u>7-1. Disputing Human Rights Agendas between the West and East Asia</u>	163

CHAPTER I

INTRODUCTION

1. Identifying the Problem Area

Human rights issues have come to the forefront of the international stage in the post-Cold War world. Many countries are cooperating with each other to maintain international order and peace through the protection and development of human rights. These countries have adopted collaboration and assistance as their rule and are seriously addressing the problem of human rights violations. Human rights are affirmed in the United Nations Charters in very general language, however, it is true that their operative reality was not specified, and their overall role in international political life was deemed marginal in the aftermath of World War II (Falk, 1998: 255). Nevertheless, today, most countries acknowledge the universality of human rights, and there is a tendency to strengthen denunciations and bilateral or multilateral sanctions against those countries which violate the Universal Declaration of Human Rights (henceforth, UDHR) and the other Covenants which was established by United Nations. Thus, we may say that respect for human rights is becoming the common ideology of the world (Choi, 1997: 3)

However, when we explore deeply into the human rights issue area, we confront several disputes and on-going debates. The most pronounced of these disputes is between the

Western countries, who have long argued for the universality of human rights in their literatures and practices, and the developing countries, who have more recently encountered the ideology of human rights and who are less likely to give it absolute priority, more likely to make it a secondary consideration to economic development. To take a specific example, in many East Asian developing countries, the pursuit of economic growth has led to the adoption of repressive developmental strategies for several decades. Authoritarian leaders of East Asia have continuously argued that temporary restrictions on human rights produce long-term economic benefits. This trade-off thesis, based on a “growth-first” strategy and a “security-first” policy, enjoys considerable popularity among authoritarian leaders anxious for economic development in their countries. Therefore, with the additional excuse of “keeping law and order,” repression has been justified by the governments in these areas. More interestingly, these Asian countries have argued for their own standard of human rights, namely “Asian Values,” and have justified the superiority of their “soft authoritarian” logic based on their rapid economic growth for several decades.

South Korea is not an exceptional case in this dispute about human rights issues and development strategies. Prolonged intensive conflict and confrontation between repressive governments and an oppositional civil society have characterized South Korea’s democratization history since 1980. In the 1960s and the 1970s, when South Korea was experiencing remarkable economic development, the democratic desire of the Korean people was relatively weak since the dominant goal of the Korean people was to climb out of abject poverty. When the military quelled the Kwangju civilian uprising in 1980 by arbitrary

massacring civilians, however, the Korean people started to realize that democracy was not merely an abstract ideal but an urgent goal that needed to be achieved simultaneously with economic well-being.

The relationship between human rights and the process of development remains one of the most recalcitrant aspects of economic and political inquiry. The conventional theory of economic growth argues that economic development leads inevitably to desired social goals such as greater distribution of benefits and equity. Occupying a conspicuous place in the human rights development debate, proponents of this theory have pointed to factors which promote human rights, namely, high GNP per capita, urbanization, modernization, and generally, Westernization. Accordingly, human rights development is expected to ride on the “coat tails” of these economic growth factors. Moreover, even the repressive regimes of East Asia are sometimes said to be justified in the denial of human rights if economic growth is enhanced, since such growth is expected to eventually lead to an economic climate that would naturally foster a regard for human rights.

However, the wholesale and uncritical acceptance of this central tenet of the conventional theory of economic growth leads to the empirically dangerous rationalization of socio-economic and political costs such as poverty, inequality, the absence of political participation and even considerable human rights violations. The purpose of this dissertation is both to evaluate Asian perspectives on human rights and to challenge the assumption that current human rights abuses against innocent citizens are warranted in the name of economic growth and the supposedly more favorable climate for human rights that it would bring.

Using South Korea as a case study, my analysis raises grave concerns over the legitimacy of trade-off policies as practiced in East Asian developing countries.

2. Significance of the Study

Clearly, the extensive and varying experiences of South Korea with regard to the effectiveness of repression or the lack thereof have given rise to numerous questions that are intimately linked to our problem area. The significance of this study lies not only in its empirical analysis of the linkage between human rights violations and economic growth in South Korea but also in its grappling with more fundamental and far-reaching considerations, such as the challenge posed to a universal notion of human rights by East Asia's claim to define such rights differently, the effect upon such rights of economic growth and the legitimacy of the trade-off thesis assertion that an improved human rights climate will follow on the heels of economic development. To elucidate these issues, the study will attempt to answer the following, and clearly related, questions:

First, are human rights universal? What are the main differences between Asian values and the notion of universal human rights? Are the Asian values defensible? How can we approach Asian values in terms of the trade-off thesis? Does the trade-off proposition adequately account for human rights practices including both civil-political rights and socio-economic and cultural rights in nature?

Second, what kind of approaches could explain the relationship between the trade-off thesis and the Korean human rights situations? How can we approach the leaders' claims that political repression is justified in South Korea? Are the leaders' human rights abuses defensible in the name of modernization and economic growth?

Third, do repressive developmental strategies enhance long-term human rights conditions in South Korea? Is economic development a sufficient condition for the amelioration of human rights? How much, if at all, do the fruits of economic growth improve human rights conditions?

Finally, can the trade-off thesis justify the sacrifice of human rights in any society? What if a government's more fundamental concerns lie not even with the economic prosperity of its people but with its own regime's security and legitimacy based on political expediency?

In answering these questions, my research will illuminate at least three points. First, it will discuss the extent to which the notion of universal human rights is reconsidered and debated in the discussion of Asian values. Second, it will search for empirical evidence concerning the extent to which the economic performance of South Korea is related to the existence or non-existence of repression. Finally, it will consider whether there can be a justifiable or explicable trade-off between development and human rights in South Korea.

To explore the issues discussed above, I will elucidate Asian perspectives on human rights and more specifically examine human rights practices in South Korea. To understand

Asian perspectives on human rights, it is necessary to review recent arguments raised by East Asian governments and also to explore the impact of Confucian ethics and East Asian tradition. To gain insight into Korean human rights practices, we need to study the relationship between restrictions on human rights and economic growth in South Korea. The South Korean case is interesting for this study because, in spite of authoritarian leaders' claims, economic development has not sufficiently enhanced human rights conditions.¹ In addition, South Korea has experienced three regime changes since 1980. Thus, we can examine how each regime's human rights policies have been affected by economic growth, and we can explore the contingency of repression, since each regime has claimed that some degree of repression was unavoidable.

3. Ongoing Debates on Human Rights – Brief History

Even though human rights concerns have a long history,² the concept of “human rights” has developed since the end of World War II and the founding of the United Nations

1. In the 1960s and 1970s, under the repressive regimes' growth-first strategies, South Korea experienced rapid economic growth. This rapid economic growth continued in the 1980s and 1990s. Although South Korea today is in economic crisis, it is now the eleventh economic power in the world. Ironically, however, in terms of human rights, South Korea remains an abusive country. As we can see in Charles Humana's study (1982 & 1992), the human rights ratings of South Korea (1982: 51%; 1992: 59%) are still below the world average (1982: 64%; 1992: 62%).

2. Historically, the term “human rights” has replaced earlier expressions such as “natural rights” in classical Greek and Roman thought, “natural law” and the “law of nations” in Roman and medieval era, and the “laws of nature” and the “rights of man” coined at the time of the French and American revolutions. Walters, 1995: 1-2.

in 1945. Until World War II, most legal scholars and governments affirmed the general principle that international law did not inhibit the right of sovereign states to oppress their own subjects. Citizens subject to summary execution, torture, arbitrary arrest, and detention had no legal standing in international law unless the victims were citizens of another state. International law recognized only the rights belonging to the government of such citizens. All this would change, at least in theory, with the inauguration of the United Nations Charter on June 26, 1948 in San Francisco, and with the adoption of the UDHR by the United Nations' General Assembly on December 10, 1948. There has been a continuous effort to create a consistent standard for human rights through several instruments: the International Covenant on Economic, Social, and Cultural Rights (1966), the International Covenant on Civil and Political Rights (1966), and the Vienna Declaration of Human Rights (1993).

Since the advent of the UDHR, human rights have been generally viewed as universal, international, and unconditioned by race, sex, religion, social position, and nationality. As David P. Forsythe (1991) notes, "if one has a human right, in every society, one is entitled to make a fundamental claim that an authority, or some other part of society, refrain from doing –something that affects significantly one's human dignity"(1). That is, generally speaking, human rights claim that "every human being, in every society, is entitled to have basic autonomy and freedoms respected and basic needs satisfied"(Henkin, 1981: 7).

Human rights scholars (Montgomery, 1986; Vasak, 1982) speak of three "generations" of human rights within the international context. The first generation of human rights, as embodied in the United Nations' International Covenant on Civil and Political

Rights (ICCPR), which was opened for signature in 1966 and came into force in 1976, seeks to protect the civil and political rights of individuals against encroachment by the state. These are rights, including those to noninterference, liberties, and immunities, grew out of Enlightenment social contract theories. These first generation rights are located firmly in Western notions of justice. Specifically, states undertake to respect and ensure the right to life and personal integrity, due process of law and a humane penal system, freedom to travel within as well as outside one's country; the freedom of expression, religion, and conscience; participation in government and free elections; the rights to marry and found a family; and the right to equality and freedom from discrimination. Also, states must recognize the cultural and linguistic rights of minority groups.

The second generation of human rights is embodied in the United Nations' International Covenant on Economic, Social, and Cultural Rights (ICESCR), which was opened for signature in 1966 and came into force in 1976. Under this covenant, the designated rights include the rights to work, the right to enjoy just and favorable conditions of work, the right to join trade unions, the right to obtain social security, the right to be assured of protection for the family, including mothers and children and young persons, the right to be "free from hunger," the right to have an adequate standard of living (including food, clothing, and housing), the right to enjoy a continuous improvement of living conditions, the right to highest attainable standards of physical and mental health, and the right to be educated and integrated into cultural life.

The third generation of human rights, the most controversial of international human

rights, involves “solidarity” among developing states in particular and among states in general. These rights are said to be collective rather than individual, and they include “peoples’ rights” to development, to a healthy environment, the right to peace, to the sharing of a common heritage, and to humanitarian assistance (Welch & Meltzer, 1984: 26). However, the notion of peoples’ rights has been criticized since some human rights scholars find social stratification and the consolidation of political and economic power in the hands of a small ruling class – rather than Western imperialism – to be the most enduring form of human rights abuses (Howard, 1986).

The gap between international law theory and domestic human rights practice is still very wide. In the 1990s, a new discourse on human rights may be emerging in the East Asian region, currently the fastest growing part of the world. Senior Asian officials, such as Lee Kuan Yew of Singapore and Prime Minister Mohamad Mahathir of Malaysia, have made their position on human rights clear by arguing for their own concept of such rights, a concept that has been dubbed “Asian values.”

This attempt at redefinition of the concept of human rights is motivated in part by distrust on the part of some in the East of the Western version, which they view as a mixture of cultural imperialism, rampant moralism, and political selectivity. However, those in the East would be advised to acknowledge that the concepts of natural rights, the rights of man, and human rights, though Western in origin, are for that no less universally appropriable and at time analogous to traditions in non-Western cultures which support human dignity, equality and justice. Those in the West, however, would be likewise well advised to seriously

consider East Asian viewpoints on human rights, especially in light of the growing economic and military might of East Asian countries. The alternative – efforts to promote human rights that do not seriously engage East Asian perspectives on these issues – risks widening misunderstandings and setting the stage for hostilities that otherwise could be avoided (Bell, 1996).

4. Outline of the Chapters

The second chapter of this study will be devoted to a survey of the literature in an attempt to identify and better understand other explanations of the topic of human rights and economic development. First of all, I will discuss the relationship between modernization and economic development and then examine how democratic transition impacts on human rights concerns. Then, current debates on the trade-off thesis with regard to political repression and human rights violations will be broadly discussed. To understand the “special” situation of human rights in East Asian states and South Korea, debates on Asian Values also will be included. In each part, the gaps and shortcomings in theorizing on this topic will be identified. In the Third chapters, the key concepts, thesis, and methodological framework of the study will be laid out.

Chapter four attempts to go beyond the rhetoric that has dogged the human rights debates and to identify relatively persuasive East Asian criticisms of traditional Western approaches to human rights. First of all, I will outline the debates between the proponents

of universal human rights and of East Asian perspectives. Second, to specify the core of current debates, the philosophical perspectives and cultural traditions based on Confucian ethics in East Asia will be briefly discussed. Third, the ongoing arguments as to whether Western or East Asian “morality” is superior as well as to whether individual or collective rights should be given priority will be examined. Fourth, taking into account all the preceding arguments, I will address the claim often asserted by East Asian Governments that some basic rights must be temporarily curtailed in order to deal with an unstable set of particular socio-economic and political circumstances.

In chapter five, I will attempt to show how East Asian authoritarian leaders justified repression in the name of economic growth. Arguing for their own standards of human rights, these leaders assumed that economic development has to precede complete recognition of political and civil rights and that individual rights should be valued less than stability and order. This argument bears strong resemblance to those offered in support of “Asian values” in the 1990s by officials in several Asian countries including China, Malaysia, Indonesia, and Singapore. The emergence of this Asian concept of human rights is important because it differs fundamentally from the Western one, and because it also suggests ways in which some Asian governments see the relationship between development and human rights. Less supportive of freedom and more concerned with order and discipline, Asian values lay less stress on political and civil rights, finding them less relevant and appropriate in Asia than in the West. The defense of authoritarianism in Asia on the grounds of the special nature of Asian values calls for historical scrutiny, to which I shall turn in

chapter five. In that chapter, I will explore how the authoritarian leaders have defended authoritarian arrangements on the ground of their alleged effectiveness in promoting economic success. It is also important to discuss whether economic development can always enhance human rights and, therefore, can be an excuse for restrictions on certain human rights.

These arguments will be further elucidated in chapter six, a case study of South Korea and of the approaches to human rights and economic growth adopted by its authoritarian regimes. Like other East Asian leaders, South Korean authoritarian leaders have consistently argued for “Korean Values” or sometimes “Koreanized democracy” and against the universality of human rights. To illuminate the nature of this argument, chapter six will treat the disruptive nature of rapid economic growth and repressive human rights violations with a particular focus on to period from the Fifth Republic to the Civilian Government of South Korea. First of all, a brief history of human rights concerns and the process of economic development in the early modernization stage (until the 1970s) will be outlined. Then, the 5th Republic will be examined in terms of human rights performance and economic development, with special attention given to the bloody massacre used to quell the Kwangju civilian uprising. Finally, the 6th Republic (1988-1992) and the subsequent regime (1993-1997), called the “Civilian Government,” will be examined. In this chapter, human rights performance and economic development will be explored and the regimes’ repressive policies and continuous democratic movements will also be reviewed. At the same time I will examine the regimes’ rationale for rapid economic growth within the context of the

structural inequity of socioeconomic conditions and of political opportunities in South Korean of this period. By analyzing each regime's economic growth and human rights performance comparatively, I will try to establish whether the trade-off thesis justifies the sacrifice of human rights in South Korea. In this context, not only the purposed necessity of a trade-off between human rights and economic growth, but also the "law and order" justification will be given special treatment.

In chapter seven, the nature of Asian Values and authoritarian logic will be spelled out in summary form to enhance our general as well as specific comprehension of the trade-off between human rights and economic growth. In the final part an overall assessment and evaluation of this study will be presented with the goal of demonstrating that the degree and intensity of human rights violations may be minimized by the adoption of policies based on genuine developmental imperatives and the "universal" rule of law rather than on an authoritarian regime's status-quo proclivities.

CHAPTER II

THEORETICAL BACKGROUND

This study begins with the examination of various theories of the relationship between economic development and human rights. I assume throughout this study that a desirable human rights performance can only be maintained in a politically stable society where citizens enjoy human rights under a democratic system. It would seem that East Asia's strong economic showing in recent decades would foster an improved human rights performance. In fact, however, the human rights record, especially of local governments and the security apparatus, leaves much to be desired and much remains to further increase pluralistic associations and to end tolerance of human rights abuses (Bennett 1991: 135).

For a long time, a number of scholars have explored the relationship between economic development and democracy-related variables including human rights.¹ Interestingly, debates over the relationship between democracy and economic development take on a "chicken and egg" quality in our discipline, as scholars seek to determine whether economic development is a precondition for democracy or vice versa.

For some, that question has long been decided. It is the received wisdom among

1. More recently, in *The Third Wave: Democratization in the Late Twentieth Century*, Samuel Huntington (1991) triggered renewed interest in these relationships. He argues that since the mid-1970s a "third wave" of democracy has occurred on a global scale. Meanwhile, Gasiorowski (1995) asserts that the economic distress of the Third World countries can sometimes substantially influence the likelihood of regime change.

politicians and many scholars alike that economic growth and modernization in developing countries enhance human rights. The argument goes that economic development leads almost inevitably to political stability and perhaps even to peaceful democracy (Lipset 1959; Gurr 1967; Russett 1983; Bukhart & Lewis-Beck 1994; Feng 1997). The poorest nations, the argument asserts, are characterized by tensions created by economic scarcity. These tensions lead to instability and, ultimately, state repression. In other words, the poorer the country, the lower the probability of human rights. This view, in fact, has had an important influence on American foreign aid policy, though the precise relationship between economic development and human rights remains unclear.

Another group of scholars (Olson 1963; Huntington 1968; Mitchell & McCormick 1988; Salmi 1993) has attempted to demonstrate that economic development sometimes discourages democracy. Such scholars have shown that economic growth might cause human rights violations in developing countries that are experiencing a transition toward modernization. These scholars claim that countries at the highest and lowest levels of economic development experience relatively fewer human rights violations than countries in a modernizing stage. It appears that maintaining rapid economic growth may lead to repression (e.g. state terrorism) as well as to political violence.

Finally, some scholars have argued that there is no relationship between economic growth and human rights (Neubauer 1967, Michael Hudson 1970, Von Der Mehden 1973, Jackman 1973, Arat 1988, Vanhanen 1990, Poe and Tate 1994, Jones 1996, Sen 1998). According to these scholars, there is simply not enough evidence to show that economic

development necessarily impacts on human rights, whether beneficially or detrimentally. Human rights performances in the democratization stage, they argue, are affected by multiple factors.

1. Modernization and Economic Development

One of the central tenets of classic modernization theory has always been that economic development promotes the forces of democratization. The classic exposition of the argument is by Seymour Martin Lipset (1959), who suggested a positive linear relationship between levels of socioeconomic development and democratic development.² However, his analysis utilized a worldwide synchronic method and thus does not provide a clear explanation of the historical trends in the two variables' relationships within one country or region.³ Nonetheless, his work still stands as an intellectual milestone since it clarified the worldwide trend of democracy and socioeconomic development and provided researchers with heuristic hypotheses for individual case studies (Kim, Y. M., 1997: 1126). Flanigan et al. (1970) and Gupta (1990) agreed with Lipset, arguing that political violence is inversely related to economic development. For example, Flanigan et al. (1970) assert that "the

2. His four groups are: (1)European and English-speaking stable democracies; (2)European and English-speaking unstable democracies and dictatorships; (3)Latin American democracies and unstable dictatorships; and (4)Latin American stable dictatorships. Seymour M. Lipset, 1959: 69-105.

3. Moreover, it is sometimes criticized, the correlation Lipset found can hardly be considered as a causal relation; it is rather commonsensical that political democracy does not come automatically from socioeconomic development. Kim, Y. M., 1997: 1126.

incidence of domestic violence is greatest in countries at continuous low levels of development” and that violence “decreases at the higher levels of development” (13). Similar conclusions are reached by Russett (1964, 1983), Gurr (1967), Prichard (1989) and Pennar et al. (1993), the latter two of whom note that low-income countries score poorly while higher-income countries score high, on the human rights scale.⁴ More recently, Bukhart and Lewis-Beck (1994), Londregan and Poole (1996), and Feng (1997) have provided further support for the notion that economic development leads to democracy.

The “economic growth promotes human rights” thesis that is summarized in Figure 2-1 emerges then directly from classic modernization theory.⁵ The authors who suggest a linear relationship between economic development and democracy base their arguments on findings from cross-national regression analyses of several countries at single time points or, more commonly, during separate periods. The substantial correlation between the two factors (and significant regression coefficients) seems to support this evolutionary hypothesis.

4. For example, Prichard (1989) argues: "Correlation between GNP per capita and the individual types of rights are all positive and statistically significant... In brief, while these data confirm earlier studies which investigate the relationship between GNP and socio-economic rights, they also suggest that political and civil rights conditions are associated with a nation's overall level of wealth"(334-335).

5. Moreover, according to the proponents of classic modernization theory, this view has had an influence on American foreign aid policy. More often than not, foreign economic aid is regarded as "an investment in peace and orderly political evolution toward a democratic world" (Olson, 1963: 529).

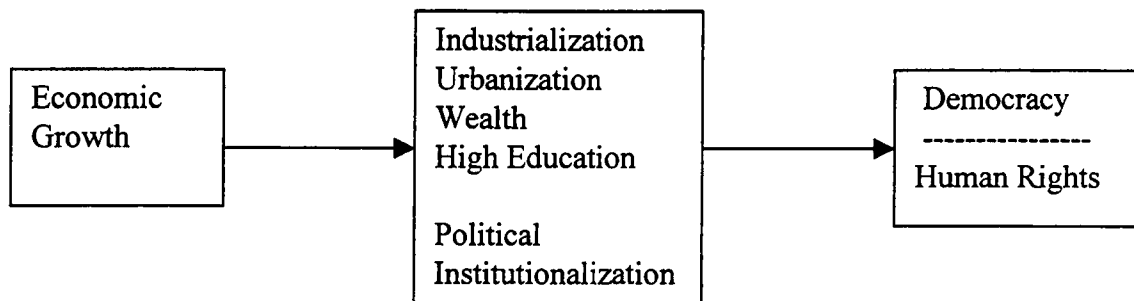


Figure 2-1. Hypothesis of Modernization Theory

2. Democratic Transition and the Trade-off Debates

Meanwhile, a group of scholars has argued that the impact of economic development upon human rights is not always a positive one in developing countries that are experiencing a transition period in the modernization process. Mancur Olson (1963) and Samuel P. Huntington (1968), who stand in the forefront of this group, claim that a high rate of change in a nation's economic sectors leads to more political violence. Olson, for example, argues that "rapid economic growth is a major force leading toward revolution and instability" (530). Huntington (1968) also cites the interpretation of Alexis de Tocqueville concerning the French Revolution, which "was preceded by an advance as rapid as it was unprecedented

in the prosperity of the nation" (50). These perspectives are also supported by Mitchell and McCormick (1988),⁶ who argue that, as social and economic change broaden, the political participation of the populace and its demands on government increases. As a result, traditional sources of political authority are challenged and new political institutions are necessary to moderate and channel the demands of the newly mobilized citizenry. If such institutions are not developed, there are no opportunities for social and economic mobility. The result is instability. This situation, they contend, is ripe for political repression and human rights abuses.⁷

According to this perspective, political exclusion of the masses (through the denial of civil and political rights) is considered by ruling leaders to be necessary for economic development. Political exclusion usually requires repression, that is, direct state action that systematically violates basic civil and political rights. The denial of basic human rights is largely "a function of contingent choices of a particular style or strategy of development"(Donnelly, 1989a: 201). Such repression usually causes widespread human rights violations such as killings, torture, arbitrary arrest and imprisonment of political

6. Their research shows that middle-income countries experience more human rights violations than low- and high-income countries. Their analysis is based on the latest available human rights data from Amnesty International (*Amnesty International Report 1985*) and examines the number of political prisoners and the level of torture by per capita income in 122 countries. They also examine the relationship between capitalist involvement and human rights violations and argue that "...the greater the economic involvement with capitalist countries, the greater the human rights violations, rather than the greater the relative weight of capitalist economic involvement in the domestic economy, the greater the human rights violations." Mitchell and McCormick, 1988: 489-490.

7. See Huntington, 1968: 49-55.

prisoners.

Many scholars who subscribe to such a "trade-off" perspective argue that some countries have sacrificed economic and social rights in their pursuit of economic development during the modernization process. Such a "growth-first" strategy implies "the short-run sacrifice of basic needs satisfaction in order to shift resources from consumption to investment" (Donnelly, 1989b: 308). The growth-first strategy has been pursued by most Third World countries for the past several decades.⁸ Focusing on this point, Nagel (1984) identifies developing countries as "the group which experiences a higher degree of tension between equality and freedom." Developing countries, he argues, are different from "predeveloping/feudal and developed/ industrialized societies" (99).

South Korea is one such developing country which has prioritized economic development at the expense of human rights. As a result, South Korea has experienced rapid economic growth for decades but also has a dismal record on human rights, especially civil and political rights. In addition to abrogating political freedoms and civil liberties, the military regimes that until very recently ruled South Korea regularly engaged in human rights violations, as eventually by reports of mysterious deaths, kidnapping, arbitrary political arrests and imprisonment, torture, and inhumane treatments.

To understand such use of repressive violence, it is necessary to ask why it has become so widespread not only in developing countries, but also in liberal democracies,

8. The "Equity first" strategies, which emphasize "immediate basic needs satisfaction and /or greater socio-economic equality," have been relatively rare (Donnelly, 1989b: 307).

though less so. According to Salmi (1993),

The main function of repressive politics (denying basic civil rights and civil liberties to citizens) would seem to be to preserve the status quo and stability that guarantee the perpetuation of the capitalist system. In this respect, the state's mission is to prevent any attempt to challenge either the nature of the prevailing economic structure or the mechanisms controlling the relationships between the owners of the means of production and workers (98).

Thus, the state is the "guardian" of the fundamental rights of business owners, who appropriate the added value created by workers. For example, the South Korean economy has heavily depended on rich *Chaebol* (clan-based business tycoons) owners and their interests since the 1960s (Kim, E. M., 1994: 4-8). Thus repression seems to be a structural necessity in societies based upon social injustice.

Meanwhile, many governments have established policies aimed at repressing their civilians. Usually entrusted with carrying out such repression is the military, which often runs such governments and which, along with police and security forces, plays a powerful role in even those governments not under military rule. This is the case because "whatever the nature of the power base, the aim is generally to maintain the existing social, political, and economic arrangement or to reverse a prior administration's socio-economic reforms"(Reiter et al., 1991: 92).

Under a repressive government, the rights of people are severely restricted or abolished, and state terrorism is often imposed to intimidate the opposition. Even today, arguments for repression receive remarkably sympathetic consideration in Third World

countries. During the last several decades in the Third World, a new doctrine of "national security" has been put forth to provide theoretical support for repressive actions.⁹

3. Political Repression and Human Rights

To psychologically explain political repression and human rights violations, a group of scholars seems to rely on various forms of frustration-aggression theory or the relative deprivation theory.¹⁰ For example, Gupta (1990) argues that "social psychological theories of collective movements causally link social conditions, psychological disposition (anger), and aggressive behavior. These theories see people's aggressive behavior as a direct result of their frustrations, resulting from their inability to attain goals to which they believe they are entitled" (51). These frustration-aggression and relative deprivation theories are widely employed in the causal explanation of human aggression at the macro-level. Typically, the frustrated or deprived populace adopts an aggressive behavior (e.g., demonstrations, political riots, or strikes), triggering political repression and human rights abuses which the

9. Reiter, Zunzunegui, and Quiroga (1991) argue that "national security is typically expressed as the capacity of the state to maintain the vital interests of the nation (sovereignty, independence, Western civilization) against national or international interference." For recent examples, they point to El Salvador, the Philippines, South Korea, South Africa, and the military rule in Argentina from 1976 to 1983, and in Chile from 1973 to 1990 (92-93).

10. In fact, relative deprivation is one of the most powerful theories, together with social-learning, psychoanalytic, and ethnological approaches, in explaining the causes of human aggression. In Western social science literature, the concept of relative deprivation, a derivative of the frustration-aggression theory, was first identified by Stouffer and his colleagues in 1949. For more detail, see Gurr, 1967: 3-5; Sanders, 1981: 12-13, and Gupta, 1990: 51-60.

authoritarian regime justified as necessary for the maintenance of law and order.

Huntington (1968) explains the relationship between social frustration and political instability in his "gap hypothesis."¹¹ He argues that the relationship is due to "the absence of two potential intervening variables: opportunities for social and economic mobility and adaptable political institutions" (54). Hence, "the absence of mobility opportunities and the low level of political institutionalization in most modernizing countries produce a correlation between social frustration and political instability" (55).

On the basis of the discussion thus far, and particularly relying on both Huntington's gap hypothesis and the trade-off thesis, we can derive Figure 2-2. After all, the inference from Huntington's analysis is that the "modernizing" states would be most susceptible to a high level of human rights violations.

In the developing stage, increasing levels of social mobility, education, and communication are crucial factors that have important political repercussions. Instead of leading to blind trust in government, however, these factors, which are more likely to be facilitated in democratic polities, tend to result in increasing political awareness and

11. Huntington's "gap hypothesis" is:

"Social mobilization is much more destabilizing than economic development. The gap between these two forms of change furnishes some measure of the impact of modernization on political stability. Urbanization, literacy, education, mass media, all expose the traditional man to new forms of life, new standards of enjoyment, new possibilities of satisfaction. These experiences break the cognitive and attitudinal barriers of the traditional culture and promote new levels of aspirations and wants. The ability of a transitional society to satisfy these new aspirations, however, increases much more slowly than the aspirations themselves. Consequently, a gap develops between aspiration and expectation, want formation and want satisfaction, or the aspirations function and the level-of-living function. This gap generates social frustration and dissatisfaction. In practice, the extent of the gap provides a reasonable index to political instability" (1968: 53-54).

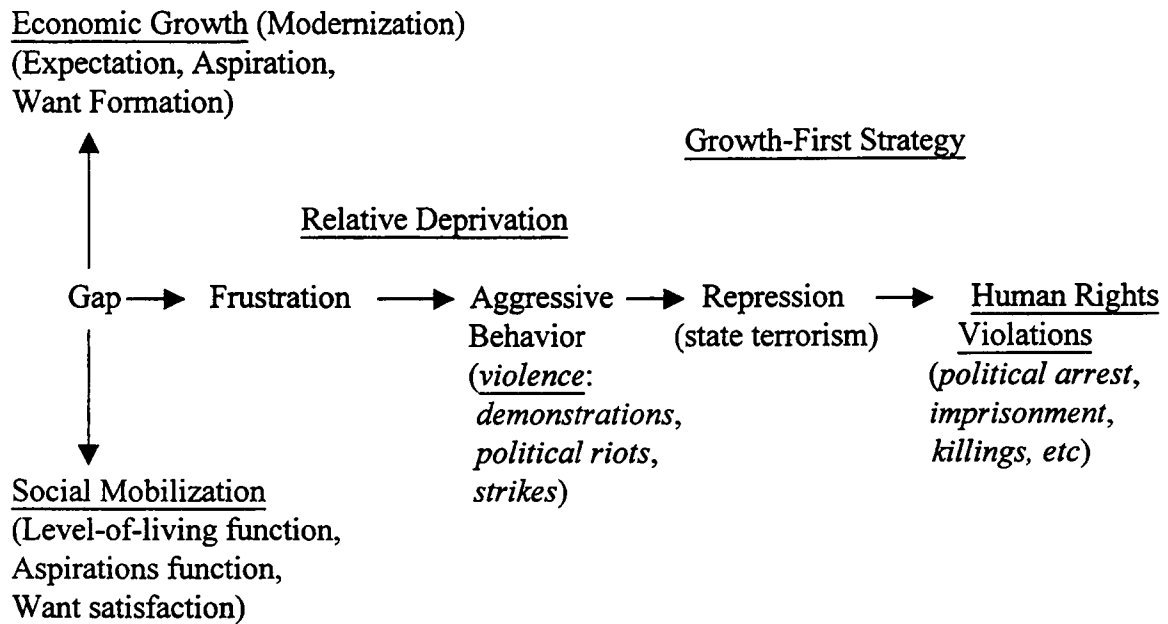


Figure 2-2: Economic Development and Human Rights Violations

participation. As a result of poor government performance combined with perceived social injustice, political participation takes the form of protests that may cause once democratic governments to opt for a more authoritarian approach. Hence Arat (1991) argues that the decline of democracy and the transition to authoritarian rule in developing countries are attributable to policies that create an imbalance between two groups of human rights, namely civil-political rights and socio-economic/cultural rights. Thus, the increasing gap between the two groups of rights may cause frustration and social unrest, which in turn is suppressed

by coercive policies. Thus democratic experiments suffer from repressive policies on civil and political rights (Arat, 1991: 9).

Numerous studies have revealed the causal influence of economic development on democracy and human rights.¹² However, previous studies have not provided a dominant theoretical framework for the consideration of these two variables. In short, findings on the relationship between economic development and human rights performance are mixed. The conventional wisdom of the last several decades has held that economic development was a necessary condition for the effective implementation of political democracy.¹³ Nevertheless, repression of some sort was seen as difficult to avoid, leading other scholars to posit a negative relationship between economic growth and human rights in developing countries.

Which perspective is most accurate? Unfortunately, both existing models lead to a "biased generalization" problem. In fact, many scholars have focused their empirical

12. In particular, David Sanders, in his book *Patterns of Political Instability*, introduces some reviews of previous theoretical and empirical analysis of political instability and provides a summary of the main empirical findings (Sanders, 1981: 1-21). Sanders examined five major approaches: Lipset's analysis of the sources of 'democratic stability'; Eckstein *et al.*'s investigation of 'internal war'; the dimensional school's the factor analytic approach; Gurr and the Feierabends's 'psychologically oriented' 'casual' studies; and the 'non-psychologically oriented' casual approaches of, among others, Huntington, Snyder and Tilly, and Olson and Hibbs.

13. Economic growth has been regarded as the initial goal of development, especially in the Third World. Huntington emphasizes five major goals of development: economic growth, distribution or equity, democracy, political order and stability, national autonomy. These goals are often conflicting. Huntington suggests that it is imperative that policies reconcile any contradictions (Huntington, 1987: 3-32).

research on a subset of countries within relatively limited time spans. This seriously constrains their capacity to make universally valid generalizations. To overcome these problems, what is really needed is not a general theoretical argument, but a case study analysis.¹⁴ Also, we need to avoid the arbitrary use of a large number of cases and narrow our study areas down to a specific region or a country. Accordingly, this study will focus on South Korea, which has experienced rapid economic growth but still remains an abusive country.

4. Asian Values and Trade-off

Although South Korea has prospered economically, the human rights of its citizens have been seriously abused by the authoritarian governments in power, who justified such abuses as the unavoidable consequences of the implementation of a growth-oriented strategy or as legitimate measures need to ensure national security. This situation raises a question as to whether economic growth eventually leads to the promotion of human rights and desirable democracy.

To understand the theoretical bases that Korean authoritarian governments have used to justify the abuse of their citizens, we need to look briefly at the broader East Asian context. In the aftermath of the Cold War, several East Asian states in particular have

14. In this context, Donnelly also argues that "much repression is undoubtedly functional for a particular development strategy. But the familiar general claim that development requires repression is at best grossly misleading" (1989a: 201).

mounted a challenge to Western beliefs on human rights. These East Asian states sought to redefine the concepts of human rights by questioning the applicability of universal human rights to different cultural, economic and socio-political settings.¹⁵

The West and East Asia have engaged in considerable debate on what should constitute human rights standards, disagreeing as to the relative importance of civil and political rights vs. socio-economic and cultural rights and to the sequence in which these rights should be realized. This debate has centered on the following questions: Should civil and political rights be realized before socio-economic and cultural rights can be implemented? Must socio-economic and cultural rights precede the enhancement of civil and political rights? Is the relationship between these two categories of rights mutually exclusive or mutually reinforcing?

While the Western approach to human rights stresses the importance of civil and political rights and the universality of human rights on the basis of the liberal tradition, the Asian position on human rights places more importance on economic and social rights, as well as on cultural differences in Asia.¹⁶ Civil and political rights are here presumed to

15. The Asian regional preparatory meeting which took place in Bangkok between 29 March and 2 April 1993 provided an opportunity for Asian governments to put forward their definition of human rights on the global agenda. Over forty Asian governments signed The Bangkok Declaration. The World Conference on Human Rights which took place in Vienna between 14 and 25 June 1993 showed clear division on human rights norms between Asian and Western governments.

16. The Western position on human rights is usually associated with the post-colonial approach while the Asian approach has been identified with the neo-colonial approach. The post-colonial approach, developing from the liberal tradition, emphasizes the interdependence of states, and the triumph of the liberal democracies against authoritarianism. In contrast, the neo-colonial approach denies any such triumph, seeing Western industrial countries as still engaged in a colonial enterprise, exploiting

include the claim that governments should not torture citizens, conduct arbitrary arrests, inhibit freedom of speech and expression, or prevent either assembly and association or political participation and free elections. (ICCPR, 1976). In contrast, economic, social, and cultural rights require that governments should maintain a certain quality of life, prevent unemployment and assume responsibility for providing food, housing, and health care. (ICESCR, 1976). Moreover, controversially, economic, social and cultural rights are often considered as group rights that can be maintained only at the expense of individual rights (civil and political rights) (Arat, 1991: 3-4). Hence, the inevitability of a trade-off between individual liberty, reflected in civil and political rights, and social equality, reflected in socioeconomic rights, has been argued both by liberalists (Mayo 1967, Cranston 1967, Downie 1980, Donnelly 1989a, Freeman 1995, Bell 1996, Jones 1997, Sen 1998) and by those who try to justify the need for authoritarian rule at least during the period of modernization (Marshall 1964, Raphael 1967, Okin 1981, Chan 1995, de Bary 1998). Such differences on human rights standards between the Western World and East Asian countries, as well as the different perspectives on economic development, can therefore be major sources of friction.

The Asian concept of human rights has been supported by several East Asian governments, including, Singapore, China, Indonesia, Malaysia and the former authoritarian governments of South Korea. In its most basic version, this "special" concept holds that economic development has to precede the full flowering of political and civil rights; that East

developing countries by making alliances with their ruling classes or via major multinational corporations. Tremewan, 1993: 17-30.

Asians place greater value on the harmony of the community than on individual freedoms; and that individual states should be able to interpret international standards on human rights in accordance with their history, culture, political system, and level of economic development (Cerna, 1994: 740-741). Proponents of this Asian definition of human rights suggest that the exercise of individual rights will naturally emerge from economic development. They go further to suggest that even in developed East Asian societies, stability and order will always be more highly valued than the protection of individual rights.¹⁷ These arguments are often labeled “soft authoritarianism” or “Asian-style” democracy (Woo-Cumings, 1994: 413-416). The problem is that such soft authoritarians make claim that are based on a highly elitist, and confucian, conception of politics. They claim that Asian-style democracy is based on consensus-building and trust in political leaders and assert that their political objective is “good government” or “social justice.” Good governments are those which feed their subjects well and maintain stability, order, and moral soundness within their communities. To achieve this objective, political leaders are expected to exercise their broad powers with moral rectitude (Kim, Y. M., 1997: 1121).

With a similar appeal to Confucian ethics, Korean authoritarian regimes have stressed the priority of economic growth and the strength of Korean culture and values based

17. These Asian States’ main arguments are summarized as follows:

“Most of the Asian countries also happen to be at the level of development which necessitates the accordance of priority to the fulfillment of the most basic rights of peoples, such as the eradication of illiteracy, the alleviation of poverty, the improvement of health and the creation of employment opportunities. After all, how can one express one’s opinions freely if one is illiterate; how can one really enjoy the right to property if one lives well below the poverty line; and how can one join in labor association if one is unemployed?” (Jones, 1996: 419).

on family solidarity and discipline, claiming that an overemphasis on individual freedom at the cost of the entire community is the main source of the economic and moral decay of Western societies. Such arguments assume that economic growth, social order and political stability are more important than individual rights and democracy. The advocates of this argument clearly prioritize the needs of the whole society over those of its individual members. From this perspective, democracy and human rights are not something to be placed above other social values or taken as an end in themselves. They would be important only as the means to attain higher social goals such as order and economic well-being. Since advocates of this Eastern view of human rights believe that Western style democracy rather hinders the orderly development of society, they openly refuse democracy as a political goal (Bennett, 1991: 130-132. Kim, K.D., 1991: 137-140).

Like many developing countries including those in East Asia, South Korea has set forth a "Korean style" human rights. It raises authoritarianism to the level of a national ideology, denouncing notions of rights and freedoms as foreign imports inappropriate to the religious and cultural tradition of Korea. Such an ideology gives them license to deprive citizens of those very rights and freedoms. The rhetoric of Asian Values serves as only "a thin disguise" for the authoritarianism of repressive regimes.

Apparently, the logic of Korean-style democracy has played a major role for Korean repressive regimes and has helped justify the trade-off proposition: that a certain degree of authoritarianism has been necessary to make the hard political and economic decisions that produced the region's spectacular growth. However, even proponents of the trade-off

argument would find it hard to argue that this suppression of political rights required the violations of civil rights that occurred under Korea's authoritarian administrations, such as the widespread political arrests, torture, and arbitrary imprisonment that characterized the 5th and 6th Republics in South Korea.

CHAPTER III

RESEARCH DESIGN

1. Key Concepts and Definitions

In this section, we offer precise definitions of the key concepts for this study, which include democracy, human rights (both civil-political rights and socio-economic, cultural rights), economic development and growth, political repression, universalism and relativism on human rights, and Asian Values. Some of these concepts are difficult to operationalize because a number of variable concepts are associated with their definition. For example, the extent to which a country promotes self-esteem and human dignity is absolutely qualitative in character and normative in nature and thus not capable of being described and measured by quantitative elements. Because attempts at definition necessarily run up against such limitations, our own effort at conceptual definition will not likely be free of all ambiguity and imprecision. However, it is useful at this point to define and to clarify the concepts we are using so as to place them in the right context in this dissertation.

In particular, the concept of democracy is quite complex, and it is difficult to find simple definitions which can capture all of its meanings. Generally speaking, words usually have more than one meaning and meanings change through time. For example, numerous definitions for the concept of democracy have existed from the time of ancient Greek

philosophers to the present.¹ These definitions have variously characterized democracy as “a way to life” and “a form of government” (Arat, 1991: 15). As Seymour M. Lipset (1959) has stated, “democracy is not a quality of a social system which either does or does not exist, but rather a complex of characteristics which may be ranked in many different ways”(73). However, an overview of several scholars’ conceptual definitions of democracy will at least help elucidate at least the scope of the concept.

Lipset was one of the first commentators to provide a definition of democracy giving a special emphasis to procedure. He defines democracy as a procedure guaranteeing majority rule and minority rights:

Democracy (in a complex society) is defined as a political system which supplies regular constitutional opportunities for changing the governing officials.This definition implies a number of specific conditions: (a) a political formula, a system of beliefs, legitimizing the democratic system and specifying the units – parties, a free press, and so forth – which are legitimized, i.e., accepted as proper by all; (b) one set of political leaders in office; and (c) one or more sets of leaders, out of office, which act as a legitimate opposition attempting to gain office (1959: 71).

Robert Dahl (1971) uses the word “polyarchy” instead of democracy because he thinks that in the real world it would be difficult for any political system to achieve the ideal of democracy. Dahl defines polyarchy not as a absolute concept but by identifying the

1. In other words, one way that democracy had been defined has been at best an ideal type that may not be realizable in practice. For example, the ancient Athenians came closest to being able to put into practice an ideal type of democracy. For them, the concept of democracy meant direct involvement in the community decision-making process by all the citizens. However, in the intervening years, the concept of democracy has been continuously changing.

conditions necessary for it to prevail “for a considerable period of time”(202-203). According to Dahl, two dimensions of democratization can be empirically observed, and then used as criteria for evaluating the degree to which any particular political system has approached the ideal of democracy. These dimensions include contestation or political competition, which includes the right to oppose, and inclusiveness, which ensures participate. Giovanni Sartori (1987) advances a definition of democracy by making clear what it is not. In other words, for him, democracy is non-autocracy: “democracy is a system in which no one can choose himself, no one invests himself with power to rule and, therefore, no one can originate to himself unconditional and unlimited power” (206).

According to Larry Diamond, Samuel M. Lipset, and Juan J. Linz (1990), democracy denotes a system of government that meets three essential conditions:

Meaningful and extensive competition among individuals and organized groups (especially political parties) for all effective positions of government power, at regular intervals and excluding the use of force; a highly inclusive level of political participation in the selection of leaders and policies, at least through regular and fair elections, such that no major social group is excluded; and levels of civil and political liberties – freedom of expression, freedom of the press, freedom to form and join organizations – sufficient to ensure the integrity of political competition and participation (xvi).

Because ideal or descriptive definitions of democracy are difficult to operationalize, they are also difficult to use in empirical analysis. Samuel P. Huntington claims that this difficulty derives from the fact that ideal conceptions of democracy are too broad and vague and therefore impossible to measure or to apply in actual practice (1984: 195).

Although the concept of democracy is still endlessly debated, in the mid-twentieth century three general approaches emerged, defining democracy in terms of “sources of authority for government, purposes served by government, and procedures for constituting government” (Huntington, 1991: 6). I agree with Huntington that the procedural definition is the most reasonable since the central procedure of democracy is the selection of leaders through competitive elections by the people they govern. In his famous 1947 book *Capitalism, Socialism and Democracy*, Joseph Schumpeter gave this concept its most important modern formulation. In that work, Schumpeter first examined the deficiencies of what he termed the “classical theory of democracy,” which defined democracy in terms of “the will of the people” as the source of authority for government and “the common good” as the purpose served by government. Then he argued for a more procedural approach to the theorization of democracy: “democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people’s vote” (269).

By the 1970s theorists increasingly drew distinctions between rationalistic, utopian, idealistic definitions of democracy, on the one hand, and empirical, descriptive, institutional, and procedural definitions, on the other. They concluded that only the latter type of definition provides the analytical precision and empirical referents that make the concept a useful one. Synthesizing all these arguments and following in the Schumpeterian tradition, Huntington defines a twentieth-century political system as democratic:

...to the extent that its most powerful collective decision-makers are selected through fair, honest, and periodic elections in which candidates freely compete for votes and in which virtually all the adult population is eligible to vote. So defined, democracy involves the two dimensions – contestation and participation – that Robert Dahl saw as critical to this realistic democracy or polyarchy. It also implies the existence of those civil and political freedoms to speak, publish, assemble, and organize that are necessary to political debate and the conduct of electoral campaigns (1991: 7).

Thus, for the purpose of this dissertation, we follow Huntington's definition of democracy since his definition includes not only comprehensiveness on democratic procedures but also the extent of civil and political freedoms which I will discuss later in this section.

Human rights are a major ingredient in a democratic political system. Where a political system falls on the scale of democracy largely depends on the extent to which it recognizes and enforces human rights. Thus, in the presence of democratic structures, the more strongly human rights are reinforced in a society, the more democratic it becomes.

What does "human rights" mean? Although the concept of human rights is old, its content and scope are still debated theoretically and practically. Classical liberalists try to limit the scope to the traditional civil and political freedoms, whereas others extend it to a broader concept that includes social, economic, and cultural rights.² Broadly speaking, as

2. For the claims of classical liberalists, see Mayo (1967), Cranston (1967), and Downie (1980); and for the others, see Marshall (1964), Raphael (1967), Shue (1980), and Okin (1981). Generally, human rights are classified into a threefold typology developed by T.H. Marshall (1964), which includes civil, political, and socio-economic rights:

Civil rights: such as freedom from slavery, servitude, discrimination, torture, inhuman punishment, and arbitrary arrest and imprisonment; freedom of speech, faith, opinion and expression; right to life, security, justice, ownership, and

McCamant (1981) notes, the term “human rights” is an evaluative rather than an analytical concept, and consequently its use hampers the analysis needed to develop a causal theory (124). For clarifying purposes, we break down the concept of human rights into two categories, namely, “civil-political rights” and “socio-economic and cultural rights.”³ All of the concepts are utilized here in a fairly conventional and self-explanatory sense in order to avoid ambiguities associated with inadequate usage of the specific terminology.

“Human rights” will be used as defined by Jack Donnelly (1993):

The rights that one has simply because one is a human being, are held equally and inalienably by all human beings. They are the social and political guarantees necessary to protect individuals from the standard threats to human dignity posed by the modern state and modern markets (196).

“Civil-political rights” will be used as defined in universal terms according to the United Nations Covenant (1976), *The International Covenant on Civil and Political Rights*. This

assembly.

Political rights: such as the right to vote, to nominate for public office, and to form and join political parties.

Social and economic rights: such as the right to education, work, food, clothing, housing, and medical care; in short, the rights ranging from ‘the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life a civilized being according to the standards prevailing in the society’ (72).

These three categories are reduced to two by combining civil rights with political rights. For detail, see Levin, 15-16.

3. Donnelly categorizes civil and political rights as four principal groups: personal rights, legal rights, civil rights, and political rights. He also divides economic, social and cultural rights into subsistence rights, economic rights, social rights, and cultural rights. For detail, see 1989a: 34-37.

term concerns the rights of the individual vis-à-vis the state, which include the right not to be subjected to torture and inhuman treatment, the right to liberty of movement and to free choice of residence, the rights to equality before the courts and tribunals, and the right to freedom of the press, thought, conscience, religion, expression, peaceful assembly and association. "Political rights" refer to the right to play a part in determining who will govern one's society and what the law will be. That is, these rights empower citizens to participate in and ultimately control the state. The right to free election and self-determination are examples of such political rights.

"Socio-economic and cultural rights," generally referred to as the right to work, rest, leisure and social justice, will be used here to mean as well the right to education, health and social security along with the right to form trade unions, to strike, to secure an adequate standard of living, to take part in cultural life, and to procure moral and material benefits from any literary or artistic production of which one is the author. These rights are also used as they are defined in the UN Covenant, *The International Covenant on Economic, Social and Cultural Rights*.⁴

4. Social, economic and cultural rights are often rejected particularly by the followers of classical liberalism (Mayo 1967; Cranston 1967; and Downie 1980). Arat (1991) explains this resistance of the liberalists as follows: "The resistance of the liberalists to extend the definition of human rights to include economic and social well-being stems partly from their perception of these two groups of rights as "positive" in the one case and "negative" in the other case. Civil and political rights are considered negative rights in the sense that they forbid action by government." For example, governments should not torture citizens, conduct arbitrary arrests, or prevent meetings, political participation, and freedom of speech. Social, economic and cultural rights, on the contrary, are positive rights requiring action by governments. Such rights would require governments to maintain a certain quality of life, prevent unemployment, and assume responsibility in providing food, shelter, and medical care (3). However, Henry Shue (1980) argues that the distinction between "negative"

In addition to the above terms, this study cannot avoid discussing the concepts of universalism, relativism, and Asian Values which have surfaced debates over human rights. In this study “universalism” in human rights will be defined as “the belief that moral values such as human rights are fundamentally the same at all times and in all places” (Donnelly, 1993: 198). In opposite to universalism, “relativism” in human rights can be defined as the belief that values are not universal but a function of contingent circumstances. In other words, relativism assumes that morality is significantly determined by the culture, social values, and history of each region or country (Donnelly, 1993: 197). “Asian Values” can be explained in this context of cultural relativism. The concept of Asian values has been supported by several authoritarian Asian governments, notably those of Singapore, China, Malaysia, and South Korea. Sidney Jones (1997) explains Asian Values as follows:

In its most basic version, this concept holds that economic development has to precede the full flowering of political and civil rights; that Asians place greater value on the harmony of the community than on individual freedoms; and that individual states should be able to interpret international standards on human rights in accordance with their history, culture, political system, and level of economic development (18).

In modern human rights history, the emergence of this concept is important because it has been recognized by some in the West as illustrating a fundamentally different set of values, and because it suggests ways in which some Asian governments see the relationship

and “positive” rights is artificial and incorrect and that virtually all rights have both “positive” and “negative” correlative duties (41-46). Jack Donnelly (1989a) also agrees with Shue and says “in many standard circumstances many rights entail primarily positive and primarily negative correlative duties” (100-101).

between development and human rights.

The term “political repression” will be often referred to as a human rights concern and can be defined for the purpose of this study as “direct state action that systematically violates basic civil and political rights” (Donnelly, 1989a: 184). In other words, political repression means the denial of civil-political rights such as freedom of the press, speech, assembly and association, the right to participation in elections and the right to a fair trial. The definition that best captures the meaning of this term is that of Robert Justin Goldstein (1982): “political repression consists of government actions which grossly discriminate against persons or organizations viewed as presenting a fundamental challenge to existing power relationships or key governmental policies, because of their perceived political beliefs.” The term political repression will be used in this study to designate restrictions on both civil-political rights and economic, social and cultural rights because of coercive actions by government.

The term “development” is broadly defined to include enhancement of the quality of life of individual members of society whether by socio-economic or political means. To further comprehend the term, we also refer to the terms “economic growth” and “economic development” respectively. Contemporary definitions of economic growth refer to the rising material well-being of individual members of society. For this reason, I choose to use both the Gross National Product (GNP) per capita and the annual growth rate of the Gross

Domestic Product (GDP) as indicators of economic growth.⁵

2. Research Thesis

As stated earlier, the primary objective of this study is to elucidate the nature of the Asian concept of human rights and to examine the interrelation between the process of economic growth and contingent human rights policies, using South Korea as a case study. By examining the Asian concept of human rights, we can ascertain more specifically whether or not human rights abuses against innocent citizens can be warranted in the name of economic growth. Finally, this study will raise grave concerns over the legitimacy of trade-off policies, such as the “economic growth first” and “national security first” strategies that have been implemented in East Asian developing countries, including South Korea.

To clarify the main purposes of this study we need to look back on the questions that we raised in the beginning. First, how can we approach the friction generated by the contrasting assumptions underlying the Western concept of universal human rights and the “Asian Values” of East Asian countries? The West charges Asian Values are a “thin disguise for authoritarianism,” and East Asian countries accuse the Western concept of being “power politics in disguise” and as such a part of imperialism.

Second, we need to explore whether Asian values are defensible in terms of the trade-

5. Here, we may then propose that the concept of development includes not only the major pillars of development such as the acceleration of economic growth and the reduction of poverty, inequality and unemployment, but also individual freedoms of a non-material nature and human dignity as well.

off thesis. We also need to determine whether the trade-off proposition offers sufficient explanation of human rights practices including both civil-political rights and socio-economic and cultural rights.

Third, we need to turn our attention to the South Korean case. To link the South Korean case with the key arguments here, we need to examine Korean economic growth and the realization of the rule of law in terms of trade-offs.

Finally, combining arguments on Asian Values and South Korean human rights practices, we need to diagnose whether economic growth enhances human rights conditions in South Korea. In the same context, the nature of Asian Values and the legitimacy of the trade-off thesis will be reexamined.

Basing itself on an understanding of Asian perspectives on human rights and on human rights practices characteristic of modern Korean history, this study argues for the following thesis: if the economic growth of a country does not facilitate the realization of human rights after the country reaches a certain level of economic development, then various restrictions on human rights cannot be justified in the name of economic growth, and human rights, a critical factor of desirable democracy, cannot be pushed aside until economic development is consolidated.

The human rights history of the South Korea of recent decades offers no promise or proof that the attainment of economic development goals will necessarily ensure that civil and political rights will be extended to citizens. Though several economic indicators signal

a positive climate for socio-economic and cultural rights in South Korea, such indicators mask fundamental problems such as the country's relative poverty and the vulnerability of its citizen's health and social welfare. In fact, in many countries, economic growth has not led to the amelioration of poverty and unemployment or to a more equitable distribution of income. Authoritarian leaders have justified their failure to respect human rights not only as a sacrifice necessary to ensure the successful development of their economic growth strategy but also as essential for the maintenance of "law and order." Surely, however, a country's economic policies should promote the rule of law, and not the political interests of abusive governments.

3. Methodological Framework and Data

To examine the research questions raised for this study a qualitative method of case study will be employed. Several sets of quantitative data will also be used to support the main thesis of this study.

Case study research is a strategy for doing social inquiry, although what constitutes the strategy is a matter of some debate. In sociological and political literature a case is typically regarded as a specific and bounded (in time and place) instance of a phenomenon selected for study. The phenomenon of interest may be a person, process, event, group or organization. Cases are generally characterized on the one hand by their concreteness and circumstantial specificity and on the other by their theoretical interest or generalizability (T.

Schwandt, 1997: 12).⁶ The present research question types are characterized as "how" or "why" rather than "who" and "where." "How" and "why" questions are more explanatory and experimental in nature, and case study research strategies are preferable for those types of questions. Robert K. Yin (1994) argues that a case study strategy is preferred when the inquirer seeks answers to "how" or "why" questions, when the inquirer has little control over events being studied, when the object of study is a contemporary phenomenon in a real-life context, when boundaries between the phenomenon and the context are not clear, and when it is desirable to use multiple sources of evidence (13). Robert Stake (1995) emphasizes that the foremost concern of a case study is to generate knowledge of the particular. He explains that a case study seeks to discern and pursue understanding of issues intrinsic to the case itself. He acknowledges, however, that cases can be chosen and studied because they are thought to be instrumentally useful in furthering understanding of a particular problem, issue, or concept. Both Stake and Yin argue that case studies can be used for theoretical elaboration or analytic generalization.

A case study design is then advantageous for explanatory research because it allows vital "operational links" to be traced over time (Yin, 1994: 6). While the case study method has proven to be a distinctive form of empirical inquiry, some critiques view it as lacking in rigor and charge that it achieves objectivity only with great difficulty. Another shortcoming of the case study method commonly cited is that it provides little basis for scientific

6. The terms "case" and "unit of analysis" are often used interchangeably in social research, yet to a qualitative inquirer, the term "case" means something more than just "n" (Thomas A. Schwandt, 1997: 12).

generalization. In response to this criticism, Yin argues that just as it is difficult to generalize from a single case, it is also difficult to generalize from a single experiment. In fact, scientific facts are rarely based on a single case, but rather on multiple sets of experiments which over time have replicated the same phenomenon under different conditions. However, in terms of “analytic generalization” or “theoretical elaboration” in qualitative inquiry,⁷ which is a type of generalizing in which the inquirer links findings from a particular case to a theory, many scholars argue that case studies can be generalized and related to concepts, theoretical propositions, or models but not to universes or populations of cases (Schwandt 1997: 3).

Because the purpose of this study is in part to elucidate and test a theory, it is appropriate to employ the case study method. South Korea was chosen for the case study because, as a country which has experienced rapid economic growth but has shown little improvement in human rights, it is critical to the testing of the proposition that economic growth inevitably leads to an improved climate for human rights. South Korea was ruled by three separate regimes during the study period: the Fifth Republic (1980-1987), the Sixth Republic (1988-1992), and the Civilian Government (1993-1997). Thus, we can examine how each regime's human rights policies have been affected by economic growth. Moreover, we can also explore how regime changes have affected human rights performances in South Korea.

To find out how repressive the regimes have been, we will investigate specific cases

7. Analytic generalization is “contrasted with statistical generalization since in statistical generalization a case is a sample drawn from a population of cases and an inference is then made about the population based on the study of the characteristics of the sample.” Schwandt, 1997: 2-3.

in which regimes have committed human rights violations in terms of civil and political rights, violations which include arbitrary political arrests and imprisonment, torture and inhumane treatment, political killings and disappearance. To examine socio-economic and cultural rights, we will observe the unemployment rates, inflation rates, income distributions (Gini Coefficient), and social service expenditures of governments during the selected period.⁸ To examine the relationship between the human rights violations and economic development, we need to collect data about each regime's economy. We intend to find indicators of GNP per capita,⁹ of the rate of real GDP growth, and of the total amount of trade. All the economic data will be calculated with 1990 constant US dollars, which include inflation changes each year. GNP per capita, the rate of real GDP growth and the total amount of trade will be used to examine whether economic growth contributed to an improvement in human rights in South Korea. These three indicators reflect the "growth-first strategy" and "export-oriented" trade policy characteristic of the Korean economy during the study period. Examination of unemployment rates, inflation rates, income distributions, and social service expenditures will help to understand how much the Korean economy's growth

8. As I indicated in note 4, social, economic and cultural rights have positive dimensions requiring action by governments. Therefore, governments should maintain a certain quality of life, prevent unemployment and inflation, and have fundamental responsibility for social and economic equality. In this context, the unemployment rate, inflation rate, income distribution, and social security benefits expenditure of a government can be crucial factors with which we can estimate socio-economic and cultural rights.

9. Despite many shortcomings, GNP per capita is still the most widely used indicator of economic development. It should be noted, however, that per capita GNP fails to reflect the distributional inequalities of income for any nations, and is easily affected by differences in population estimates. Kurian, 1991, 70-75.

benefited its people. In particular, an observation of income distribution will help us diagnose the real direction of the Korean economy and ascertain whether or not Korean economic policy has ameliorated poverty and inequality. Examination of the social service expenditures of the central government will help us to understand the government's interest in peoples' welfare. I assume that the Korean economy has concentrated on the wealth of the *Chaebol* (clan-based business tycoons), who have been closely linked to the regimes' power base. Consideration of characteristics associated with regime change will also be useful in understanding Korean human rights. For the data and information on economic and social indicators, this study refers to several sources, including *The Human Development Report* of the United Nations Development Programme (henceforth, the UNDP), *The World Development Report* of the World Bank, *The Statistical Yearbook* of the International Monetary Fund (henceforth, IMF), and *The Statistical Yearbook* of the Statistical Bureau in South Korea.

Unlike economic data, reliable data on both the political repression and human rights violations practiced by these regimes are difficult to obtain. Country reports on human rights from several sources (e.g., the U.S. Department of State, Amnesty International, Freedom House) are somewhat useful. However, these data are too superficial to explain a specific case and the figures even sometimes differ from one source to the other.¹⁰ In fact, for foreign institutions, reliable and comprehensive data regarding political repression are not

10. For example, the numbers of political arrests in South Korea 1997 differ by source: 450 in the *Amnesty International Report*; 300 in the *Country Report on Human Rights Practices* of the Department of State.

available.¹¹ To overcome the lack of necessary data, this study will combine all the data obtained from both Korean NGOs' reports and the Country reports indicated above as well as South Korean governments' reports on human rights concerns. Specifically, it will focus on all the data and information about the cases on (arbitrary) political arrest and imprisonment, torture and inhumane treatment, and political killings and disappearance to examine civil and political rights. The data on political arrest and imprisonment will be treated as an especially key factor for human rights abuses, especially as concerning civil and political rights.

The problem remains, however, of how to obtain the data on political arrests and imprisonment given the difficulties that I described above. I extract the data from the number of people indicted under antidemocratic laws in South Korea. In South Korea, based on the evidence from Table 3-1, it is possible to infer that anyone indicted under antidemocratic laws will most likely be imprisoned. An individual who is criminally accused by antidemocratic laws may end up spending time in jail even before his guilt is determined, and the emotional and physical damage arising from the detention is often devastating.

As we can see in Table 3-1, the rate of "application by the prosecution for warrant of arrest" to "rejection by a judge of the application for warrant of arrest" was more than 98% in 1990 and 1991.¹² The noncompliance with criminal procedure by law enforcement

11. The problem is quite simple: governments do not generally publish statistics on how repressive they are. We can assume that the more repressive the regime, the more difficult it is for researchers to get information about its political repression.

12. Warrants abuses declined in the late era of the Civilian Government. According to *the Country*

deprives a criminally accused person of his right to be free from arbitrary detention and causes undue hardship. Once people are indicted by antidemocratic laws, it can be assumed that most are accused and consequently imprisoned. Hence we can infer the numbers of arbitrary arrests and political prisoners based on the number of those indicted.

Table 3-1
Arrest, Detention, and Trials under the NSL in 1990 and 1991

	A	b	c	d	e	f	g	h
1990	514	9	98.2%	49	11	380	1	99.7%
1991*	289	0	100%	23	2	309	2	99.3%

* Numbers of cases in 1991 are those of the period between January 1 through August 31.

a: application by the prosecution for warrant of arrest. b: rejection by a judge of the application for warrant of arrest. c: rate of issuance of warrant of arrest. d: application for bail. e: acceptance of bail. f: number of the accused who received trial. g: number of the accused found innocent. h: rate of the accused found guilty

Source: Lawyers for a Democratic Society & National Council of Churches in Korea, *Human Rights in South Korea*, 1992: 51.

For other data and information, several sources have been consulted, including the *Country Report on Human Rights Practices* of the U.S. Department of State (henceforth, *the Country Report*), *Amnesty International Reports*, Charles Humana's *World Human Rights Guide*, *The Police Bureau Statistical Yearbook* of South Korea and *the Human Rights Reports* of South Korean Human Rights NGOs.

Report 1998, the standards for issuing warrants were tightened in 1997, resulting in a significant decline in the number of detention warrants approved. For example, the number of suspects detained upon arrest in the first 5 months of 1997 declined 75 percent compared with a similar period in 1996. Such the number declined about 50 percent in 1998 after Kim Dae Jung regime inaugurated. For detail, see *Korea Times*, March 22, 1999.

CHAPTER IV

EAST ASIAN CHALLENGE TO UNIVERSAL HUMAN RIGHTS

This chapter attempts to go beyond the rhetoric that has dogged the human rights debates and to identify relatively persuasive East Asian criticisms of traditional Western approaches to human rights. First of all, we will consider the debates between universal human rights and East Asian perspectives. Second, to specify the core of current debates, we need to discuss briefly both the philosophical perspectives and cultural tradition based on Confucian ethics in East Asia. Third, we also need to examine the ongoing arguments as to whether Western or East Asian morality is superior and as to whether individual rights or collective rights should be given priority. Having considered all the preceding arguments, we will address the claim often asserted by East Asian governments that some basic rights must be temporarily curtailed in order to deal with an unstable set of particular socio-economic and political circumstances.

1. The Expansion of the Universality of Human Rights and Relativism

Are human rights universal? To answer this question, we need to know what human rights are. Human rights are the rights that "one has simply because one is a human being," hence, are held equally and inalienably by all human beings (Donnelly, 1993: 196). Most

rights are rights to something, for instance, the right not to be tortured and the right to free expression. Common to all notions of human rights is the attempt to specify the condition under which a would-be right-holder is entitled to possess a human right (Chan, 1995: 28). A right is a human right if and only if a person is entitled to it solely by virtue of being human, irrespective of sex, race, religion, nationality or social position (Milne 1986: 1). If a person is said to have a human right, then by implication all other human beings also have that right. Based on this argument, then, it is necessarily true that human rights apply to all human beings and are universal. A classical definition of human rights is precisely expressed by M. Cranston (1973) as follows:

A human right by definition is a universal moral right, something which all men, everywhere, at all times ought to have, something of which no one may be deprived without a grave affront to justice, something which is owing to every human being simply because he is human (36).

Here Cranston argues that human rights apply to “all human beings, everywhere and at all times.” Thus this notion of universal human rights is comprehensive and implies that these rights are trans-regional and trans-historical.

However, scholars holding against the universality of human rights argue that even many rights listed in the UDHR are specific rather than general, and they do not seem to be applicable everywhere and at all times. For instance, Joseph Chan (1995) argues:

Some rights in that list presuppose certain modern ideas or institutions or they require certain social conditions which were not available in pre-modern times. A clear example is the right to elect political representatives in the

form of universal and equal suffrage. This is a modern idea, and its realization requires modern institutions (such as political parties) and relatively advanced social conditions (such as literacy and well-established mass media). Freedom of marriage was once also inconceivable in many countries, and the right to social security benefits requires a modern state bureaucracy with relatively advanced economic conditions (29).

Given such dissenting views, it would perhaps be advisable to if it makes sense to argue that all rights in the UDHR are trans-historical. From this point of view, "the UDHR only represents a minimal response to the convergence of cross-cultural human values and the special threats to human dignity posed by modern institutions," hence, "this set of rights has a strong claim to relative universality" (Donnelly, 1989a: 122). In other words, the notion of universality should thus include an element of historicity: human rights are universal in the sense that they are applicable to all human beings in all places in a particular era.¹

It is clear that the notion and scope of human rights has evolved and expanded and will continue do so. Jack Donnelly (1989a) supports this argument and explains the evolution of human rights issues as:

...in response to such factors as changing ideas of human dignity, the rise of new political forces, technological changes, new techniques of repression, and even past human rights successes, which allow attention and resources to be shifted to threats that previously were inadequately recognized or insufficiently addressed (26).

1. Some human rights scholars claim that in the contemporary world "almost all societies, including Asian ones, have modern institutions such as the modern sovereign state, the bureaucracy, the market, and large-scale industrial organizations and enterprises. Traditional communities have either broken up or become too weak to protect powerless individuals from invasion by these powerful institutions. Human rights are then instruments to ensure that individuals have something to fall back on to protect themselves in these situations." (Chan, 1995: 29).

In fact, such evolution of human rights issues is clear not only in the dramatic changes that have take place in civil and political rights, but especially in the emergence of economic and social human rights.² This new category of rights was “associated with new ideas on the meaning of and conditions necessary for a life of dignity, and with changing ideas of who the subjects of human rights were, particularly the growing insistence that the propertyless were entitled to all the same rights as the propertied.” As Donnelly has pointed out, “by the middle of the twentieth century the right to property, the only economic right widely recognized in the seventeenth and eighteenth centuries, had been largely supplanted by an extensive set of economic, social and cultural rights, fully co-equal with civil and political rights” (Donnelly, 1989a: 26-27).

Cultural relativists deny the liberals’ arguments that the universality of human rights is trans-historical or trans-regional. For instance, although most Asian states agree in principle that human rights are universal, they also emphasize the importance of particularities. The Chinese representative to the Vienna Conference argued:

The concept of human rights is a product of historical development. It is closely associated with specific social, political and economic conditions and the specific history, culture and values of a particular country. Different

2. Donnelly uses two incidents which happened in US history to illustrate changes of civil and political rights respectively. “Today in the West we take the right to free press largely for granted, but less than two hundred years ago, Paine was prosecuted for sedition because of his pamphleteering, and Jefferson as president made use of the notorious restrictions of the Alien and Sedition Acts. It has been barely more than a century that the right to freedom of association has been held to extend to associations of workers” (Donnelly, 1989a: 27).

historical development stages have different human rights requirements. Countries at different development stages or with different historical traditions and cultural backgrounds also have different understanding and practice of human rights. Thus one should not and cannot think of the human rights standards and model of certain countries as the only proper ones and demand all other countries to comply with them.³

Quite obviously, it is difficult to reconcile such a position with China's and other Asian states' theoretical commitment to the universality of human rights, since a radically distinct understanding and practice of human rights would be required by the particularities of each country. According to this position, the universality of human rights is thus no longer valid or applicable across cultures or countries (Chan, 1995: 31).

2. Asian Perspectives and Challenge to the Universal Human Rights

Asian states hold the position that different cultures and political ideologies ascribe different weights to the concept of human rights. The almost absolute weight attached by Western liberal culture and ideology to personal autonomy explains their rejection of paternalism. Though the non-liberal cultures of the Asian states do not deny the value of personal autonomy, they put far greater emphasis on "communitarian values such as family bondage, communal peace, social harmony, sacrifices for the community and patriotism" (Chan, 1995: 30). These Asian values need not lead to a denial of the civil and political rights of individuals. However, they may lead to a different understanding of the scope, weight and

3. Liu Huaqiu, 1993. *Statement in Vienna Conference*, Tang, eds. 1995: 214.

priority of these rights.

Asian states admit that both individual and collective human rights are integral. They understand individual rights to cover not only civil and political rights but also economic, social and cultural rights. Further, they consider all the various aspects of human rights to be interdependent, equally important, indivisible and indispensable. It would seem at first, then, that these arguments of Asian states are consistent with the Western approach to the notion of human rights. In fact, however, like many developing countries, Asian states argue that special circumstances justify their different prioritization and implementation of human rights. For example, Liu Huaqiu, the Head of the Chinese Delegation to the Vienna World Conference, has claimed that "the argument that human rights is the precondition for development is unfounded," and thus that "for the vast number of developing countries to respect and protect human rights is first and foremost to ensure the full realization of the rights to subsistence and development" (Tang, 1995: 214). Emphasizing the "special circumstances" of the developing countries, which have been suffering from poverty and economic want, Liu Huaqiu continues:

When poverty and lack of adequate food and clothing are commonplace and people's needs are not guaranteed, priority should be given to economic development. Otherwise, human rights are completely out of the question. We believe that the major criteria for judging the human rights situation in a developing country should be whether its policies and measures help promote economic and social progress, help people meet their basic needs for food and clothing and improve the quality of life. The international community should take actions to help developing countries alleviate economic difficulties, promote their development and free them from poverty

and want (215).

Varying social norms thus inflect countries' notions of human rights and their scope. This is but one more side of the interaction between the moral ideal and political reality that lies at the heart of the practice of human rights. In the contemporary world, the rights enumerated in the International Bill of Human Rights represent a widely accepted consensus on the minimum necessary prerequisites for a life of dignity. We need to note that the claim that human rights are universal entails neither that all societies should have the same political systems nor that East Asian societies should abandon their cultural heritage in favor of the Western culture. Those who believe that human rights are universal also believe that there can be diverse institutional means to implement these rights. Many cultural practices either lie outside the domain of human rights or are protected by the human rights doctrine. Article 27 of the UDHR, for example, states that everyone has the right "freely to participate in the cultural life of the community."

Most Asian governments do not deny the concept of human rights and its importance. Nor do they seem to deny that human rights are universal. However, they do stress the idea of diversity as much as universality concerning human rights. For example, the Bangkok Declaration holds that Asian governments recognize that:

...while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds (Article 8).

A similar stance is favored in the Chinese White Paper (1991) which states:

...the evolution of the situation in regard to human rights is circumscribed by the historical, social, economic and cultural conditions of various nations, and involves a process of historical development. Owing to tremendous differences in historical background, social system, cultural tradition and economic development, countries differ in their understanding and practice of human rights (2) (Ghai, 1995: 57).

Here we should recognize that the concession by universalists that the human rights doctrine is consistent with institutional and cultural diversity leaves open the question of whether the doctrine is Western and therefore not universal.

Some East Asian states have exploited this ambiguity and have resisted the notion of universal human rights championed by the West⁴ precisely because they view it to be a specifically Western one. What appears from the Western perspective to be a noble campaign for universal human rights is interpreted from an Asian perspective as cultural imperialism.⁵ For example, Singapore's former prime minister, Lee Kuan Yew pointed out cultural differences between Western and East Asian societies and the political implications of those differences. Lee has suggested that the Western style of democracy and human rights is not

4. To explain this situation in detail, "Western governments, having won their Cold War with communism, have taken their fight for human rights to the Third World. This has brought them into conflict with some Asian governments since prevailing human rights violations in several Asian countries have been targets of Western criticism" (Freeman, 1995: 14).

5. Daniel Bell (1996) criticizes the argument that human rights is a distinctive invention of the West saying that it unwittingly plays into the hands of forces in East Asia who seek to stigmatize human rights voices as "agent of foreign devils" and defamers of indigenous traditions. Similarly, the argument that the development of human rights is contingent on the development of capitalism

applicable to East Asia. Such arguments have been raised mainly by Asia's authoritarian leaders, Lee being the most articulate among them.

Though China was shown above to agree in principle to the universality of human rights, the following statements excerpted from its 1991 White Paper seem to suggest otherwise: "despite its international aspect, the issue of human rights falls by and large within the sovereignty of each state," and "only when the state sovereignty is fully respected can the implementation of human rights be really ensured" (Yash Ghai, 1995: 56-57). In arguing that "for any country or nation, the right to subsistence is the most important of all human rights, without which the other rights are out of the question," China's 1991 White Paper clearly contradicts Western assertions that subsistence can be guaranteed only once a degree of freedom of expression and government accountability has been established.⁶

In East Asia, most countries are at the level of development which necessitates that priority be given to the most basic rights, such as the eradication of illiteracy, the alleviation of poverty, the improvement of health and the creation of employment opportunities. That is, East Asian authoritarian leaders maintain the logic that one cannot express one's opinions freely if one is illiterate, one cannot enjoy the rights to property if one lives well below the poverty line, and one cannot join a labor association if one is unemployed.

Going further, some leaders like Singapore's former prime minister, Lee Kuan Yew,

strengthens the position of antimodernists who oppose human rights (654-656).

6. The classic example is China's Great Leap Forward: had the Chinese felt free to tell the truth about agricultural production, the famine unleashed by the Great Leap Forward, which killed as many as 15 million people between 1959 and 1961, could have been avoided (Sidney Jones, 1997: 18).

argue that even if everyone is highly educated, some curbs on freedom of expression would need to be maintained for the good of society:

I find parts of the American system totally unacceptable: guns, drugs, violent crime, vagrancy, unbecoming behavior in public-in sum, the breakdown of civil society. The expansion of the rights of the individual to behave or misbehave as he pleases has come at the expense of orderly society. In the East the main object is to have a well-ordered society so that everybody can have maximum enjoyment of his freedoms. This freedom can only exist in an ordered state and not in a natural state of contention and anarchy.

Lee's argument implies that without strong state intervention and, by extension, restrictions on certain human rights, economic growth can lead to a breakdown of society with all the evils apparent in the West. This Singaporean stance may stem from the fact that Singapore is already wealthy enough that the rationale of needing authoritarian controls to produce economic growth no longer applies. In fact, if the argument that economic development leads to enhanced political freedoms held, Singapore would be the freest state in Asia.⁷

Many scholars of Asia who have no direct political interest in the subject (Han, S. J., 1996; Kim. Y. M., 1997; Kim D. J., 1994) have argued for a variant on the "economic growth first" proposition: that a certain degree of authoritarianism is necessary to make the hard political and economic decisions that produced the region's spectacular growth. Even if one were to accept this premise that it was necessary to suppress certain political rights to

7. For last 20 years, Singapore has been one of the fastest economic growth countries. Its average annual growth rate in real GDP was 8.0% (1975-1984) and 8.2% (1985-1995) and its GNP per capita was also one of the highest in the world.

ensure economic growth, it would be hard to argue for the necessity of the violations of civil rights that occurred under Asia's authoritarian governments, such as the widespread political arrests, torture, and summary executions perpetrated by the Park Chung Hee and Chun Doo Hwan regimes in South Korea or by Suharto's New Order in its first two decades of reign in Indonesia (Jones, 1996: 1). But without channels to criticize the government and hold police and military accountable for abuse, there is no check on such excesses save innate benevolence.

3. Contrasts in Human Rights Traditions in the West and in East Asia

There seems to have been no explicit concept of human rights in East Asian culture before the reception of Western political ideas at the end of the nineteenth century. Confucianism, for example, laid the ethical foundation for certain social relations and for the mutual obligations that were inherent in them. Traditionally, the official ideologies of East Asian countries, such as those of the Tokugawa era in Japan and the Yi Dynasty in South Korea, associated inequality with order and equality with chaos (Michael Freeman, 1995: 15). Confucian ethics provided no theoretical limit to the authority of the state.

However, though no native concept of human rights was explicitly formulated in East Asia, historical analysis shows that a rich tradition of democracy-oriented philosophies and ideals has long existed there. In the West, it is widely accepted that English political philosopher John Locke laid the foundation for modern democracy. According to Locke,

sovereign rights reside with the people and, based on a contract with the people, leaders are given a mandate to govern, which the people can withdraw (Freeman, 1995: 18-19). But almost two millennia before Locke, Chinese philosopher Mencius preached similar ideas. According to his "politics of royal ways," the king is the "son of heaven," and heaven bestowed on its son a mandate to provide good government, that is, to provide good for the people (Kim D. J., 1994). If he did not govern righteously, the people had the right to rise up and overthrow his government in the name of heaven.⁸

A native religion of Korea, Tonghak, went even further, advocating that "man is heaven" (*Innaechon*) and that one must serve man as one does heaven. These ideas inspired and motivated nearly half a million peasants in 1894 to revolt against exploitation by a feudalistic government internally and imperialistic forces externally. Even though those Asian democratic ideals failed to be institutionalized because of the obstacles posed by authoritarian governments, it is clear that there are no ideas more fundamental to democracy than the teachings of Confucianism and Tonghak.⁹ In other words, Asia has democratic

8. Mencius even justified regicide, saying that once a king loses the mandate of heaven he is no longer worthy of his subjects' loyalty. The people came first, Mencius said, the country second, and the king third. The ancient Chinese philosophy of Minben Zhengchi, or "people-based politics," teaches that "the will of the people is the will of heaven" and that one should "respect the people as heaven" itself (Kim D. J., 1994).

9. Kim Dae Jung (1994) argues that there is evidence to prove the existence of human rights organizations or policies in East Asian tradition. However, I do not agree with his opinion that those systems or policies were realized for common people at that time. For example, only the sons of nobles were eligible to take "civil service examinations." "Boards of censors" and Confucian scholars in China and Korea also had a limited power to check imperial misrule and abuses by government officials. For a detailed analysis, see Kim Dae Jung 1994; also Han S.J. 1998 for critiques of Kim's argument.

philosophies as profound as those of the West.

It is perfectly possible, then, to criticize political oppression or human rights abuses in Asia using Asian traditions that have some family resemblance to the human rights doctrine. It may also be possible to argue that human rights ideas and practices are compatible with Asian traditions. Western ideas of rights were imported into Asia because there was indigenous dissatisfaction with the old order and because Western ideas of human rights and democracy helped Asian protesters to articulate their goals and principles (Boo Tion Kwa, 1993: 28). Meanwhile, Confucian values are no longer the fundamental expression of native ideas; they have been by and large transvaluated to be compatible with and commensurate to the main thrust of modern ideology defined in terms of Enlightenment ideas. In fact, since East Asian intellectuals have been devoted students of the modern West for several generations, Enlightenment values, including human rights, have become an integral part of their own cultural heritage (Tu, 1998a: 48).

The critical issue, then, is not whether East Asian intellectuals should choose traditional Confucian values or modern Western values, but how they can be enriched and empowered by their own cultural roots in their critical response to the already partially domesticated Enlightenment heritage. If human rights are to be fully developed, these intellectuals must creatively transform the Enlightenment mentality of the modern West into a thoroughly digested cultural tradition of their own. This, in turn, is predicated on their capacity to creatively mobilize indigenous social capital and cultural assets for the task. They must be willing to confront difficult and threatening challenges, identify complex options,

and make painful, practicable decisions.

4. Priority of Rights and Morality Conflicts

The West and East Asia differ on whether individuals or social/collective values should be given priority. East Asian officials argue that social order and political stability are more important than individual rights and democracy. They assert that Asian Values, based on Confucian ethics, are even 'superior' to Western values for the realization of the orderly and moral society, that they have deemed desirable. In this context, the advocates of Asian values clearly give priority to the group or community over the individual and to the whole society over its individual members (Kim, Y.M., 1997: 1120). Datuk Abdullah Haji Ahmad Badawi, the Minister of Foreign Affairs of Malaysia, asserts:

Another conceptual lacuna in the current debate on human rights is the manifest emphasis on individual rights at the expense of the rights of the community. The rights of the individual are certainly not in splendid isolation from those of the community. Excessive individual freedom leads to a decay in moral values and weakens the whole social fabric of nations. In the name of individual rights and freedom, racial prejudices and animosities are resurfacing to the extent that we are witnessing the rise of new forms of racism and xenophobia, increasingly manifested in violence (Tang, 1995: 236).

In the same context, Wong Kan Seng, the Minister of Foreign Affairs of Singapore, claims that "in the early phase of a country's development, too much stress on individual rights over

the rights of the community will retard progress," therefore, he rejects the assumption that individual rights "will necessarily lead to a democracy" since it is not warranted "by the facts"(Tang, 1995: 246). They see individualism as a threat to the prosperity of a community or of the nation as a whole. For them, it is only natural to put constraints on individual rights for the sake of enhancing the welfare of the whole society as they understand it. Western style democracy is not something to be placed above other social values or taken as an end in itself, and East Asian officials often state that they have their own standard of democracy. Not only do they not believe in the utility of democracy in the building of an orderly society, but they openly repudiate democracy as a political goal because they believe that Western style democracy hinders the orderly development of the whole nation. Hence, such a "soft authoritarianism" puts forth a value system that is considerably different from those in the West. Furthermore, they employ different yard-sticks for evaluating such political and social values as democracy and human rights.

Asian authoritarian leaders often argue that East Asian societies, unlike Western ones, believe that the individual exists in the context of his family and that the family is "the building brick of society" (Zakaria, 1994: 112). For example, Lee Kuan Yew cites this ostensibly self-reliant, family-oriented culture as the main cause of East Asia's economic successes and ridicules Western governments for allegedly trying to solve other societies' problems even as their own are breaking down due to too much democracy and too many individual rights (Zakaria ,1994: 119). Consequently, according to Lee, the Western political system, with its intrusive government, is not suited to family-oriented East Asia. He rejects

Westernization while embracing modernization and its attendant changes in lifestyle--again strongly implying that democracy will not work in East Asia. However, Lee's argument neglects to note that the inevitable consequence of industrialization will be to move East Asian societies away from their focus on the family and towards a self-centered individualism. In short, industrialization will inevitably lead to Westernization.

In fact, Asian authoritarian government, especially in its developing stages, intrudes much more than Western governments into the daily affairs of individuals and families. In Korea until the early 1990s, for example, each household was required to attend monthly neighborhood meetings (so-called *Bansanghoi*) to receive government directives and discuss local affairs (Kim, D. J., 1994: 190).¹⁰ Opinions like Lee's hold considerable sway not only in Asia but also among some Westerners who agree with his assessment of the moral breakdown of advanced democratic societies. However, moral breakdown is attributable not to inherent shortcomings in Western cultures but to the effects of industrialization; a similar phenomenon is now spreading through Asia's newly industrializing societies. Hence Kim Dae Jung argues that "the proper way to cure the ills of industrial societies is not to impose the terror of a police state but to emphasize ethical education, to give high regard to spiritual values," and to promote high cultural and artistic standards (1994: 191).

If East Asian leaders have been too quick to assume that moral breakdown in the

10. Further examples abound. Kim Dae Jung points out, "Japan's government power constantly intrudes into the business world to protect perceived national interests, to the point of causing disputes with the United States and other trading partners. In Lee's Singapore, the government stringently regulates individuals' actions--such as chewing bubble-gum, spitting, smoking, littering, and so on--to an Orwellian extreme of social engineering" (Kim, Dae Jung, 1994: 190).

West was due to an inherent flaw in Western cultures, the U.S. has been naïve in assuming that exporting US political practices and institutions is the only or the best way to promote human rights abroad. It may well have been feasible to act on such an assumption in the post World War II era, when the United States was powerful enough to insist upon human rights norms. Today, however, the relative economic and military strength of East Asia means that the United States must now rely primarily on moral authority to promote human rights in East Asia. However, several factors undermine US moral authority in this respect.

Widely publicized social problems in the United States such as widespread drug use, collapsing families, rampant crime, growing economic inequality, and alienation from the political process no longer make the United States the attractive political model that it may once have been. The widespread sentiment that such domestic ills undermine the social good further reduces the attractiveness of the particular human rights regime (the priority of civil and political rights over social and economic rights) often promoted by US human rights activists (Bell, 1996: 654).

Such criticism is further fueled by evidence that the US is willing to ignore human rights considerations when its own interests are involved, as in its commission of abominable deeds during the Vietnam War, its willingness to renew China's Most Favored Nation status despite its dismal human rights record to placate American business leaders, and its passive acquiescence to if not active support of gross human rights violations, as in the case of East Timor (Bell, 1996: 654). The US's own marred human rights record helps lend credibility to Malaysia Prime Minister Mohamad Mahathir's argument that the United States campaigns

for workers' rights in Asia in order to undermine the competitiveness of Asian companies and to maintain US economic dominance in the region.¹¹

5. Policy Implications – Is the Asian Perspective Defensible?

Several East Asian states mounted a challenge to Western beliefs on human rights in the aftermath of the Cold War. These East Asian states sought to redefine the concept of human rights by questioning the applicability of universal human rights in different cultural, economic and socio-political settings.

First, claiming the justification of cultural relativism, East Asian governments assert that the Western approach ignores the specific cultural traditions and historical circumstances of East Asian societies whose interpretations of human rights are different from those of Western nations. They argue that human rights must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional peculiarities and various historical, cultural and religious backgrounds. Second, they maintain that the economic priority of developing East Asian societies has to be the eradication of poverty and the promotion of economic well-being (i.e.,

11. The US has also shown itself willing to support regimes with atrocious human rights records in its effort to curb its domestic problems. For example, in June 1995 it decided to cooperate with the Burmese military junta in its fight against drug trafficking. The damage done to the US's moral credibility by such actions is exacerbated by its refusal to make amends for the Vietnam War, in much the same way as Japan's moral authority in Asia is undermined by its refusal to fully accept responsibility for its war of aggression. (Daniel Bell, 1996: 654).

economic growth must come first). Asian arguments assume the validity of the human rights doctrine; however, they accord priority to economic, social, cultural and development rights over civil and political rights. Third, Asian authoritarian leaders take issue with Western political models arguing that they are not appropriate in East Asian societies where social order and political stability under the capable leadership of a good government is far more highly valued than in the West. Further, they point to the double standard of Western countries, which insist on strict human rights enforcement abroad while turning a blind eye to their own shortcomings in this arena, and argue that they are merely using human rights as an instrument to advance their own economic or political interests. In some ways the East Asian states' reaction to Western pressure on human rights questions can be characterized as a realist response. That is, East Asian states view Western human rights policy as "power politics in disguise" (Donnelly, 1992) and so charge that Western values are set on a collision course with East Asian traditions and economic priorities in the form of a "clash of civilizations" (Huntington, 1993).

It is certainly important to consider culture an important factor when we discuss democracy and human rights in a country, but it is also important to recognize that culture is not immutable. To many contemporary observers, the attempt by East Asian authoritarian leaders to ground their own distinct notion of human rights in Confucianism is incongruous with their own claims to historical specificity (i.e., the Chinese White Paper). In traditional East Asian societies, the Confucians have based their ethical norms on what Confucius

taught more than two thousand years ago. Theodore de Bary et al. (1960) criticizes this tendency as follows:

...when people are bounded by the Confucian teachings of filial piety and obedience to the point of the son not deviating from the father's way even three years after his death and the woman not only obeying her father and husband but also her son, how can they form their own political party and make their own choice?...

Confucius lived in a feudal age. The ethics he promoted are the ethics of the feudal age. The social mores he thought and even his own mode of living were teachings and modes of a feudal age. The objectives, ethics, social norms, mode of living and political institutions did not go beyond the privilege and prestige of a few rulers and aristocrats and had nothing to do with the happiness of the great masses (153-156).

Though the attempt to base current notions of human rights on Confucianism is thus open to objections that it is ahistorical, many authoritarian regimes in Eastern European and African countries are looking to the Asian model because it stresses authority and discipline, limits individual freedom, and strengthens the society and whole state.

Objections to the application of universal human rights standards to Asia on the ground that such standards are alien to Asian traditions rest on an oversimplified account of those traditions. Traditions are complex and change over time, motivated by internal and/ or external forces (Freeman, 1995: 15-16). External changes may be imposed by imperialist coercion or accepted voluntarily by people dissatisfied with their own traditions. The mere fact that a cultural influence is 'alien' does not mean that it is harmful, nor is there anything shameful in learning from others. For example, Asian intellectuals have been keen to learn economic and technological skills from the West. Given that willingness it would be

inconsistent to reject the human rights doctrine only because it is not part of the traditional culture. In seeking to determine if it would be useful and moral to accept the human rights doctrine, Asians should not allow themselves to be misled by spurious arguments over the external origin of that doctrine or sentimental appeals to cultural tradition.

In point of fact, democratic thought is not of external origin. The fundamental ideas and traditions necessary for democracy exist in both Western countries and East Asian states. Although Asians developed these ideas long before the Europeans did, Europeans formalized comprehensive and effective electoral democracy first. In fact, the invention of the electoral systems is Europe's greatest accomplishment. The fact that such electoral systems were developed elsewhere does not mean that "they will not work" in Asia, as is evidenced by the prosperity that followed upon the adoption of a "Western" free market economy by many Asian countries, including South Korea and Singapore.¹²

Appeals to cultural traditions are also dangerous because they can be manipulated to

12. We cannot deny some scholars' claim that in advanced countries (Germany, Italy, Japan, and Spain) where economic development preceded political advancement, it was only a matter of time before democracy followed. Kim Dae Jung (1994) argues, "the best proof that democracy can work in Asia is the fact that, despite the stubborn resistance of authoritarian rulers, Asia has made great strides toward democracy" (192). He continues, however, "we need to clarify our arguments that democracy is not necessary equal to capitalism." For example, the Soviet demise was not the result of the victory of capitalism over socialism, but

serve political purposes. In this regard, the arguments of Asian authoritarian leaders can be turned against themselves. If the doctrine of human rights can be misused to disguise Western neo-imperialism, as they assert, then the doctrine of cultural relativism can be misused to conceal or to justify oppression by Asian states.

East Asian authoritarian leaders also advance arguments inconsistent with their supposed support of cultural relativism when it suits their purposes. For example, the Asian response to Western criticisms of human rights violations in Asia sometimes takes the form of a moral critique of the West. Asian leaders argue that the social achievements of Western societies are sufficiently questionable that the West has no right to give moral lectures to Asia. However, if Asia believes that the West should not criticize it for human rights violations on the ground that this is to impose alien cultural standards, then it should not criticize the West for its failure to conform to Asian moral standards. The Asian moral critique of the West may be justified, but it presupposes common moral ground between Asia and the West and thereby undermines the relativist objection to Western critiques of Asia. This common ground exists because Asian leaders have chosen to adopt important features of Western culture, especially those associated with the capitalist and socialist paths to economic development. The existence of such common ground further weakens the credibility of appeals to traditional culture.

Another common Asian argument assigns priority to economic development. It assumes the validity of the human rights doctrine but accords priority to economic, social, the triumph of democracy over dictatorship. (Kim, Dae Jung, 1994: 189).

cultural and development rights over civil and political rights. The argument is that economic development and its attendant economic, social and cultural rights require stability, and that the stabilization of society under conditions of economic development requires both strong authoritarian government and respect for traditional cultural values. However, as we will explore in the next chapter, the relation between human rights and economic development is not well understood, both because the concept of human rights itself and the nature of its empirical connections are complex. Although there are a few examples of successful economic development under authoritarian regimes, many more such regimes have failed to achieve stability or economic development. Even where political repression and economic success have been combined, we should not assume that the former was a necessary condition to the latter. Hence, Michael Freeman (1995) argues, "if human rights violations are conceded to be wrong in themselves, but are justified on the ground that they are a necessary means to the good of economic development, the justification of the wrong is weakened by the failure to show that it is indeed a necessary means to the good end" (16). Given such evidence, the presumption by most developing countries that authoritarianism is essential to economic growth (soft authoritarianism) proves to be both wrong-headed and dangerous, as many scholars have warned (e.g., Sen, 1997; Bell, 1997; Jones, 1996 & 1997).

The problem is that soft authoritarianism too easily turns into an assault on bodily integrity, often accompanied by the suppression of political freedoms. It is one reason why martial law or emergency regulations that temporarily deprive citizens' rights in the name of national security or public order can be so dangerous: once extra powers have been

granted to security forces, they often become institutionalized. Another flaw in the argument that authoritarianism may be essential to growth is that it ignores the possibility that factors other than authoritarianism may have been equally important in producing economic achievements. Although South Korea's economic success might be taken to support such an authoritarian logic, it should be noted that, the vast majority of Third World countries under authoritarian rule still suffer from chronic poverty and despair. For example, most African countries have failed to make significant headway against poverty and a number of authoritarian Latin American regimes have done little to address the region's deepening inequality and nightmarish inflation. On the contrary, the 1980 Kwangju Massacre in Korea shows that human rights abuses led to a deterioration in economic growth,¹³ demonstrating that the authoritarian system itself cannot be the determining factor in economic development.

Our case study analysis of South Korea, a country often cited as a vivid example of authoritarianism contributing to economic development, found no evidence that authoritarian politics are logically linked to economic growth (Sen, 1996 & 1997; Kim, Y. M., 1997). For this reason, it would be an oversimplification to say the authoritarian political regime was a prerequisite for the rapid growth of South Korea. Any such oversimplified argument would only raise fundamental and troubling questions. If we grant that authoritarianism promotes economic growth, should we prefer authoritarianism to democracy for economic reasons? Should a state practice repressive rule and sacrifice human rights for the sake of economic

13. In 1980, South Korea recorded negative growth (-5.7) on its GDP for the first time since 1960.

prosperity? These would be fundamental dilemmas that the advocates of soft authoritarianism would have to face. World societies, in East Asia and elsewhere, are increasingly becoming democratized and internationalized. The East Asian model proves less credible because it is unable to account for the inevitability of such worldwide democratization.

It is clear that it is no longer possible for Asian states to ignore the international discourse of human rights in the name of economic development. Economic development is undoubtedly crucial but only if accompanied by measures that promote egalitarianism and the protect the human rights of citizens. While priorities and approaches differ in societies at different stages of development, such differences should not be used as an excuse for abusing human rights. There is always the danger that the priorities of a state could be misrepresented as an excuse for disregarding popular opinion. Thus, in addressing these issues, those advocating a different approach to human rights have to recognize the rightful role of the people.

CHAPTER V
ECONOMIC DEVELOPMENT OF EAST ASIA AND
HUMAN RIGHTS – TRADE-OFF

Like other developing countries, East Asian states have sought to link economic development issues with human rights questions and have emphasized the importance of the trade-off thesis. As we discussed in previous chapters, among the many challenges to the universality of human rights, none has been more persistent and stronger than those related to economic development. In no place has this challenge been more consistently advanced than in East Asia. Mounting a challenge to Western beliefs on human rights, several East Asian states have tried to redefine the concept of human rights by questioning the applicability of universal human rights in different cultural, economic and socio-political settings. Within the context of that challenge, the concept of “Asian Values” has been introduced. This concept, which rests upon the assumption that economic development must precede complete recognition of political and civil rights and that individual rights should be valued less than stability and order, has gained the support of several Asian countries, notably Singapore, China, Malaysia, Indonesia, and South Korea.

Those who advocate Asian Values argue that Western-style democracy and human rights are dispensable and sometimes even prove positively harmful to the development effort. They believe that the alleged price of human rights is damage to the

Asian social fabric and the resultant political and economic chaos. Such arguments suggest that the exercise of individual rights naturally emerges from economic development, and that even in developed Asian societies, stability and order would be more highly valued than the protection of individual rights (Jones, 1997: 18). In other words, Asians are presumed to be less supportive of freedom and more concerned with order and discipline and so less receptive to claims of human rights in the areas of civil and political rights than those in the West. This defense of authoritarianism in Asia on the grounds of the special nature of Asian values calls for historical scrutiny, to which I shall presently turn. In this chapter, I will explore how the authoritarian leaders have defended authoritarian arrangements on the ground of their alleged effectiveness in promoting economic success. Furthermore, I will consider whether economic development can always enhance the field of human rights and so be used as an excuse for restrictions on certain human rights.

1. The Stages of Economic Development and Trade-off

As we discussed in previous chapters, the debate on human rights is seen as a confrontation between the West and East Asia. It presupposes that there in fact a wide gap between the Western and Asian concepts of human rights. The Asian states of China, Indonesia, Malaysia and Singapore have been the most vocal in openly challenging the Western view of human rights. They have frequently called on the West to stop "lecturing" Asians and instead to listen to what they have to declare. They have also

called for a better understanding of the special circumstances of their respective states that would take into account the socio-economic realities and the political contexts within which they operate. What these states are actually saying is that collective economic needs must take precedence and that individual rights as enshrined in the West are to a certain extent 'irrelevant' to their culture or stage of development (Caballero-Anthony, 1995: 40). Ali Alatas, Minister of Foreign Affairs of Indonesia, gives voice to this position:

In promoting human rights in developing countries, including our own, it should also be borne in mind that there are other fundamental rights and concerns besides certain civil and political freedoms to which equally urgent attention should be devoted, such as the rights of the vast majority of the people to be free from want and from fear, from ignorance, disease and backwardness. At the same time most developing countries are presently at a stage of development which necessitates increasing focus on the human being as both the principal agent and ultimate beneficiary of all development, thus requiring primary efforts to be devoted to human resources development (Tang, 1995: 232).

His statement explains why developing countries, including Indonesia, attach such great importance to the right to development in an environment of national stability.¹

Apparently, such a "situational uniqueness" approach does not offer a different or alternative concept of human rights. In fact, one of its premises is that the rights enshrined in the UDHR are universal. These include, among others: the right to life, the

1. The right to development has been recognized in the UNGA Declaration of 1986 and in UNGA Resolution 41/128. Article 1 of that Declaration states that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and economic development that

rights against torture and slavery, the right to due process of law, the rights to social dignity and respect, and the right to freedom from hunger and poverty. However, while Asian governments reaffirm the universality of human rights, their insistence that the full implementation of these rights is contingent the situation and uniqueness of each state has now to be taken to mean a difference in concept. Thus the so-called human rights confrontation between the West and East Asia emerged from the Asian states' claim that these rights should be implemented according to the stages of a country's development. Here we can raise several questions. How long do Asian states have to wait to reach the desirable 'stage' of development? Are East Asian states still too far from that 'stage' to guarantee their people's human rights? Ultimately, should the economic well-being of a country be attained at the expense of civil and political rights?

In fact, conventional wisdom holds that short-run sacrifices of human rights are required to achieve rapid economic development and a stable social order. The necessity of temporarily sacrificing both civil and political rights and economic, social and cultural rights was the reigning orthodoxy in the 1960s and the 1970s. In the 1980s, "authoritarian repression was still widely viewed as useful or even essential for economic development, although a growing concern in development economics for issues of income distribution and social welfare and basic needs blunted some of the enthusiasm for trade-off arguments."² Though the developmental defenses of repression common in the 1960s and

will in turn facilitate the full realization of all human rights and fundamental freedoms.

2. Moreover, despite explicit opposition to modernization theory, "leading theoretical paradigms, such as dependency/world system theory (Frank, 1969; Wallerstein, 1974) and the bureaucratic-

1970s have been criticized, they are still popular in Third World countries, including those of East Asia.

The trade-off thesis implies that economic growth and development have been crucial to establishing, maintaining, and expanding liberty in the Third World. Proponents of "growth first" development strategies argue that "the exercise of civil and political rights may disrupt or threaten to destroy even the best-laid development plan." Donnelly (1989a) explains this trade-off as follows:

Elected officials may feel pressured to select policies based on short-run political expediency rather than insisting on economically essential but politically unpopular sacrifices; freedoms of speech, press, and assembly may be exercised so as to create or inflame social division, which an already fragile polity may be unable to endure; free trade unions may merely seek additional special benefits for a labor aristocracy; elaborate and punctilious legal systems on the Western model may seem to be extravagant anachronisms; and so forth. Civil and political liberties therefore must be temporarily suspended (165).

Based on the "growth first" strategy, as long as rapid economic growth is achieved, it is expected that everything else, even the deep absolute and relative poverty of the people, will take care of itself. Donnelly deems the conventional wisdom of the growth first strategy to be "tragically misguided." He argues:

authoritarianism model (O'Donnell, 1973; Collier, 1979) still argued for the developmental necessity of various human rights trade-offs," especially in the Third World. Donnelly, 1989a:163.

Some sacrifices of human rights may be unavoidable in the struggle for development, but the categorical trade-offs of the conventional wisdom are almost always unnecessary and often positively harmful to both development and human rights. Human rights trade-offs, except perhaps at the very early stages of the move from a "traditional" to a "modern" economy, are not developmental imperatives. They are contingent political choices undertaken for largely political, not technical economic, reasons (165-166).

For Donnelly, repression is likely to be linked not only to strategic choices based on power and politics but also to the "stage" or "phase" of economic development already achieved.

The "stage" approaches raised by both Asian states and Jack Donnelly lead us to consider the stage or phase of development in a society. That is, to understand the relationship between economic development and human rights trade-off debates, "when or where in the development process we are" or "how much progress has been made toward the goals of growth and equity" should influence both the "need" for and the nature of development repression (191). Although these stage theories of development are justly notorious and represent a gross and distorting oversimplification, they can be somewhat useful in an analysis of the relationship between repression and development in identifying three main phases of development: the modernization stage; the industrialization stage; and the graduation stage.³ Even though there is nothing inevitable

3. The modernization stage is characterized by the "creation of the institutions of capitalist (or socialist or mixed) development, such as private (or state or mixed) ownership of the means of production, commodity production, market (or administered) exchange, and national economic integration." Typical of the industrialization stage is "the rise of the modern urban industrial sector to a position of economic predominance, including at least some significant heavy industrial development." The traits of the graduation stage include "further relative decline of

about movement through these particular phases, and success at one does not necessarily guarantee success at the next higher stage, this sequence of phases has important implications for assessing the relationship between repression and economic development. In the modernization stage, repression is associated with the structural task of removing established structures and practices that impede economic development. The details of this process of modernization will differ from country to country depending on such factors as the nature of the traditional social system, colonial history, and even more variable and contingent factors, such as leadership personalities and political ideology. At the stage of modernization, some degree of repression would seem to be unavoidable for successful development. Generally, "this is why arguments about the necessity of repression in development will never leave us: there is a certain (limited) truth in them" (Donnelly, 1989a: 192). However, even in this stage repression should not be justified as an end of modernization. Donnelly argues:

Repression, however, is at best a means to a desired end; it is obviously undesirable in itself. Therefore, even modernizing repression must be evaluated according to its contributions to the end of modernization, and the human and economic costs of repression must never be overlooked (192).

Furthermore, arguments that repression is inevitable at the modernization stage should

agriculture, emerging predominance of heavy industry over light industry, further industrial deepening in many sectors, and the beginnings of the development of indigenous advanced technological capacity—roughly, the transition from a developing economy to a developed economy" (Donnelly, 1989a: 191).

not be considered valid for later stages. This is especially important because repression undertaken to assure conformity to a particular plan at the modernization stage is often left in place long after that stage has passed. Some of the more vivid examples of this practice are provided by Korean dictators, such as Park Chung Hee (the 3rd and 4th Republic), Chun Doo Hwan (5th Republic) and Roh Tae Woo (6th Republic), by foreign dictators such as Pinochet in Chile, and Castro in Cuba.

Clearly, at both the industrialization and graduation stages, repression should be less necessary. In fact, at the stage of industrialization, "repression is often associated with disputes over the intermediate ends sought and the means used in a particular development strategy" (Donnelly, 1989a: 912). Thus, the structural task recedes and the policy task obviously subject to greater contingency, comes to the fore. During industrialization, repression is likely to be used to enforce a particular distribution of the benefits and burdens of development. "With traditional forces subordinated and modern economic institutions established, the need for state intervention is less generic and more focused on a relatively small set of strategic sectors, bottlenecks, or opportunities" (Donnelly, 1989a: 193). Hence, such repression is eventually tied to the demands of a particular strategy. Meanwhile, at the graduation stage, human capital and economic infrastructure should be developed to such a point that intense efforts to mobilize resources should no longer be necessary. By this stage, administrators should be sufficiently experienced to be able to manage state participation in the economy without relying heavily on coercion and violence. As the stage of graduation is reached, strong intervention by a state and repression should be increasingly unnecessary.

At which of the stages are the East Asian states located? The rapid economic growth in East Asian countries in recent decades has earned the name of the “four dragons” for Singapore, Taiwan, Hong Kong, and South Korea and of the “four tigers” for China, Indonesia, Malaysia, and Thailand. Could countries boasting such strong economic performances still be considered to be at the stage of modernization? Clearly not. Because most of them are now at least at the stage of graduation where we begin to see clearly the transition from developing to developed country, their arguments that repression is necessary for development in this region are particularly weak.

2. Trade-off: Economic Reality or Political Expediency?

The glittering economic success of East Asian states has been somewhat tarnished by the way some authoritarian governments have controlled domestic political activities and curtailed human rights practices. These governments justify their policies as necessary for a stable political environment and economic development, while advocates of Western-style human rights regard them as merely political expedient. Some Asian officials defend against the charge that East Asia has not adequately implemented human rights by pointing to the length of time necessary for Western countries to fully do so. For example, Wong Kan Seng, the Minister of Foreign Affairs of Singapore, argues as follows:

The very idea of human rights is historically specific. We cannot ignore the differences in history, culture and background of different societies. They have developed separately for thousands of years, in different ways and with different experiences. Their ideals and norms differ. Even for the same society, such norms and ideals also differ over time. For example, how rights were defined in Europe or America a hundred years ago is certainly not how they are defined today. And they will be defined differently a hundred years hence (Tang, 1995: 244).

To illustrate his point, he observes that though the British Parliament was established in 1215 with the signing of the Magna Carta, women in England only gained the right to vote in 1928, and Oxbridge university graduates and businessmen had extra votes up until 1948. He also points out that the U.S. of the years following independence granted the right to vote only to those who paid poll or property tax. It was not until 1920 that women were granted the right to vote and not until 1965 that the literacy tests and other qualification devices for vote registration were suspended to allow African-American to vote freely (Tang, 1995: 244). By this reckoning, full democracy was only established in Britain in 1948, 733 years after the Magna Carta, and in the USA in 1965, 189 years after Independence. His argument asserts that since the USA and Britain took some 200 years or more to evolve into full democracies, we should not expect the citizens of the many newly independent countries of this century to acquire the same standards of rights as those enjoyed by the developed countries, since they lack the economic, educational and social preconditions to exercise such rights fully. Is this argument defensible? Should people in a developing country tolerate repression until democracy in the country can be fully realized, even if it takes hundreds years to do so? How then can this Asian

perspective explain the advent of democracy in South Korea after military dictatorship ended in the early 1990s?

“Poverty makes a mockery of all civil liberties,” said Wong Kang Seng, neatly summarizing the views of the proponents of Asian Values who consider economic growth to be a prerequisite for a climate conducive to human dignity (Tang, 1995: 245). Such proponents argue that civil and political rights have to be considered in tandem with economic, social and cultural rights. In Asian states, it almost seems that civil and political rights are deemed meaningless without a decent standard of living. And for them, what is considered the greatest oppression is not necessarily political but economic, social, or cultural. Though it is important to acknowledge such a prioritization of economic growth in the East, it also should be noted that unchecked state power may easily lead to totalitarianism, despotic rule and corruption. The economic development imperative very often merely provides “justification for the perpetuation of power among a self-selected group and restricts citizens’ participation in affairs of the state” (Caballero-Anthony, 1995: 43).

Some argue, albeit from a different perspective, that the economic realities of East Asia, like the rest of the Third World, necessitate a trade-off, whereby a maximum rate of growth is enjoyed but at the expense of higher levels of repression (Venierris & Gupta, 1983: 739). However, the logic of the contingency of repression in the process of development has been criticized by a number of scholars (Donnelly, 1989a; Sen, 1997; Freeman, 1995; Bell, 1996; Jones, 1997; etc). Jack Donnelly (1989a) argues:

Some repression almost certainly is unavoidable. Much repression is undoubtedly functional for a particular "development" strategy. But the familiar general claim that development requires repression is at best grossly misleading... Given the current state of the discussion, the first step in understanding the causes of repression and the links between repression and development is to recognize that these causes simply do not lie in any general developmental imperative (201, note 4).

Donnelly further argues that there may be significant economic benefits to the exercise of many civil and political rights, especially in terms of an increased flow of information:

...obtaining an adequate and timely flow of information is a major practical problem of economic management, especially in the Third World, where even simple official statistical information tends to be of doubtful reliability. Freedom of speech, press, association, and assembly, and the right to petition for redress of grievances, can be important channels of information for the government. Electoral campaigns can also provide important information for planners, but only if there is true competition in relatively free, fair, and open elections (even if only one-party elections). More generally, imposed social discipline usually will engender inefficiency that at least partially cancels any gains derived from suspending civil and political rights (1989a: 201).

In addition, Donnelly argues that civil and political rights may help turn a country toward equitable development and in many cases are likely to be the only way, short of revolution, to bring about the transition.

Here we may argue that any potentially justifiable trade-off of civil and political rights must be selective, flexible, and specific; there can be absolutely no justification for

a blanket trade-off of civil and political rights, whatever its economic effects.⁴ Based on the argument that developmental strategies and repression are political actions resting on moral and political choices, we should note that some development alternatives involve little repression and that all involve repression only contingently.

However, we cannot deny that the economic realities of East Asian states seem to uphold the thesis that socio-economic and cultural rights should be made the central focus. The dilemma is how to deal with the rights in the case of an inevitable conflict. If we believe in the reciprocity of rights, how then could we justify this conflict within an interactive framework in the human rights field? There should be an acceptable common denominator as "the lowest standard" below which the denial of civil-political rights is not warranted at all. Beyond a certain point, then, trade-offs and prioritization of rights would not be sanctioned. A consensus must be reached on what constitutes a tolerable minimum degree of civil-political rights. For instance, irrespective of the stage of development, people have to be given the right of participation in some form of political elections or membership in political parties. Beyond this minimum standard of decency, the applicability of civil-political rights becomes closely linked to the enjoyment of socio-economic and cultural rights.

4. Donnelly warns that such a blanket trade-off of civil and political rights is likely to ignore the diversity of human rights and the variance in cost that the guaranteeing of each specific right would demand. That is, "torture, disappearances, and arbitrary executions can almost always be eliminated with no costs to development; rights to nationality and to equality before the law would also seem to have very low development costs; due process is likely to be a bit more costly, but not wildly so; and even such rights as freedom of speech, press, and assembly, and the right to vote, which have relatively high development costs, need to be assessed in light of particular empirical circumstances" (1989a: 201-202).

It should be acknowledged that the prevailing repression in East Asian states results from their ruling classes' political expediency. More briefly, the extreme coercive measures adopted by the authoritarian leaders are not a solution to the economic difficulties inherent in the current stages of development in these societies. Instead, these measures are deemed necessary by such leaders to ensure their political survival or to bolster the legitimacy of their rule.⁵ In sum, political repression in East Asian countries seems intricately linked to their politico-economic realities. Such a link does not, however, justify a unidirectional understandings of the trade-offs between human rights and economic development; that is, it in no way necessitates that it is always human rights which are sacrificed for the sake of development. (Donnelly, 1984: 276).

3. Economic Development Leads to Democracy?

East Asian authoritarian leaders have argued for their own standards of human rights which is in many ways irreconcilable with that of the West. One of their most common arguments is that Western-style civil and political rights need to be sacrificed in East Asia in order to meet more basic material needs. For example, former Prime Minister of Singapore Lee Kuan Yew is famous for having argued that political leaders in developing countries should be committed to the eradication of poverty above all else:

5. The emergency rule in South Korea (1977) and the declaring of martial law in South Korea (1980) are instructive examples in this regard.

As Prime Minister of Singapore, my first task was to lift my country out of the degradation that poverty, ignorance and disease had wrought. Since it was dire poverty that made for such a low priority given to human life, all other things became secondary.⁶

That is, if factional opposition threatens to slow down the government's efforts to promote economic development or to plunge the country into civil strife, then in Lee's view tough measures can and should be taken to ensure political stability. Such a message has been strongly supported by the leaders of East Asian countries such as China, Malaysia, Indonesia and Thailand.⁷ These leaders argue, unlike Western democracies, development in Asian countries is a collective activity and is primarily supplied by state agencies and other groups in society, therefore, it is an economic and social process which perhaps requires the infraction of classical civil and political rights in the short run.

While the general claim that civil and political rights must be sacrificed in the name of economic development may not stand up to social scientific scrutiny, there are narrower claims. It is said that particular rights may need to be curbed in particular

6. Nathan Gardels (1992), "Interview with Lee Kuan Yew," *New Perspectives Quarterly*, 1.

7. Cultural differences and value differences between Asia and the West were stressed by several official delegations at the World Conference on Human Rights in Vienna in 1993. The foreign minister of Singapore warned that "universal recognition of the idea of human rights can be harmful if universalism is used to deny or mark the reality of diversity." The Chinese delegation played a leading role in emphasizing the regional differences and in making sure that the prescriptive framework adopted in the declarations made room for regional diversity. The Chinese foreign minister even put on record the proposition, apparently applicable in China and elsewhere, that "individuals must put the states' rights before their own." For details, see Tang ed., *Statements by Representatives of Asian Governments at the Vienna World Conference on Human Rights*, pp.213-245.

contexts for particular economic or political purposes as a short term measure, in order to secure a more important right or to secure more of that same right in the long run. That is, East Asian governments emphasize “the particularity of human rights protection and the priority determined by the specific conditions of each country” (Daniel Bell, 1996: 646).

However, there is little evidence to vindicate the “soft” authoritarian logic that promoting civil and political rights may hamper economic growth and that such rights may need to be sacrificed in the short term. The fundamental arguments of authoritarian leaders are that economic development will lead to reasonable improvement in human rights in the long term. Yet the trends of economic development and human rights ratings depicted in Table 5-1 show us that the trade-off thesis is false in East Asia, since countries in East Asia have experienced rapid economic growth for several decades and yet their human rights situations lag far behind those of the rest of world society. Human rights indices show that human rights in each country did not improve proportionally to economic success. After all, although Asian countries are proud of their economic success and consequently even claim that their economic system is superior to those in Western countries, the economic development did not lead human rights improvement. On the contrary, between 1982 and 1992, the human rights records of Asian countries remained even under the world average in terms of Humana's study.⁸ Meanwhile, the human rights statuses in these Asian states clearly contrast with those of less authoritarian

8. These Asian countries have kept their annual real GDP growth rate more than 7% for period 1992-1996, however, their human rights conditions are not as good as their economic growth.

Table 5-1

Trends in Economic Development and Human Rights Indices in Selected Countries

Country	Real GDP per capita (ppp\$) ⁹		GNP per capita Annual Growth Rate (%)		Human Rights Ratings ^a (%)	
	1960	1995	1965-'80	1980-'93	1982	1992
China (107) ^c	723	2,935	4.1	8.2	32	21
Indonesia (87)	490	3,971	5.2	4.2	53	34
Malaysia (42)	1,738	9,572	4.7	3.5	54	61
Singapore (7)	2,409	22,604	8.3	6.4	61	60
South Korea (36)	690	11,594	7.3	9.7	51	59
Thailand (49)	985	7,742	4.4	6.4	64	62
Costa Rica (62)	2,160	5,969	3.3	1.1	91 ^b	90
Jamaica (93)	1,829	3,801	- 0.1	- 0.3	79 ^b	72
Venezuela (48)	3,899	8,090	2.3	- 0.7	89	75
World Average	---	---	2.0	0.9	64 (55 ^b)	62

Source : UNDP, *Human Development Report 1997 & 1998* (New York: Oxford University Press).

a. Charles Humana, *World Human Rights Guide 1982 & 1992* (London: Hodder & Stoughton).

b. Data of 1986, Charles Humana, *World Human Rights Guide 1986* (London: Hodder & Stoughton).

c. The numbers in parentheses refer to the real GDP per capita rank of the world 174 countries in 1995.

9. The real GDP per capita is GDP measured by using PPP (*purchasing Power Parity*) as established by the World Bank, based on the results of surveys by the International Comparison Program (ICP). At the PPP rate, one dollar has the same purchasing power over domestic GDP that the U.S. dollar has over the U.S. GDP. Dollars converted by this method are sometimes called international dollars. For detailed explanation, see World Bank, *World Development Report 1998/1999*: 234.

ones (such as Costa Rica, Jamaica, and Venezuela). Even though the economic situations (in terms of real GDP per capita and annual the growth rate of GNP per capita) of these countries are somewhat worse than those of East Asian states (except China and Indonesia), the human rights situations of these less authoritarian countries are much better than those of East Asian countries. This again implies that economic development or growth is not necessarily related to increased respect for human rights. As a matter of fact, these Asian countries are or have recently been authoritarian rather than democratic, and developing rather than developed. Most regional theorists and politicians therefore argue that their countries should focus on economic progress first, with the expectation that some degree of political liberalization will follow later. Built into this position are the assumptions that socio-economic rights are more important than civil political rights, and that the latter actually hinder economic development. However, based on the evidence illustrated in the next section, it is also questionable whether economic development in East Asia enhanced even socio-economic and cultural rights.

Socio-economic and cultural rights require action by governments.¹⁰ To ensure such rights, governments must maintain a certain quality of life, including education and health, prevent unemployment, and assume responsibility in providing food, housing, and medical care. Economic growth can be a powerful means to eradicate poverty, raise productivity, increase the income of poor people and expand opportunities and choices in

10. See Chapter 3, note 4.

a variety of ways. According to Lee Kwan Yew, eradicating poverty and seeking to ensure other socio-economic and cultural rights is the most urgent goal of poorer countries. It would then be interesting to note whether evidence bears out his and other authoritarian leaders' claims that economic development, even at the cost of civil and political right, is the most efficient means to do so. Figures for income inequality and absolute poverty as well as indicators of social welfare for each country would be useful as indicators in making that assessment. East Asia's sustained national GDP growth, combined with its rising wages and productivity, have been credited with the region's historic ascent from poverty. In fact, economic success in East Asia has been regarded as a role model for the Third World countries. In reality, in many countries economic growth failed to reduce poverty, either because growth has been too slow or stagnant or because its quality and structure have been insufficiently pro-poor.¹¹

Poverty, even in states which have achieved a high rate of economic development, is a principal cause of the violation of human rights. Poverty deprives individuals, families, and communities of their rights, hence a life of dignity is impossible in the midst of poverty. To eradicate absolute poverty and to reduce relative poverty have been important tasks of East Asian states in terms of social development. However, the issue of poverty has not been substantially noticed due to the widespread attention given to

11. Hence, there is controversy about the importance of economic growth to poverty reduction. In detail, growth optimists point out that poverty usually declines more quickly in faster-growing countries and that most of the poor gain almost everywhere during periods of rapid growth. On the contrary, growth pessimists point out the damage that adjustments that facilitate growth can cause, particularly to the disruptions that harm the poor – including shifts in employment patterns, changing prices and environmental pollution. UNDP, *Human Development Report 1997*: 71-72.

East Asia's economic growth. According to the Human Development Report of UNDP, the rapid and successful economic growth of East Asia could not solve the problems of poverty and income inequality in these countries. A number of people in this region still suffer from absolute poverty. 37% of people in China, 25 % in Indonesia, 30% in Thailand, 16 % in Malaysia, and 5% of those in South Korea are considered to be in "absolute poverty" (UNDP, 1994: 164-165). In addition to the problem of the practical issues on poverty, income distribution of most East Asian states is less egalitarian than the Western countries, though East Asian leaders argued otherwise.¹² On the contrary, income inequality is getting worse even as economic growth continues in this region. The case of China is especially telling in regard to the relationship between income inequality and economic growth. In the late 1970s China began to unleash market forces, privatize its economy and rapidly open up to international trade and finance. In 1979 its Gini coefficient was 0.33, lower than any other East Asian country. By 1988 it had risen to 0.38, surpassing those of Indonesia and South Korea. Such inequality continues to rise, especially along the coast, an area which is closely tied to the world economy and hence economically developed (UNDP, 1996: 59).

In terms of social investments, most Asian states have spent money on education. However, in terms of investment in social security, welfare and health, these Asian countries are far behind the standard of other industrial countries. Table 5-2 shows that

12. The Gini coefficients, calculated by using the data on the distribution of disposable income into quintiles during 1975-1988, show 0.42 in China, 0.48 in Malaysia, 0.42 in Singapore, 0.47 in Thailand, which is far higher than 0.33 in United Kingdom, 0.25 in Sweden, 0.33 in France, respectively. UNDP, 1992: 160; World Bank, 1998/1999: 198-199.

especially government expenditures on social security and welfare benefits in most East Asian states are below 10 % while those of the Western countries (such as the U.S.A. and the EU) fall around the 30% mark. In this context, the claim that Asian states have a socio-economic policy that is superior to and more efficient than that of the West should be reconsidered. Rather, we can argue that these governments have failed to meet their people's socio-economic rights standard.

The idea that development brings human rights improvements is further eroded if the situation of a prominent group of East Asians -- industrial and service workers -- is examined in more detail. In fact, workers' rights cannot be respected if the state directs

Table 5-2

Social Investments in Selected Countries

Country	Social Security benefits Expenditure (% of GDP) 1993	Percentage of Central Government Expenditure on			
		Social Security and Welfare 1992-1995	Housing and Community Amenities 1992-1995	Health 1992-1995	Education 1992-1995
China	--	0.1	0.1	0.4	2.9
Indonesia	--	0.0	1.6	2.7	10.0
Malaysia	2.3	5.7	6.1	5.6	21.8
Singapore	7.2	3.8	7.0	6.0	24.8
South Korea	2.3	10.2	2.1	0.7	20.2
Thailand	0.1	4.0	2.7	8.1	21.1
Japan	11.5	36.8	13.8	1.6	6.0
U.S.A	10.5	29.6	2.7	18.3	1.6
EU	--	39.0	1.7	13.5	4.9

Source : UNDP, *Human Development Report 1997* (New York: Oxford University Press, 1997). 186, 187, 212.

labor towards certain development projects. For instance, the formation of trade unions to protect workers' rights is clearly less important to East Asian authoritarian leaders than development goals which may in themselves infringe human rights. In other words, developing Asian countries care about efficiency, not democracy, and consider order and development more important than freedom (Kenneth Christie 1995: 204-218). In many East Asian countries, the issue of workers' rights is highly charged politically, and some scholars predict that it may soon become the biggest human rights issue in Asia, and one of the most divisive.¹³

It is certainly true that some relatively authoritarian states (such as South Korea, Taiwan, Malaysia, Indonesia, Singapore, and post-reform China) have had faster rates of economic growth than many less authoritarian ones (such as Costa Rica, Jamaica or Venezuela). However, as some scholars (Jack Donnelly, 1989a; Amartya Sen, 1997) argue, systemic cross-national statistical studies do not support the claim that there is a correlation or a causal connection between authoritarianism and economic development. On the contrary, civil and political rights may help to safeguard economic security in the sense that such rights draw attention to major social disasters and induce an appropriate political response, helping turn a country toward equitable development.¹⁴ As Donnelly argues "even if bread does come first, civil and political rights may be the best and

13. Here, workers' rights are not only a question of wages and working conditions, although those are the key issues. Some degree of freedom of association is also essential, so that workers have some ability to negotiate the terms of their employment. See Jones (1996) 424-425.

14. For example, Sen argues, one of the remarkable facts in the terrible history of famines in the world is that no substantial famine has ever occurred in any country with a democratic form of government and a relatively free press. 1997: 33-34.

usually the most peaceful way to obtain bread, because poverty is in large measure a social and political rather than a natural phenomenon" (1989a: 201).

4. Policy Implications

As we have seen, the trade-off thesis, which holds that civil and political rights must be sacrificed in the name of economic development, can be taken in a sense as a justification for human rights violations. However, because it is not offered as a general argument for repression, it cannot be refuted by social scientific evidence based on generalizations.¹⁵ However, it seems that it is not sufficient to respond to this "Asian" challenge to human rights with the claim that human rights are universal and hence cannot be restricted under any circumstances. The so-called Asian side of the debate often concedes that human rights are universal and that ideally governments should try to secure as many rights as possible. For example, Article 8 of the Bangkok Declaration adopted by several Asian states in 1993 admits that human rights are "universal in nature" and they must be considered in the context of a "dynamic and evolving process of international norm-setting."

15. In this point of view, Sen argues, "we cannot really take the high economic growth of South Korea or China in Asia as 'proof positive' that authoritarianism does better in promoting economic growth – any more than we can draw the opposite conclusion on the basis of the fact that Botswana, the fastest-growing African country (and one of the fastest growing countries in the world), has been a 'oasis' of democracy in that unhappy continent" (1997: 34).

Despite the seeming accord on the universality of human rights, differences between the West and East Asian countries arise when particular rights come into conflict. When such a conflict occurs, governments may either have to sacrifice some rights in order to safeguard more important ones or to sacrifice a certain right in the short term in order to secure more of that same right in the long run. In other words, the real East Asian challenge to universal human rights is often not so much a dispute about the ideal of promoting human rights or about alternative cultural outlooks, as it is a plea for recognition of the fact that certain East Asian governments often find themselves in the unenviable position of having to curtail certain rights in order to secure other more basic rights.

However, it is important to be aware that even if the human rights critic were to concede that the society is facing a social crisis which ought to preoccupy policymakers and that curbing a human right is the most effective way of overcoming that crisis, such local justifications for the denial of human rights are "at best a short-run excuse" (Jack Donnelly, 1996). Once the economic or political troubles are more or less successfully overcome, the denial of human rights is no longer justified. For example, human rights violations in Singapore and South Korea under the 6th Republic cannot be justified in the name of economic development since these countries have already become top economic powers.

It is now widely, though unpleasantly, admitted that the most serious challenge posed to the promotion of universal human rights originates in the international politico-economic order. The establishment of a new operating international economic order is at

the core of the developmental imperatives of developing countries. Authoritarian leaders usually claim that economic development facilitates the instrumental and meaningful functioning of civil-political rights. However, it would be questionable to maintain that the exercise of civil-political rights is totally or even primarily a function of economic development. There is now a good deal of evidence, as will be demonstrated by the case of South Korea, that rapid economic growth and development do not automatically lead to the realization of civil-political rights. In effect, it appears that developing countries require a drastic democratic restructuring and a reasonable degree of economic development before they can launch a growth-oriented development strategy. As we have seen in the case of China, rapid economic growth in a country where there is inequitable distribution of resources and income may further exacerbate the existing inequalities. Therefore, the oft-heard argument of East Asian countries that human rights will follow economic growth has no logical and empirical basis.

Given the immediate needs of East Asian peoples, even critics of coercive development strategies concede that East Asian leaders are justified in attaching more importance to the realization of socio-economic and cultural rights. However, these critics forcefully repudiate the notion that such a prioritization necessitates a delay of or renders impossible the implementation of the most fundamental civil and political rights. To be sure, economic growth becomes meaningless to those whose basic political rights are being constantly abridged by repressive regimes and their political expediencies.

In conclusion, human rights concerns ought to be incorporated in any development strategy in developing countries if the ultimate objective of development is

ever to be achieved. That ultimate objective is the enhancement of the human factor and the quality of life. For developing countries, this alternate view of development may bear close attention and consideration.

CHAPTER VI
ECONOMIC GROWTH, THE RULE OF LAW, AND HUMAN RIGHTS –
SOUTH KOREA

1. The Korean Model: A Fabulous Notion

East Asian authoritarian leaders maintain that governments should concentrate on economic growth and basic needs, such as food, shelter and clothing, rather than ensuring democracy and human rights. They regard civil and political rights and freedom as “luxuries” that poor countries cannot afford. They argue that economic prosperity eventually leads to democracy, and that therefore democracy and human rights should be sacrificed until a country has realized a certain level of economic development. But how long should people wait for such promised development? Based on the discussions in the previous chapters, we cannot but raise grave concerns over the economic growth-first strategy. As in many developing countries, authoritarianism in East Asia has been raised to the level of national ideology. Such countries deprive their citizens of rights and freedoms, denouncing these as foreign ideas inappropriate to the religious and cultural tradition of Asia. Instead there is the promotion of the spurious theories of Asian Values, which serve as a disguise, however thin, for their authoritarianism. The arguments of East Asian states have some important things in common: a tendency to deny the universality of such Western ideals as freedom, individual rights, and democracy; economicism, or the tendency to view political matters as

determined by economic matters; and a tendency to dismiss as futile, arrogant, and undesirable any attempt by the West (especially the USA) to try shape the direction of history (Kagan, 1998: 38).

Claims of an "Asian style" democracy, now widespread in East Asia, originated with the "Korean style democracy," launched by former President Park Chung Hee in South Korea more than 20 years ago (Cumings, 1997; Kim, Y.M., 1997). For many years South Korea served as a showcase of successful economic development, a success often called "Han's miracle" (Cumings, 1997: 331-332). The miracle on the Han was the most highly touted developmental success story in the world, until other 'tigers' in East and Southeast Asia (China, Malaysia, Indonesia, Thailand) came to the world's attention. Korea was credited with having a reservoir of cheap, disciplined labor and of talented technocrats and with boasting a high GNP growth and an egalitarian distribution of wealth. However, those who praised South Korea's development rarely spoke of the dark sides of Korean history such as military coups d'etat, civil revolutions, and massacres. Instead, all too often they tended to justify the authoritarian rule of successive regimes in terms of the harsh requirements of development, security vis-a-vis North Korea, the Confucian tradition, or the immaturity of Korean politics (Cumings, 1997: 338).

Proponents of the authoritarian logic of the "Korean model" argued that the authoritarian stage was necessary for two reasons: because it provided a period of stability that made an economic take-off possible; and because, until such a take-off occurred, the Korean people lacked the strong middle class upon which successful democracies are

presumed to rest and so were not “ready” to sustain a popular form of government (Kagan, 1998: 39). Indeed, according to this argument, if democracy had come to South Korea before a certain level of economic development, it would have been premature, unstable, chaotic, and unproductive. It would have been an illiberal and therefore a dangerous democracy.

The bright side of this theory was that once South Korea did achieve a certain level of economic growth, it would be almost impossible for it not to become democratic. This claim seems to be supported by the work of several scholars (Huntington, 1991; Przeworski ed., 1996; Rowen, 1996), who have suggested that the transition to stable democracy correlates with mean incomes between \$5,000 and \$6,000, and that democratization becomes irreversible at the \$7,000 level. On the basis of such calculations, China would be a democracy by 2015, for that is when China’s per capita GDP could be projected to fall within the necessary ranges, given the current growth rates of 5 percent a year. Henry Rowen (1996) stresses:

There is a compelling logic behind the statistical relationship. Growing wealth is accompanied by increased education, the building of business and government institutions with some autonomy, and the formation of attitudes that enable democratic governments to survive when they have a chance at power. Spain, Portugal, Chile, and Argentina, in addition to Taiwan and South Korea, all made the transition to democracy while they were within this income range (5).

From such data, some scholars such as Kagan (1998) draw the conclusion that stimulating economic growth in authoritarian countries is the best way to promote democracy: “if you want freer government in China or Indonesia, you need only to increase trade and thereby

hasten the day when economic growth compels those nations to shed their authoritarian fins and gills, which no longer serve any useful purpose, and leave the water of dictatorship for the land of democracy” (40). The above described development model and the conclusion drawn from it provide supports of Asian authoritarianism with a fashionable excuse.

Did the history of South Korea justify such an evolutionary thesis? More specifically, did South Korea evolve from traditional authoritarianism to modern democracy as a consequence of economic growth? Did a certain level of economic growth guarantee and enhance the realization of human rights improvement? An analysis of the history of South Korea shows that the answer to all of these questions is “No.” It should be noted that, although South Korea prospered economically in the 1980s, its authoritarian governments, in their relentless implementation of a growth-oriented strategy, seriously abused the human rights of Korean citizens, justifying such abuse in the name of national security. The South Korean case shows us that economic development should be accompanied by an improved observance of human rights. The case of South Korea offers us a valuable tool with which to evaluate the historical credibility of the special Asian Values which have often been used to defend authoritarianism.

2. Economic Growth and Human Rights – Historical Overview

After World War II, South Korea was a poor agrarian society with over two thirds of its population engaged in agriculture, but by 1997 that number had dropped to 15%. South

Korea is now an industrialized country with a per capita GNP (US \$13,500) that ranks 24th in the world (World Bank, 1998/1999: 190). Although South Korea today is in an economic crisis, it has enjoyed rapid economic growth for the past several decades. It is now the 11th economic power in the world and is regarded as a role model for many developing countries. Those figures alone are telling evidence of the speed with which industrialization and urbanization took place in South Korea in the past several decades. They also indicate both the extensiveness and intensity of the structural and social change imposed on the traditional rural areas. Ironically, contrary to its favorable economic image, South Korea is also symbolized by military coups d'etat, violent anti-government demonstrations, brutal riot police, and the torture of dissidents. One result is that in terms of various human rights indicators, South Korea falls well below the international average.¹

The coexistence of spectacular economic success and a dismal human rights record raises questions about the legitimacy of "trade-off" policies adopted in South Korea. To explore such questions fully, it will be necessary to examine the relationship between restrictions on human rights and economic growth in South Korea for several decades. This chapter will examine the human rights performance of South Korea since the modernization stage in the 1960s, but will focus especially on the period since 1980. According to 'stage' theories of economic development (Donnelly, 1989a: 191-192), the 1960s and the 1970s in South Korea belong to the modernization and industrialization stages, respectively. In these

1. As we can see in Charles Humana's study (1982, 1992), for example, the human rights ratings of South Korea (1982: 51%; 1992: 59%) are still below the world average (1982: 64%; 1992: 62%).

stages, repression would seem to be unavoidable in the pursuit of a successful developmental strategy. This argument has a certain explanatory power when we consider the Park regime (1961-1979). Under the growth-first strategy, which was the nation's first goal, the Korean people were rewarded with imminent bread for the sacrifice of their human rights (Kim, E. M., 1994: 4-7). In other words, political repression in the 1960s and the 1970s in South Korea might be considered justifiable due to socio-economic conditions, provided that we agree at least in part with the trade-off thesis. However, by the 1980s, when South Korea had already reached the upper middle level of the world in terms of all economic development indices, the continuation of repressive policies contradicted the basic logic of trade-off, which promises that economic growth will lead to a greater respect for human rights.

South Korea has experienced three regime changes since 1980: the Fifth Republic (1980-1987), the Sixth Republic (1988-1992), and Civilian Government (1993-1997). Thus, we can examine how each regime's human rights policies have been affected by economic growth. Another focus of this research will be to explore the contingency of repression, since each regime has claimed that some repression almost certainly is unavoidable.

The Early Modernization Stage (until the 1970s)

As this part will show, modern Korean history is a tragic one, stained with frustrated modernization, foreign occupation, national division, war, military coups d'etat, and military dictatorship. Literally speaking, until very recently authoritarianism has dominated post-war

South Korean politics. It is no surprise, then, that human rights have been regarded as dispensable luxuries in Korea. Viewed from a different angle, however, modern Korean history is also a history of people struggling to obtain and substantiate human rights. In any case, there is no doubt that human rights violations occurred both extensively and intensively throughout modern Korean history.

Human Rights in the Pre-Modernization Era (until 1960)

The first effort at modernization in Korea dates back to the peasant uprising (*Dong-Hak*) of 1894, which had tried to import Western institutions. After the failure of the peasant uprising, Korea fell into under Japanese imperialism in 1910. Both the breakdown of the traditional order and the advent of modernization in Korea are linked to Japan's colonization. Until liberated in 1945, Koreans, as a whole, were deprived of basic human rights. Japan brutally exploited Korea by confiscating its wealth and subjecting its people to forced labor. The most notorious and egregious act was the forced mobilization of young Korean women as sex slaves (*Chungsin Dae*: comfort women) for Japanese soldiers at the front line of the war. Throughout their occupation, the Japanese ruthlessly tortured, massacred and conscripted Koreans and resorted to any cruel or inhumane methods that was deemed necessary to the continued occupation of Korea.

With the victory of the allied forces over Japan on August 15, 1945, Korea regained its independence. Upon liberation, however, the Korean peninsula was divided into north and

south by ideologically opposite forces, each claiming to be the legitimate government representing all Korean people. The mutual hostility produced severe conflicts between the two Koreas and eventually led to the Korean War, which lasted from 1950 to 1953. This tragic experience filled many South Koreans with a profound suspicion and fear of communism and of North Korea. Under the mantle of anti-communism, authoritarian governments come to power in South Korea through coups d'etat and revived the economy under dictatorial rule.

Between 1948 and 1960, South Korea became a bulwark against communism under the personal and increasing dictatorial leadership of Syngman Rhee, the president who had been hand-picked by the U.S. Determined to remain a lifetime president, Rhee carried out constitutional changes, curbed the opposition, and rigged elections. Though he succeeded in extending his own reign for a time, he failed to purge the corrupt and anti-nationalistic forces which supported and even colluded with Japanese imperialists. In fact, the Rhee government even bestowed top echelon government posts and special privileges on these anti-nationalistic figures, thereby providing fertile ground for the rise of an authoritarian form of government. The government of Syngman Rhee collapsed in April of 1960 when angry students and other citizens rose against its rule,² but not before its palace guard had killed over a hundred unarmed citizens and injured nearly a thousand more. (Kagan, 1998: 48; Cumings, 1997: 344).

2. In 1960 rampant election fraud triggered a massive student uprising which, when the military refused to use violence against the students, resulted in the fall of the regime (Helgesen, 1998: 69).

Human Rights in the Modernization Era (1960-1979)

The April 19, 1960 Student Revolution provided Korea with an excellent opportunity to improve human rights and democracy. The Second Republic established after Rhee's departure was South Korea's first full-fledged democracy with a bicameral legislature, a new and stronger National Assembly, and a free press (Cumings, 1997: 346). However, this opportunity abruptly vanished when Park Chung Hee seized power through a military coup d'etat in 1961 and began to impose military-like orderliness. Under his rule, economic developments were planned on a five-year basis and the entire nation was utilized to achieve economic growth. Although many outsiders were impressed with Korea's consistent growth of 10% or more and picked Korea as a role model, they were less aware of the rapid deterioration of any sense of national ethic in South Korea which led to a political system pervaded with corruption, cronyism and hypocrisy (E. M. Kim, 1994: 7). The military dictatorship gained further strength as it combined power with the wealth derived from the inflow of foreign capital. With carte blanche to spend the capital as it deemed fit, the Park regime used its control over business and finance to furnish the material basis for the control of the other branches of government, including the legislature and the judiciary.³ Many political activists were banned from taking part in politics, political rivals were purged, and

3. See footnote 17 in this chapter.

a political party was organized as an instrument of support for the supreme leadership. The difficulty nonetheless faced by the regime in maintaining electorate and the threat posed by frequent student protests led the regime to restrict oppositional activities and curb political opposition. The regime also politicized the press and the media, education and culture.

In 1972 these repressive measures were legalized in the “Yushin” (meaning *revitalizing reforms*) Constitution to ensure permanent incumbency for Park in the future.⁴ The Yushin Constitution was promoted under the pretext of facilitating national unification, responding to the new international situation, and promoting economic development (Helgesen, 1998: 70). Emergency decrees and martial law were frequently imposed and those who resisted the government policy were harassed and put under surveillance by intelligence agencies. Accordingly, the Yushin Constitution restricted the powers of the legislature and judiciary, curtailed civil and political rights, and secured the re-election of the incumbent president. Hence, in the early 1970s, South Korea entered an era of authoritarianism more brutal and complete than any it had known since its liberation from the Japanese. Park justified his turn to strict authoritarian rule in terms that remain familiar to us today. Long before “Asian Values” became fashionable, Park declared that he was establishing “Korean-style democracy” (Kim, Y. M., 1997). Claiming that Koreans were a family with collective responsibilities, he eviscerated the National Assembly so as to permit a more “organic cooperation” among governing bodies.

4. The Yushin Constitution was proposed after the Park regime had had to “steal” the 1971 presidential victory from the opposition candidate Kim Dae Jung and had witnessed the ever growing resistance of the people.

During this period, South Korea achieved rapid economic growth (Table 6-1) and absolute poverty disappeared. In the 1970s South Korea was among the first of the Asian “miracles,” an improbable economic success story that convinced many in the East and the West that extensive government involvement in guiding and subsidizing industries – the so-called “Asian Model” – was a sound and even a critical ingredient for achieving rapid economic growth in developing countries (Kagan, 1998: 39). GNP per capita in 1963 was merely \$100, roughly comparable to or even below those of Kenya, Sudan, and Niger. However, by 1979 it had jumped to \$1,647 while those of African countries remained under \$400.

It should be remembered that the economic growth of this era was accomplished on the basis of the forced sacrifice of workers and peasants. The transition from an agrarian society to an industrialized one required a highly productive but poorly paid labor force (Minbyun, 1992: 4). In the process of industrialization, the masses of people who migrated out of rural areas became the urban poor, forming a large industrial reserve force. These people were compelled to sacrifice themselves for the sake of national economic development. Trade union rights and the rights to strike were held in check by harsh labor and other laws. To say that the people’s ability to live as human beings was greatly restricted by antidemocratic laws and police power would be no exaggeration. The government even denounced labor movements as communist activities or as acts sympathetic to North Korea. The government’s dependence on police powers to suppress the exercise of rights by laborers and other low income urban people constituted one of its most serious human rights

Table 6-1

Selected Economic Indicators: the Early Modernization Stage (1963-1979)

Year	GDP Growth rate (%)	GNP per Capita (US \$)	Unemp- loyment (%)	Inflation (%)	Total of Imports (\$ mil.)	Total of Exports (\$ mil.)
1963	9.1	100	8.2	----	560.3	86.8
1964	9.7	103	7.7	----	404.4	119.1
1965	5.7	105	7.4	----	463.4	175.1
1966	12.2	125	7.1	12.0	716.4	250.3
1967	5.9	142	6.2	10.7	996.2	320.2
1968	11.3	169	5.1	11.3	1,462.9	455.4
1969	13.8	210	4.8	11.6	1,823.6	622.5
1970	8.8	253	4.4	16.9	1,984.0	835.2
1971	8.5	289	4.4	12.2	2,394.3	1,067.6
1972	4.8	319	4.5	11.9	2,522.0	1,624.1
1973	12.8	396	3.9	3.5	4,240.3	3,225.0
1974	8.1	541	4.0	24.8	6,851.8	4,460.4
1975	6.6	594	4.1	24.7	7,274.4	5,081.0
1976	11.8	802	3.9	15.4	8,773.6	7,715.3
1977	10.3	1,011	3.8	10.0	10,810.5	10,046.5
1978	9.4	1,400	3.2	14.7	14,971.9	12,710.6
1979	7.1	1,647	3.8	18.5	20,338.6	15,055.5

- US \$: 1990's constant US dollars; \$ mil.: millions of 1990's constant US dollars

Sources: The Bank of Korea, 1997, *Economic Statistical Yearbook*.

International Monetary Fund, 1997, *International Financial Statistics Yearbook*.

violations. In protest to such violations, Chon Tae Il, a young worker, incinerated himself in 1971 with the labor standards law booklet in his arms. His death is commonly regarded as a turning point in the history of the Korean labor movement. During the Yushin period, human rights and democracy along Western lines were officially denounced as obstacles to

economic growth. Nevertheless, the anti-dictatorship democratic movement gained wide moral support among the populace.

The brutal and authoritarian Yushin regime came to an end when President Park was assassinated by his friend who was at that time the director of the Central Intelligence Agency. Unfortunately, however, authoritarianism survived, not least because the existing political structures were tailored to execute authoritarian rule.

If we accept the premise of the trade-off thesis that eliminating widespread poverty necessitates and justifies some repression, then we would have to acknowledge that some repression was unavoidable in South Korea of the 1960s and 1970s. However, as Donnelly (1989a) states, repression is “at best a means to a desired end” and it is definitely undesirable in itself (192). Therefore, even in South Korea’s modernization or industrialization stages in the 1960s and 1970s, repression must be evaluated according to its contributions to the end of modernization, and the human costs of repression must never be overlooked. Furthermore, arguments for modernizing repression lose all validity as a justification for the continued and even more brutal repression that characterized South Korea after the stages of modernization and industrialization had passed.

The 5th Republic and Human Rights (1980-1987)

The 1980s were a “turbulent decade” in South Korean politics (Helgesen, 1998: 71). After the assassination of President Park Chung Hee on October 26, 1979, Korean politics

entered a period of transition. The death of President Park did not mean the end of military dictatorship, since there were plenty of opportunistic army generals who wanted to succeed President Park. On December 12, 1979, a group of younger generals ousted a number of their seniors to establish themselves in key military positions. By May of 1980, impatience with the political reform process, coupled with fears of the rising power of the military, led to massive student demonstrations nationwide. The government responded on May 17 by declaring full martial law, dissolving the National Assembly, detaining some major political leaders, imposing strict press censorship, and banning all political activity (Nahm, 1997: 498-499). In Kwangju this triggered a large-scale civilian protest, which was brutally curbed by riot police and martial law troops between the 18th and 27th of May in what became known as the Kwangju massacre. Using fixed bayonets and rifles, riot police and paratroopers killed anywhere from several hundred to 2,000 student demonstrators and other civilians who were protesting martial law.⁵ The main figure in the opposition camp, Kim Dae Jung, was held responsible for the uprising in Kwangju, convicted of anti-state activities, and sentenced to death. All political parties were disbanded "to establish a new political order" (Helgesen, 1998: 71).

The climate for civil and political rights in the 5th Republic was dominated by the strong "law and order" measures enacted by the government of President Chun Doo Hwan, who was a former army general. From the beginning, the Chun regime asserted that the first

5. The exact number of the killings has never been established. Dissidents and NGOs claimed more than 2,000 were killed; the Chun government claimed about 200 died; later National Assembly investigations have suggested a figure no lower than 1,000.

objective of the government is 'fulfillment of social justice' (Lee, K. B., 1997). However, from time to time, the security services not only detained persons accused of violating laws on political dissent but also increased surveillance of or placed under house arrest those they thought intended to violate the laws. Arrest warrants are required by law but were sometimes not produced at the time of arrest in politically related cases.⁶

Under the 5th Republic, Korea's export-oriented economy achieved one of the world's highest growth rates and a twenty-fold increase in per capita GNP over that of the 1960s. The population was urbanized and well educated. Abject poverty was largely eliminated and the number of university students sharply increased. The rapid growth of the economy in short created a growing middle class with increasing access to wealth and education. As we can see in Table 6-2, the inflation and unemployment rates showed stable trends, and the total amount of trade doubled for the 7 years of the 5th Republic.

During the 5th Republic, democratic forces including students and dissidents continued their anti-government activity and accused the US government of helping (or at least giving tacit approval to) Chun's authoritarian government in South Korea.⁷ However,

6. In 1985, the Supreme Court ruled that police may not detain persons for more than 48 hours without arrest warrants. An indictment must be issued within 30 days after arrest. Within 40 days after making an arrest, the police must notify an arrested person's family of his detention and whereabouts. The police normally wait at least several days, and occasionally more than 40 days, before making notification. (the Country Report 1985).

7. In fact, it is undeniable that Korea's politics have been heavily influenced by an outside power, the United States. Since the inauguration of South Korea in 1948, Korean leaders had been under the shadow of American power. Therefore, it was commonly believed that America was responsible for supporting authoritarian rule in South Korea, and so bore some of the responsibility for the contingent human rights abuses by these repressive governments. For more detailed discussion, see

Table 6-2

Economic Indicators for the 5th Republic (1980-1987)

Year	GDP Growth rate (%)	GNP per Capita (US \$)	Unem- ployment (%)	Inflation (%)	Total Imports (\$ mil.)	Total Exports (\$ mil.)
1980	- 5.7	2,409	5.2	28.7	22,292	17,512
1981	5.9	2,836	4.5	21.3	26,131	21,268
1982	7.2	2,993	4.3	7.1	24,251	22,853
1983	12.6	3,321	4.1	3.5	26,192	24,446
1984	9.3	3,585	3.8	2.7	30,631	29,245
1985	7.0	3,797	4.0	3.5	31,136	30,282
1986	12.9	4,228	3.8	3.4	31,585	34,715
1987	13.0	4,718	3.1	3.9	41,020	47,281

- US \$: 1990's constant US dollars; \$ mil.: millions of 1990's constant US dollars

Sources: International Monetary Fund, 1997, *International Financial Statistics Yearbook*.

The Bank of Korea, 1996, *Economic Statistics Yearbook*.

citing increasing radicalism and violence as its motivation, the government continued to take a hard line with political activists, especially students. In 1986, the Korean economy recorded a trade surplus of over 2 billion dollars for the first time. Accompanying this remarkable trade success were GDP growth rates for 1986 and 1987 of 13 %. However, ironically, as we see in Table 6-3, the number of arbitrary arrests by the repressive regime also doubled in this period. Although the 5th Republic began hopefully with an oath of 'social justice' and though it recorded a historical economic development, its innocent citizens suffered under a brutal authoritarian rule that disguised itself behind superficial economic

Kagan, 1998, 42-46; Cumings, 1997: 382-386.

figures. Did economic growth lead to the realization of human rights improvement? For whom should economic development play a role? The answers are simple. The unstable authoritarian regime itself needed economic prosperity, because that was the only guarantor of its legitimacy. However, once people escaped from abject poverty and were exposed to democratic ideas, they became less likely to tolerate dictatorship. Economic growth did not lead directly to democracy and human rights improvement, but it did lead to a highly educated and prosperous populace and so helped set the stage for social change.

Table 6-3
Cases of Indictment by Anti-democratic Laws (1980-1987)

Year	1980	1981	1982	1983	1984	1985	1986	1987
NSL	159 ^a	234	184	153	96	178	323	432
AAD	3	155	130	283	249	540	1,245	714
Total	162	389	314	436	345	718	1,586	1,146

a. Numbers in 1980 include those of the Anti-Communist Law, which was repealed on Dec. 31, 1980.

NSL : National Security Law

AAD: Act on Assembly and Demonstration

Sources: Lawyers for a Democratic Society & National Council of Churches in Korea, *Human Rights In South Korea*, 1992: 51; Court Administration Office, *Yearbook of the Courts*, 1990: 497

Supreme Court, *Materials submitted to the National Assembly for Inspection in the 156th Session*, 1991: 440-450.

The year 1987 saw dramatic political change in the 5th Republic, resulting in a significant enhancement of the human rights situation. In April 1987, when Chun made it clear that he intended to hand over power to Roh Tae Woo without a free election, thus extending military rule for another seven years at least, massive demonstrations erupted

throughout the country (Cumings, 1997: 387). Even more so than in the Kwangju uprising of 1980, students and workers, as well as opposition politicians, dissidents, religious groups and university professors, joined forces in strong nationwide campaigns for democratic reforms. Large street demonstrations broke out from the 10th through the 20th of June, partly the result of the widespread disenchantment with the government over the death of a student, Park Chong Chol, by torture at police hands in January and over the highly unpopular decision by President Chun Doo Hwan on April 13 to end debate over constitutional revision.

Faced with continuing protests, on June 29 the ruling Democratic Justice Party (DJP) Chairman Roh Tae Woo, President Chun's choice as his successor, announced far-reaching democratic reforms. In addition to accepting the opposition's demands for direct presidential elections, these proposals proposed an open campaign, freedom of the press, the release of political prisoners, a sweeping amnesty, and guarantees of basic human rights, specially those of opposition leader Kim Dae Jung and 2,335 other dissidents (Kim, S. 1997: 1136; Helgesen, 1998: 71). If Robert Dahl (1992) is correct in assuming that a democratic system is determined by four criteria -- free and fair elections, freedom of political organization, freedom of expression, and availability of alternative sources of information -- then South Korea reached almost full democracy at this time, at least in terms of democratic institutions.

In this period, world events also conspired to weaken authoritarian rule in South Korea, with some of those events shaped by America. By the mid-1980s, democracy had come to a number of countries in Latin America, was stirring in parts of Eastern Europe, and

was beginning to reshape the politics of Asia, once thought to be impervious to democratic governance. In 1986, as the end of Chun's seven-year term was approaching, the Marcos regime in the Philippines was toppled by a combination of "people power" and the American demand that Marcos respect the results of the elections it had forced him to hold (Kagan, 1998: 46). The example of the American-backed democratic revolution in the Philippines emboldened opposition leaders in Korea and gave Chun and his clique a strong sense that they were not on the right side of history.

In October, the National Assembly passed a bipartisan constitutional revision bill, thus paving the way for Korea's first direct presidential election since 1971. The election took place in December, and Roh Tae Woo emerged as the victor with a plurality of around 36 percent of the electorate.⁸ This development basically changed the political environment in Korea and provided the possibility for further improvement of the human rights climate.

It is clear that South Korea in 1987 experienced a certain level of democracy on the basis of the popular definition of 'procedural democracy' of Huntington (1991) as well as that of Dahl (1992). However, it is hard to believe that the critical factor in Korea's transition to democracy was Korean economic development. The Korean middle class, after all, was not very different in size or political significance when it succumbed rather quietly to dictatorship in 1980 than when it refused to succumb in 1987. In the end, democracy did not come to South Korea as a natural consequence of the existence of a middle class as it did in

8. Two prominent opposition leaders, Kim Dae Jung and Kim Young Sam could not agree as to which of them should represent the opposition in the December election.

the West, but as a result of a bloody civil resistance against the dictatorship and of the military's decision not to suppress it. Those events were shaped chiefly by non-economic factors, such as the democratic feeling among a broad cross-section of Koreans, demonstrative events abroad such as in Philippines, the quick American response, and the fatigue of some in the leadership itself with brutal military rule (Kagan, 1998: 46). The point is simple enough. Economic prosperity and a growing middle class may help to sustain a democracy, but they do not create one. What creates a democracy is a moral will in individuals as well as in societies. Of course, this moral will should be backed by the critical powers, both internal, such as the people's power, and external, such as foreign powers supporting moral justice.

The 6th Republic and Human Rights (1988-1992)

The dynamic, expanding economy which had buoyed the political evolution of the late 5th Republic at first seemed likely to continue after the inauguration of the 6th Republic in 1988. In 1988, South Korea was recognized as the 10th largest trading nation in the world, although its trade balance went back into the red in two years, its GDP growth rate reached a healthy 12% (Table 6-4). This rosy economic climate, combined with the drastic concessions made to the opposition by the Korean government after the civilian uprising of June, 1987, seemed to signal the dawn of a new, less repressive political era. The presidential

Table 6-4

Economic Indicators for the 6th Republic (1988-1992)

Year	GDP Growth rate (%)	GNP per capita (US \$)	Unem- ployment (%)	Inflation (%)	Total Imports (\$ mil.)	Total Exports (\$ mil.)
1988	12.4	5,246	2.5	5.4	51,811	60,696
1989	6.8	5,544	2.6	4.6	61,465	62,377
1990	9.3	5,997	2.4	9.0	69,844	65,016
1991	8.5	7,504	2.3	10.1	81,525	71,870
1992	5.0	7,803	2.4	6.7	81,775	76,632

- US \$: 1990's constant US dollars; \$ mil.: millions of 1990's constant US dollars

Sources: US Department of State, 1988-1992, *Republic of Korea Reports on Human Rights*.

International Monetary Fund, 1997, *International Financial Statistics Yearbook*.

The Bank of Korea, 1997, *Economic Statistics Yearbook*.

election in December of 1987, the first in sixteen years, and the adoption of a new and more democratic constitution also offered the prospect of a vastly improved climate for human rights (Plunk, 1991: 105).

Indeed, at the beginning of the 6th Republic, state repression of civil society did in fact substantially decline, probably thanks to the widespread democratic movements of 1987. As we see in Table 6-5, in 1988 the total number of people indicted under the anti-democratic laws reduced by half, and the number of arbitrary arrests under the NSL by a quarter, as compared to figures for 1987.

Table 6-5

Cases of Indictment by Antidemocratic Laws (1988-1992)

Year	NSL	AAD	Labor related Law	Molotov Cocktail	Public Disorder	Total
1988	104	506	31	-- *	38	679
1989	312	413	120	26	52	923
1990	414	413	235	280	37	1,379
1991	357	396	340	262	4	1,359
1992	342	188	100	67	22	719
Total	1,529	1,916	826	635	153	5,059

* The law against using Molotov Cocktails has been effective since June 1989.

NSL : National Security Law

AAD: Act on Assembly and Demonstration

Sources: Choi, Byung Mo, "An Appraisal of the Human Rights Situation for the past 10 years," *The 10th Anniversary Symposium of Lawyers for a Democratic Society*, Seoul, May 29, 1998: 19-21; Court Administration Office, *Yearbook of the Courts*, 1988-1992.

However, state suppression reappeared as soon as 1988 and political turmoil continued. Despite the impressive democratic progress made by South Korea since 1987, there were more arbitrary arrests under the NSL in 1990, 1991, and 1992 than in any year of the 5th Republic except 1987 itself. This revival of repression, due primarily to the inherent military dictatorship, incited a great deal of anti-government sentiment (Kim, S., 1997). The years 1988 and 1989 were characterized by huge strikes in construction and heavy industries, as well as among journalists and teachers (Helgesen, 1998: 72). Teachers trying to form an independent union (*Chunkyojo*) were dismissed and prosecuted. Dissidents and religious representatives who traveled illegally to Pyongyang to promote unification were arrested

upon their return and prosecuted in accordance with the National Security Law. Even bookstores and publishers were closely watched, and if anything controversial concerning North Korea was discovered, it was immediately confiscated, and heavy penalties were imposed upon the culprits. Although Koreans were freer to criticize the government than in the past, several restrictive laws permitted the government to detain persons whose views it considered dangerous.⁹ The most notorious of these laws is Article 7 of the NSL, which permits imprisonment of persons who "praise, encourage, or cooperate with anti-state organizations or their members or persons who received orders from them, or by other methods benefit anti-state organizations." Because North Korea has been defined as an "anti-state organization," this sweeping article has been used by the government to prosecute dissidents on the grounds that their activities benefit North Korea.¹⁰

The government justified its broad security laws and the resulting restrictions by arguing that Korea is in a "special" situation, since North Korea signed only an armistice, not a peace treat, at the end of the Korean War and so remains a formidable threat. Further, North Korea has long attempted to insert agents into the South and even murder South Korean leaders. The government has asserted that unauthorized attempts to contact North

9. These include the NSL, the Law on Assemblies and Demonstrations, the Social Surveillance Law (SSL), and the labor laws. The SSL, enacted in 1989, contains provisions allowing the Government to reimprison for up to 2 years persons who have served their sentence and are required to report their activities in detail to the authorities but fail to do so (the Country Report 1990).

10. Although the government acknowledges the need to amend the NSL, the National Assembly again failed to do so in 1990. In April 1990, the Constitutional Court ruled the NSL was not unconstitutional as long as it was applied only in cases involving a real threat to national security (Amnesty International Report, 1997).

Korea threaten its efforts to ensure peaceful reunification on the basis of democracy and respect for human rights.

Korea's powerful security services, including the National Security Planning Agency (NSP) which developed out of Korean Central Intelligence Agency of the Park regime, were noticeably less active during the first year of the Roh Government in 1988 than they had been in the past. However, their activities increased again in 1989, and the results were three times more political arrests than in 1988. Throughout the 6th Republic, the security services continued to collect information on a wide variety of people, from opposition politicians to student radicals and labor activists. Despite the spread of Western-style practices, the 6th Republic still placed great emphasis on the Confucian ideals of order and conformity. While the pace of positive political change was accelerating and the Roh Government's commitment to democratization seemed firm, the evolution of South Korea's democracy was not yet complete. The human rights practices under the 6th Republic show another side of democracy. As Sidney Jones (1996) points out, it should be "a reminder of the dangers of equating democracy and human rights" (423).

After all, the 6th Republic could not divest itself of its inherent authoritarian tradition and, despite having a freely elected president, failed to convince the Korean people of its legitimacy. It cannot be denied that South Korea has been democratized since the late 1980s, at least in terms of institutional mechanisms. However, the promising democratic steps taken by Roh Tae Woo and the remarkable economic prosperity that has characterized his rule have not been enough to persuade Koreans to forget that he was one of the major figures

implicated in the killings of thousands of citizens in Kwangju in 1980. Realizing that its legitimacy is tenuous, the regime has responded to protests by dissidents and students with brutal repression. The tragedy of South Korean history was repeating itself.

The history of South Korea also shows the falsity of the argument that an authoritarian phase is necessary in developing countries to provide a period of stability for economic growth to take off. In fact, South Korea's authoritarian regimes did not provide much stability, whatever the proponents of the Korean model have argued. As Bruce Cumings (1997) points out, "every Korean republic until the one elected in 1992, under Kim Young Sam, began or ended in massive uprisings or military coups. The longest one, the Third Republic under Park Chung Hee (1961-1979), began with a coup and ended with Park's murder at the hands of his own intelligence chief. The next-longest, under Chun Doo Hwan (1980-1987), began and ended with popular rebellions that shook the foundations of the system" (338). The events of recent Korean history suggest that South Korea has had one of the most unstable political systems in the world and that instability did little to daunt its spectacular economic growth.

The Civilian Government and Human Rights (1993-1997)

Having begun its transition to democracy in 1987, South Korea held presidential elections in December 1992 and elected Kim Young Sam of the Democratic Liberal Party

(DJP) as its next president. Hence, the Civilian Government (1993-1997) was headed by the first civilian president in 30 years.

After a long period of sustained growth in the domestic product (GDP), the economy slowed in 1996 and 1997 (Table 6-6). In November 1997, the country entered a severe foreign exchange liquidity crisis. The South Korean government reached agreement on a financial package with the International Monetary Fund (IMF) in December 1997, which helped stabilize the Won (unit of Korean currency) and allowed the country to rebuild its foreign exchange reserves. However, the impact of the financial crisis, necessary financial and corporate restructuring and sluggish economics in major regional trading partners has caused increased corporate bankruptcies and huge unemployment.¹¹

Table 6-6

Economic Indicators for the Civilian Government (1993-1997)

Year	GDP Growth rate (%)	GNP per Capita (US \$)	Unem- ployment (%)	Inflation (%)	Total Imports (\$ mil.)	Total Exports (\$ mil.)
1993	5.6	8,161	2.8	5.9	83,800	82,236
1994	8.3	8,751	2.4	6.7	102,348	96,013
1995	9.0	9,437	2.0	7.0	135,119	125,058
1996	7.1	10,548	2.0	5.0	150,339	129,715
1997	6.2	10,530	2.2	4.5	147,000	140,000

- US \$: 1990's constant US dollars; \$ mil.: millions of 1990's constant US dollars

Sources: The Bank of Korea, 1998, *Economic Statistics Yearbook*.

International Monetary Fund, 1997, *International Financial Statistics Yearbook*.

11. Such financial crises in 1997 eventually caused high unemployment, which reached 1.4 million in April 1998. Choi, B. M., 1998: 17.

Although President Kim was the first civilian chief executive in nearly three decades, elements of the authoritarian past still survived under his rule (Kim S., 1997: 1140). Initial political and economic reforms appeared successful and political repression of civil society diminished. In 1993, the number of people indicted under the NSL was half that reported for the last year of the 6th Republic. However, this regime's legitimacy was not beyond question¹² and it adopted some elements of the authoritarian tradition, even strengthening the NSL (Table 6-7). Restrictive laws that continued in effect include the Act on Assembly and Demonstration, the Social Surveillance Law, the Labor Laws, Election Laws and the NSL (The Country Report 1996). The NSL was used to infringe upon citizen's civil liberties, including the right to free expression. There was no progress toward reform of the NSL, though judges continued to demonstrate their "independence" (The Country Report 1997). An amendment in late 1996 even strengthened the powers of the National Security Agency by restoring its right to investigate people detained under Articles 7 and 10 of the NSL (Amnesty International Report 1997).

12. In early 1990, the ruling party of the 6th Republic merged with two opposition parties. Kim Young Sam, who was once a leader of one of the opposition parties, became the next president. Owing to this merger, the Civilian Government has been attacked by democratic groups, who considered the merger as an illegal process and an obstacle to democratic consolidation in Korea (Kim, S., 1997: 1140).

Table 6-7

Cases of Indictment by Antidemocratic Laws (1993-1996)

Year	NSL	AAD	Labor related Law	Molotov Cocktails	Public Disorder	Total
1993	136	97	90	6	1	330
1994	403	77	96	5	3	584
1995	226	60	71	13	1	371
1996	413	113	38	25	1	590
Total	1,178	347	295	49	6	1,875

NSL : National Security Law

AAD: Act on Assembly and Demonstration

Sources: Choi, Byung Mo, "An Appraisal of the Human Rights Situation for the past 10 years," *The 10th Anniversary Symposium of Lawyers for a Democratic Society*, Seoul, May 29, 1998: 19-21; Court Administration Office, *Yearbook of the Courts*, 1993-1997.

Freedoms of opinion and of expression are basic to political democracy. Article 19 of the UDHR describes them as follows:

Everyone has the rights to freedom of opinion and expression; these rights include freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Although South Korea has made considerable progress since 1987 in respecting freedom of expression, writings from or about the North or about communism still face severe restrictions. For example, in June 1996, the South Korean government warned that the National Security Law could be applied to attempts to circulate material about North Korea

on personal computers; the warning came after a Korean newspaper carried an article on a Canadian Web page with a picture of Kim Jong-il, the North Korean leader (Jones, 1996: 423). Though freedom of opinion and of expression are guaranteed by the Constitution in South Korea,¹³ such freedoms have long been openly suppressed, mainly in the name of national security.

Ignoring international standards of human rights, the Civilian Government denied the proposition that personal freedom and a free press make it possible to confront and handle social problems. Their main excuse for limiting such freedom was the logic of stability, i.e., the “keeping of law and order.” Citing the threat posed by North Korea and the necessity of maintaining social order, the Civilian Government opted to retain several anti-democratic laws including the NSL. Hence, it is still an open question whether the provisions in the Constitution were realized even under the Civilian Government. After all, the Civilian Government failed or refused to abolish anti-democratic laws, raising another problem that, along with economic and political development, must be confronted by the Korean people.

Enforcing Human Rights: Economic Growth or Democracy?

With the history of South Korea, the explanatory power of the trade-off logic of Asian Values hits its inherent limit. What can we learn from the history of South Korea in

13 . That Constitution came into force on the 25th of February 1988. It eased several of the repressive aspects of the constitution it superseded. Political freedoms were established in accordance with the UDHR, Article 19, 20, and 21.

terms of human rights practices? Did South Korea evolve from traditional authoritarianism to modern democracy as a consequence of economic growth? Was the existence of a middle class rendered possible by economic growth the decisive factor in finally compelling South Korea's authoritarian rulers to give up their hold on the political system and let democracy flower since the late 1980s? Did authoritarian rule provide a period of stability necessary for economic growth?

As with economic development, South Korea has for many years been the model for a host of theories about political development. Since South Korea became a democracy in the late 1980s, it has provided a showcase for those who claim that economic growth and industrial modernization lead inexorably to democracy. Since its most stunning economic growth occurred under authoritarian rule, however, South Korea has also been a useful example for those East Asian leaders who maintain that, at a certain stage in the development of most countries, authoritarian rule may be preferable to a "premature" transition to democracy, whose full flowering is possible only at a certain level of economic development.

However, a closer look at Korean history reveals that it does not support or illustrate such theories. This is true first because there was no evolution from a "traditional" authoritarian regime to a more modern style of democracy, for the simple reason that the political system established in South Korea in the late 1940s was not a traditional authoritarian regime at all, but a foreign (American) occupation.¹⁴ The events in South Korea

14. Kagan (1998) argues that the biggest flaw in most theories of political development that have been applied to Korea is perhaps "their omission of the role of the great 'exogenous' factor, the United States"(42). I agree with his argument that the heavy influence by this outside power on

in the late 1980s are also open to a vastly different interpretation than those offered by proponents of trade-off or authoritarian arguments. Such proponents argue that South Koreans had been made "ready" for democracy in the 1980s by being allowed to mature economically and politically under the stability provided by the authoritarian Park and Chun regimes. According to them, South Koreans were finally sufficiently prepared for democracy in the late 1980s but not before. However, to begin to understand what happened in South Korea in the 1980s, one must look not at the Korea economy but at the dead-end arrived at by the Korean military, by those men who took power in the coup that followed Park's assassination. Chun Doo Hwan and Roh Tae Woo, the same generals who brutally crushed the Kwangju uprising of 1980, proved "a good deal less ruthless in their determination to hold power than Park" (Kagan, 1998: 45). This was not because they were carefully watching the mean income levels to determine the moment at which democracy would become "impregnable," as Rowen (1996) argues. They were instead desperately seeking to hang on to their power.

3. The Rule of Law and Human Rights in South Korea

In this section, I will examine how South Korean leaders attempted to justify repression in terms of the "rule of law." Historically, South Korean authoritarian

Korean politics should have come as no surprise. In fact, any nation that moved from occupation to war to occupation to war over the course of a few decades could hardly be expected to shape its own political institutions free from outside influences.

governments have justified their repressive policies by arguing they were necessary not only to the successful deployment of their economic growth-first strategy but also to the maintenance of "law and order." Has "the rule of law" been established in South Korea? Did South Korean leaders keep social stability and order through the rule of law? What is the rule of law supposed to mean? The conditions for the rule of law are briefly set out below:

Democratic institutions and officials are guided by and constrained by the law – that is to say, a government accountable to, not above the law. Governments that respect individual rights apply a body of laws that are transparent, predictable, based on popular sovereignty, and fairly and equitably applied. They have a fair and efficient legal system led by an independent and professionally competent judiciary that acts as final arbiter of the law (The Country Report 1998: 8).

Based on this definition, the rule of law was never established in South Korea. Instead, under authoritarian rule laws have been until recently a political and administrative instrument of the repressive regimes.

Moreover, several anti-democratic laws violate domestic constitutional law as well as international human rights standards such as the UDHR and the UN Covenants. How can such laws be expected to lead to social justice under the "rule of law"? Here, we need to specify and underline explanations for the existence of repressive law in South Korea. In this section, I will examine the Korean anti-democratic legal system (such as the NSL, the Act on Assembly and Demonstration, and illegally operating government agencies) and compare Korean standards on human rights to international standards based on the UDHR and the UN Covenants. Both the NSL and the Act on Assembly and Demonstration have played major

roles in repression in Korea. In particular, the use or threatened use of the NSL has continued to infringe upon citizens' civil liberties, including the right to free expression.

South Korea has long been noted in the international community as a state which does not respect human rights. The history of South Korea since the end of World War II has been marked by illegal arrests and detentions, tortures, imprisonment through unfair trial, unexplained disappearances, and deaths with unknown causes. In order to improve this situation, it is essential to secure a legal framework for human rights. All states should include guarantees of human rights in their constitutions, and those guarantees should be constitutionally protected against erosion by legislative amendments. They should also ratify international human rights instruments and review their legislation and administrative practices in light of national and international standards with the aim of repealing provisions which contravene those standards. The Korean Constitution, which has been amended nine times since its first promulgation in 1948, has always guaranteed human rights. However, the provisions in the Constitution and other laws have not been actualized. Both the government and the courts have construed these provisions in such a way as to justify the numerous infringements of human rights. Currently, Koreans do not have an effective legal means to fight back against these infringements on their rights, even though the South Korean governments have maintained that democracy has been realized and that human rights violations no longer occur. To understand the relationship between human rights and legal systems, we need to explore the logic of anti-communism which was adopted as the national security ideology of authoritarian Korean regimes. We also need to look at practical

issues raised by anti-democratic laws and by the illegally operating organizations which enact them.

Anti-Communist Ideology and the Reliability of Domestic Laws

One of the main difficulties in the implementation of an international human rights standards (such as the UDHR and the Covenants) in Korea is the division of the country. Since Korea was divided in 1948 upon its liberation from colonial domination and Japanese imperialism, the North and South Korean governments have each laid claim to being the sole legitimate government of the whole Korean peninsula. Koreans on both sides have been brought to regard those on the other side of the peninsula as enemies. To make matters worse, the miserable experience of the Korean War (1950-1953) has left a legacy of fear, distrust and hostility in the minds of the South Koreans toward communism and North Korea. This anti-communist and anti-North Korea ideology became an ideological support for governments and has been used to justify a series of military coups d'etat and authoritarian regimes (Steinberg, 1997: 157). Under the name of "national security," oppressive laws which violate human rights have been enacted and any speech or activity critical of the government has been labeled pro-North Korea or pro-communism and punished.¹⁵

15. The relationship between South and North Korea seems recently to have shown a marked improvement. For example, in September 1991, both South and North Korea were admitted to membership in the United Nations. On February 19, 1992, the very first official agreement between

Another difficulty in implementing the international human rights standards is the weakness of the normative power of the Constitution as well as of other domestic laws. Korea's human rights performance has been adversely affected by anti-democratic laws enacted by past authoritarian regimes because the legislative system was not sufficiently overhauled after democratization. These laws severely restricted socio-political freedom and instilled corruption and injustice at every level of the political and economic system. Ruling based on such antidemocratic laws, the government seriously distorted the operation of the Constitution. In theory, the Constitution is the supreme law of the state and sets the highest standard for the merit and validity of government measures and laws. Although the Constitution has been amended nine times since its first proclamation in 1948, all of these amendments were focused on the questions of the method of "electing the president, the length of the terms, and the structure of state power."¹⁶ Because of these frequent and often politically expedient amendments, the Constitution has come to be regarded as a document to be manipulated at will to ensure the maintenance in power of the ruling party. As a result, it has been difficult for the governments, the courts, and the people to recognize the Constitution as the supreme law and so as capable of denying the legality of anti-democratic

the South and the North Korean governments was achieved. The "Agreement on Reconciliation, Nonaggression and Exchanges and Cooperation between the South and the North" (South-North Agreement) was signed by the prime ministers of both countries and became effective when ratified by two presidents. Based on the consequent agreements and treaties, the South Korean government has declared that it would no longer be hostile to the North Korean government. However, South Korea has fallen far short of its commitments in the Agreement, especially when it comes to the domestic political situation.

16. Lawyers for a Democratic Society & National Council of Churches in Korea, 1992: 5.

laws that infringe on the human rights it guarantees. By frequently enacting laws through extraordinary means, Korean authoritarian regimes have denied parliamentarism and severely weakened constitutionalism (KONUCH, 1993: 15).

Ironically, non-elected legislatures nominated by the current president or coup leaders have played key roles in forming the present legal system and not the rightfully elected National Assembly.¹⁷ What good-intentioned laws there are serve as mere “paper fictions,” to cover up for corrupt politicians and criminals. Consequently Korean authoritarian governments legislated restrictions on free speech, free press, and other key rights in the name of ‘the rule of law.’ For the rule of law to be truly effective, a country’s legal system must be “independent and in conformity with universal human rights principles” (The Country Report 1998). Most South Korean believe that laws are enacted in their country at the whims of the ruling elite for their own purposes, and this view has become one of the greatest obstacles to establishing the rule of law.

Antidemocratic Laws and Human Rights

The National Security Law (NSL) is notorious both at home and abroad as a vehicle

17. Three non-elected legislatures have played key roles in forming the present legal system in South Korea. They are the military committee named the “Supreme Council for National Reconstruction” instituted in May 1961 by General Park Chung-Hee following his military coup d’etat, the “Emergency State Council” instituted in 1971 after the National Assembly was dissolved to extend President Park’s term of office, and the military committee named the “National Security Legislative Council” organized by General Chun Doo-Hwan following his seizure of power through the coup d’etat in May 1980 (Minbyun, 1992: 5-6).

for quashing human rights. For nearly half a century, many innocent citizens were arrested and suffered from the abuse of this law. It is undeniable that it has functioned as the *de facto* constitution and a sacred code whose legitimacy and legality no one dared to challenge (Park, 1993: 23). In addition to the NSL, many other laws seriously affect human rights and arguably violate the principle of legality through their very vague and abstract provisions as well as through their application. For example, provisions of the NSL and 'the third-party intervention prohibition provisions' are so vague and far-reaching that it is difficult for ordinary people to know what kinds of activities are prohibited and what kinds of activities are permitted.¹⁸ Because of these ambiguous laws, the criminal laws of South Korea are subject to the criticism that they have a "double standard."¹⁹ Instead of addressing specific activities, the laws are applied and enforced depending upon the identity and status of the accused.

No antidemocratic law has proved as convenient and effective as the NSL in silencing the opposition in South Korea. The NSL intimidated many Korean people for exercising their civil rights.²⁰ Of the acts proscribed by the NSL, approximately fifty are

18. There are even laws that use the phrase "through any other means" to describe the punishable act. Meanwhile, the courts and the Constitution Court do not seem to be trying to limit the abuse of these provisions (Minbyun, 1992: 6).

19. For example, government officials who visited Pyongyang to meet with their counterparts have never been charged with any violations of the NSL. However, a student who found her way to Pyongyang to attend a festival was promptly arrested upon her return to the South. See KONUCH, 1993: 25-26.

20. The NSL was originally established with a view to quelling the socio-political and economic turmoil which prevailed in the Korean peninsula during the Cold War period. In 1948, two years

punishable by death. This violates Article 6(2) of the International Covenant on Civil and Political Rights which stipulates that only those accused of the most serious crimes are punishable by death. The NSL thrived by oppressing people and depriving citizens of civil liberty and due process of law. Initially, there was little opposition to the NSL, but many quickly began to realize that it was being abused to oppress any opposing views and that it could bring about an Orwellian state. Since then there have been constant efforts to repeal or amend the NSL. With the public defiance of the NSL by many college students and other progressive activists, the interpretation of the NSL became the center of attention for the Korean people in the 1980s and 1990s. The courts, however, were openly sympathetic to and colluded with the authoritarian regimes by broadly construing the definition of activities prohibited. This is the main reason that Korea still has many political prisoners today.²¹ For example, the courts interpreted the meaning of "national secret" with respect to espionage very liberally to include information which was already public knowledge. Article 7 of the NSL, which prohibits any praise, encouragement, sympathizing or production of objects or symbols which represent the enemy, was frequently used to limit the freedom of speech,

before the outbreak of the Korean War, the political atmosphere was extremely volatile. The government tried to govern and legitimize its political rule through extraordinary means. It claimed that leftist organizations had close ties with the Communist North and therefore posed a serious threat. After the military coup d'état in 1961, the military junta labeled opposition politicians, student and labor union leaders, progressive artists and others as subversives with close links to Communist North Korea.

21. Ironically, people punished under the NSL and subsequently released from prison face a further restraint on their conscience and freedom. The Security Observation Act, which replaces the former Social Safety Act, restricts freedom of those who have been released from prison.

press and media, assembly and other forms of expressions. The NSL clearly violated constitutionally protected fundamental rights. Yet, the court's inability and/or unwillingness to confront this issue resulted in its failure to restrain the anti-democratic trend. The situation did not improve even after the Constitutional Court was established in 1988 to deal with unconstitutional acts and laws. Thus far, the NSL has been a serious obstacle to cooperation and reunification with North Korea.

While the NSL was used to control opposition leaders, the Act on Association and Demonstration was effectively employed to silence the masses. The law required all demonstrations to be reported to the local government and allowed the government to ban any demonstration which would pose a "clear and direct threat to public peace" (KONUCH, 1993: 17). The government used this provision to deny the right of peaceful association by suppressing all demonstrations and meetings which opposed the policies of the government or the ruling party.²²

Besides the NSL and the Act on Association and Demonstration, there are several anti-democratic laws which restrict freedom of expression, including the Film Act, the Public Performance Act, the Phonograph Record Act, and the Registration of Periodical Publication Act. A person wishing to perform publicly must submit the script or the plot to the relevant district office for prior review and approval. This reporting requirement, of course, smacks

22. Suppression of demonstration entails the application of extreme degrees of violence and many were arrested under this law. According to police statistics, 11,644 people were detained at police stations for demonstration from October 31, 1990 to August 31, 1991 and 11,158 of the 11,644 were arrested (KONUCH, 1993: 17).

of censorship and prior restraint. Pursuant to the Film Act, a film producer must be registered. In order to show a film, the film must pass screening by the Public Performance Ethics Commission. Many people have been convicted for showing foreign films without informing the authorities.²³ A person must also file a report when producing a phonograph record or publishing a periodical. These laws are used to punish the publishers for espousing anti-government views.

Illegally Operating Government Agencies

It should be noted that the human rights conditions were aggravated by various governmental bodies responsible for enforcing and administering the antidemocratic laws. Abnormal investigation organizations and secret police which have been created in the name of keeping "national security" have enormous influence and continue to violate human rights.

The most representative are the Agency for National Security Planning (National Security Agency: NSA)²⁴ and others like the Korean National Police and Defense Security

23. For example, Suh Joon-Sik, a famous human rights activist in South Korea, was arrested for showing an unlawful film ("Red Hunt") in October 1997. For more detail, see *Amnesty International Report*, 1998.

24. After the military junta seized power in 1980, the National Security Agency was formed in February 13, 1981 to replace the Central Intelligence Agency. The change in name was sanctioned by the National Emergency Legislating Commission, an emergency law-making body appointed by the military junta in 1980. The NSA pledged that it would curtail the former Central Intelligence Agency's domestic operations and put an end to abuse of power by concentrating on gathering

Command (*Kimusa*). The commonality of these organizations is that they exist in order to investigate and punish those who support communism or North Korea. However, they do not limit themselves to investigating those who violate the NSL but also monitor the society as a whole, at times illegally arresting and torturing people. Needless to say, anti-government intellectuals and activists are not free from their monitoring and neither are the assemblymen of the opposition party or even the politicians of the ruling party. No authority can regulate these organizations and their behavior. The NSA is particularly exempt from regulation or control by the people or by the National Assembly.²⁵ In other words, the NSA does not disclose its budget, its organizational structure, the personal information of its members, or the nature of its activities to the parliament, public or the media. It is responsible only to the president. It looms over the people like a "fearful object" (Minbyun, 1992: 7).

Meanwhile, an idiosyncratic aspect of Korean demonstration culture is the existence of combat police and special anti-demonstration forces within the military to break up demonstrations and meetings. Combat police were created during the Korean War when the Korean government wanted to maintain an armed force independent of the control of the United Nations. In the 1970s, the combat police were institutionalized by law for anti-

foreign intelligence and information on Communist activists and policies. However, the NSA in fact placed more emphasis on monitoring its citizens and conducting surveillance of their supposedly suspicious activities (KONUCH, 1993: 18-19).

25. Legislation passed in 1993 restricts the NSA from interfering in domestic politics and grants the NSA investigative authority only in cases involving terrorism, espionage, and international crime organizations. However, the Government revised this law in 1996 to allow the NSA to investigate members of domestic organizations who are viewed as supporting the North Korean government. *The Country Report* 1998.

espionage operations. In the beginning (1948-1953), they were used against armed leftist forces. Now, they are used to suppress demonstrations. Military force is utilized when the combat police alone cannot handle demonstrations. For example, a large military force took part in the bloody Kwangju massacre of May 1980 and were mobilized during the June 10, 1987 democracy movement.

Due Process and Human Rights Practices

Due process, a widely recognized method of constraining the abuse of coercion by the state, requires that “the government does not deny or remove an individual’s property or freedom without showing cause and following proper legal procedures” (Cingranelli, 1988: 154). It is the most fundamental right of free people because it is the primary mechanism through which all other individual rights and liberties are protected from encroachment by the government.

In South Korea, the law is often vague, and prosecutors have wide latitude to interpret it. For example, the NSL defines espionage in broad terms and permits the authorities to detain and arrest persons who commit acts viewed as supportive of North Korea and therefore dangerous to South Korea.²⁶ Authorities have arrested not only persons spying on behalf of North Korea but also those who merely praised North Korea, its leader,

26. Here it should be noted that the government has usually denounced the labor movement and student demonstrations as Communist activities or as acts sympathetic to North Korea.

or its “self-reliance” (*Juche*) political philosophy. That is, the government’s rationale for keeping the NSL is the claim that North Korea is actively trying to subvert the South Korean government and society, and that special circumstances call for limiting some forms of expression to block the greater danger to freedom and democracy posed by totalitarianism.

Under Korean criminal law, the prosecution is to conduct its investigation without physically detaining the criminal suspect unless there is a likelihood that the incriminating evidence will be destroyed or the suspect will flee.²⁷ However, in reality, suspects are forcefully taken to a police station where they are compelled to confess to the crime for which they are accused. The illegally obtained confession, which is misleadingly dubbed the “voluntary submission,” is used as the basis to obtain a warrant for arrest. Accordingly, although the law states otherwise, criminal investigations are, in most instances, conducted while the accused is in the custody of the police or the prosecution.²⁸ An individual who is criminally accused may well end up spending time in jail even before his guilt is determined, and the emotional and physical damage arising from the detention is often devastating. The noncompliance with the criminal procedure by the law enforcement deprives a criminally

27. To explain in detail, the Criminal Code requires warrants to be issued by judges in cases of arrest, detention, seizure, or search, except if the person is apprehended while committing a criminal act, or if a judge is not available and the authorities believe the suspect may destroy evidence or escape capture if not quickly arrested. In such emergency cases, judges must issue arrest warrants within 48 hours after apprehension of the suspect, or, if a court is not located in the same county, within 72 hours. *The Country Report 1997*: 3.

28. It should also be noted here that although the Code of Criminal Procedure requires that a suspect be immediately notified of the reasons for his or her arrest or detention, the prosecutor or the police rarely makes such notification as a practical matter (Minbyun, 1992: 27).

accused person with his right to be free from arbitrary detention and causes undue hardship. This clearly violates the principle of due process and of the UDHR. The Article 11(1) of the UDHR states, “everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he or she had all the guarantees necessary for his or her defense.”

As we discussed in chapter III, it may be assumed that most people indicted by anti-democratic laws are subsequently imprisoned. Hence we can infer the numbers of political prisoners based on the number of those indicted.

As we can see from Table 6-8, there were 5,586 indicted criminals in the 8 years of the 5th Republic for 8 years, 5,059 in the 5 years of the 6th Republic, and 1,875 in the 4 years of the in the Civilian Government. Table 6-9 shows that the number of the indicted under the NSL in the 6th Republic is 139 percent that of the 5th Republic, and that the number for the Civilian Government is 96.3 percent that of the 6th Republic. However, comparing the figure for the Civilian Government to that of the 5th Republic, the number of the indicted by the NSL still increased 133.9 percent. Insisting that the NSL is designed to thwart subversion by pro-North Korean forces, the authoritarian governments of South Korea continued to use it to violate freedom of expression, association, and travel (to North Korea). Hence the United Nations Human Rights Committee termed the NSL “a major obstacle to the full realization of the rights enshrined in the International Covenant on Civil and Political Rights” (The Country Report, 1996).

Table 6-8

Trends of Cases of the Indictment by Antidemocratic Laws (1980-1996)

Regime	Total Indicted	Average / year	Average / day
5 th Republic	5,586	698.3	1.91
6 th Republic	5,059	1,011.8	2.77
Civil Government	1,875	468.7	1.28

Sources: Choi, Byung-mo, "An Appraisal of the Human Rights Situation for the past 10 years," *The 10th Anniversary Symposium of Lawyers for a Democratic Society*, Seoul, May 29, 1998: 19-21.
 Court Administration Office, *Yearbook of the Courts*, 1980-1997.

Table 6-9

Statistics For Those Indicted by Anti-Democratic Laws (1980-1996)

Year	NSL	Act on Assembly and Dem- onstration	Labor related Law	Molotov Cocktails	Public Disorder	Total (Average/ Year)
a.5 th Republic	219.87	414.87	5	----- *	58.5	698.24
b.6 th Republic	305.8	383.2	165.2	158.75	30.6	1011.8
c.Civil Government	294.5	86.75	73.75	12.25	1.5	468.75
Ratio(b/a)	139.0%	92.4%	3304%	-----	52.3%	144.9%
Ratio(c/b)	96.3%	22.6%	44.6%	7.7%	4.9%	46.33%
Ratio(c/a)	133.9%	20.9%	1475%	-----	2.5%	67.13%

* The law against using Molotov Cocktails has been effective since June 1989.

Sources: Choi, Byung-mo, "An appraisal of the human rights situation for the past 10 years," *The 10th Anniversary Symposium of Lawyers for a Democratic Society*, Seoul, May 29, 1998: 21. Choi reorganized this table based on the statistics of the Court Administration Office, *Yearbook of the Courts*, 1980-1997.

Meanwhile, both the number of those indicted by the AAD (Act on Assembly and Demonstration) and by the Public Disorder in the Civilian Government conspicuously decreased. This implies that under the Civilian Government anti-government demonstration and assembly decreased. Compared to past regimes, the overall human rights situation in the Civilian Government improved significantly as a result of the fundamental shift in the attitude and policy of the government. Such human rights improvement is closely related to the characteristics of the government. That is, the leaders of both the 5th Republic and the 6th Republic were born with the bloody Kwangju Civilian Uprising and arbitrary repression on their people, hence, demonstrations against military dictatorship didn't stop for those eras. Although the authoritarian leaders of these two Republics promised a stronger state and remarkable economic development, the people who desired a peaceful democratic society were not fooled by such excuses. However, given the number of people indicted during its term under the NSL in Table 6-9, the Civilian Government still used the NSL for repression of its people in the name of national security. This implies that even the Civilian Government fell far short of establishing the rule of law.

The Rule of Law or the Security of Powers?

In many countries including South Korea, serious human rights violations continue to occur under the pretext of preserving national and internal security. These laws sometimes

also claim to protect people from enemy attacks. However, considering the draconian characteristics of national security legislation, we can infer that the real purpose of these laws is not to ensure national security and thereby to protect the human rights of its citizens, but to check and restrict the basic human rights and freedoms of its people, especially if they are considered to be unsympathetic to those in power or to the established political, economic, and social structures of the country.

These national security laws label many categories of activities as special types of crimes to be punished. Some of these activities are already deemed punishable already by the normal criminal laws, but others would not be considered punishable at all in a democratic society. Simply put, the actual purpose of these laws which purport to protect “national security” is to restrict the activities of political opponents, to intimidate the public in general, and to separate the political dissenters from the people. It is no coincidence that these laws punish activities that challenge those in power. The laws are created to nominally justify holding political prisoners or prisoners of conscience. “Whether that government be civil or military or even feudalistic, capitalistic or socialistic, the aim of the national security legislations is the same” – to stay in power and uphold the established order though it does not have the support of the people (Cho, Y. W., 1993: 95).

In South Korea, as in many authoritarian states, government leaders apparently confuse the existence of laws with the rule of law. For example, the 6th Republic submitted the initial report to the Human Rights Committee (henceforth, the Committee) in May of 1992, abiding by Article 40 of the International Covenant on Civil and Political Rights

(ICCPR).²⁹ This submission would seem on surface to show the government's willingness to inform the international community about the human rights situation in Korea and its willingness to accept international discussion and criticism.

However, this initial report has been criticized by many scholars and human rights NGOs in South Korea because it merely just explained the provisions of the laws and the relationship between the Covenants and domestic laws, but did not explain the real situation of human rights in South Korea.³⁰ The committee had earlier given reporting guidelines in its General Comments with regard to the submission of the report:

The Committee considers that the reporting obligation embraces not only the relevant laws and other norms relating to the obligations under the Covenant but also the practices and decisions of courts and other organs of the state party as well as further relevant facts which are likely to show the degree of the actual implementation and enjoyment of the rights recognized in the Covenant, the progress achieved and factors and difficulties in implementing the obligations under the Covenant (General Comments 2{13} Paragraph 3 (ICCPR/C/21/Rev.1).

Based on these guidelines, Lawyers for a Democratic Society, one of the most active human rights NGOs in South Korea, criticized the report as follows:

Though the government report explains some provisions of the laws and other norms, it does not represent a fully accurate accounting of the relevant laws, decisions of the courts, or practices of other organs of the government. No examples of facts which show the degree of actual implementation and enjoyment of the rights are cited in this self-reporting document. It keeps

29. South Korea ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Optional Protocol in April 1990.

30. For more detailed criticism, see Kim, Nyung, 1998: 71-75.

silent on the factors and difficulties in implementing the obligations under the Covenant. The government report fails to explain significant violations of the human rights which have occurred and still occur (1992: 2).

Lawyers for a Democratic Society hence concluded that the initial report submitted by the Korean government might lead to a “false understanding” of the real situation in South Korea because the report leaves out the occurrences of infringements of the human rights recognized in the Covenant and falls short of achieving the purpose of the reporting obligations of the state party as set in the Covenant. In other words, Lawyers for a Democratic Society considered the initial report by the South Korean government “far from adequate” and denied that the government report would give to the Committee “a complete picture of the situation as regards the implementation of the rights referred to in the Covenant” (1992: 2-3).

4. Economic Justice and Human Rights

South Korea can too easily be taken as an example by repressive and authoritarian governments that concentrating on basic needs such as food, housing and clothing should take precedence over guaranteeing democratic freedoms. As a vivid example of the Asian Model, South Korea is vulnerable nonetheless to the criticism that human beings cannot live by bread alone. Several economic indices demonstrate how much the Korean economy has

prospered. With remarkable economic growth, absolute poverty has almost disappeared, a relatively stable inflation policy and an efficient employment policy have been maintained, and income distribution has become egalitarian by international standard. However, we must not overlook the dark side of this economic prosperity. Not only have South Korea suffered the brutal abuse of their civil and political rights under authoritarian regimes but they also continue to suffer from relative poverty, exploitation of labor, and a vulnerable social welfare policy. In this section, we need to examine the reality of the Korean economy, not only the bright side of economic development, but also the shadow cast by its economic growth. Only then can we determine whether Korean economic growth has enhanced the realization of economic justice.

Unemployment

Work is a major socioeconomic right, and one's capacity to enjoy other socioeconomic rights is largely determined by the recognition of this right. The overall trend of unemployment in South Korea was relatively better than in the other developing countries and even than in some of the industrialized countries. Table 6-10 shows that the average percent change in unemployment rates is calculated for the three regimes, it is found to be 4.1% for the 5th Republic, 2.4% for the 6th Republic and 5.3% for the Civil Government. These figures seem to imply that South Korean governments have managed the economy successfully in terms of employment policies, faring far better than the governments of other

developing countries where unemployment has been a major problem. Although this is a crude estimate, a lower rate of increase in unemployment identifies the 6th Republic as the most successful of the three Korean regimes in coping with the unemployment problem with the higher GDP growth.

Table 6-10
Comparison of Economic and Social Indicators

Regimes	GDP growth rate/year (%)	Unemploy- ment rate/ year (%)	Inflation Rate/year (%)	Social Welfare/ Central Government Expenditure (%)
5 th Republic 1980-1987	7.8	4.1	9.3	28.0
6 th Republic 1988-1992	8.4	2.4	7.2	34.0
Civil Government 1993-1997	7.2	5.3	5.8	34.0

Sources: International Monetary Fund, 1997, *International Financial Statistics Yearbook*.

World Bank, *World Development Report 1986*: 222-223.

World Bank, *World Development Report 1992*: 238-239.

World Bank, *World Development Report 1998/99*: 216-217.

However, it should be noted that the growth-first and export-oriented strategy of South Korea has led to systemic measures to repress workers' rights with the ultimate aim of controlling labor in the course of promoting rapid economic growth and industrialization. In fact, Korea's export-oriented economy developed with heavy reliance on borrowing from foreign countries for several decades. Foreign debt service imperatives continue to demand

a focus on exports. This focus renders the Korean economy vulnerable to changes in the world economic order and to shifts in comparative advantage that are driven by technological change and international monetary policies. The Korean government regarded Korea's loss of comparative advantage in low-technology and labor intensive goods as sufficiently compelling to undertake industrial restructuring in order to sustain economic growth (KNFSD, 1995:10). Although employment as a whole has been growing steadily in proportion to economic growth, the industrial restructuring of recent years has brought about a high degree of job insecurity and unemployment for the workers.

Poverty and Income Inequality

The problem of poverty, even in states which have achieved a high rate of economic development, is a principal cause of the violation of human rights. Poverty deprives individuals, families, and communities of their rights, making a life of dignity impossible. To eradication of absolute poverty and the reduction of the relative poverty have been important goals for South Korean social development. However, the issue of poverty has not been substantially noticed due to the widespread attention to Korea's economic growth. Table 6-11 shows that 'people in absolute poverty' are only 5% of the whole South Korean population, a percentage lower than that of other developing countries. However, if we measure the poverty line by the minimum living cost, the number of people with an income less than the minimum (\$US 495) set by the Korean Social Institute for Health (directed by

the Ministry) constituted 10 percent of the population in 1989 (KNFSD, 1993: 3).³¹ In addition, quite a few South Koreans suffer from relative poverty. For example, the average monthly expenditure of an urban family has been estimated to be 1,180 US dollars, and yet 30% of South Koreans spent only 710 US dollars, or 60% of the average in 1992. Those who spend less than 710 US dollars (60%) per month amount to 30 percent of the population in 1992.

Table 6-11
Income Share and Poverty

Country	Income Share ^a		Gini coefficient ^b	People in absolute poverty (%) ^c
	Lowest 40% of Households (%) 1981-1992	Ratio of highest 20% to lowest 20% 1981-1992		
South Korea	19.7	5.7	0.36	5
China	17.4	6.5	0.42 ^d	37
Malaysia	12.9	11.7	0.48	16
Singapore	15.0	9.6	0.42	--
Thailand	15.5	8.3	0.47	30
United Kingdom	14.6	9.6	0.33 ^d	--
U.S.A	15.7	8.9	0.40 ^d	--
France	17.4	7.5	0.33 ^d	--
Sweden	21.2	4.6	0.25 ^d	--

Source: a, UNDP, *Human Development Report 1995*: 178-179, 203.

b, UNDP, *Human Development Report 1992*: 160.

c, UNDP, *Human Development Report 1994*: 164-165.

d, World Bank, *World Development Report 1998/1999*: 198-199.

31. This minimum amount was, however, challenged by the Korean Federation of Trade Unions that

Though such relative poverty is usually closely linked to inequitable income distribution, South Korea has in fact maintained an income distribution that by international standards is very egalitarian. Table 6-11 provides information on the distribution of disposable household income in South Korea and other selected countries; included also are the Gini coefficients.³² Compared to several Asian states and selected industrialized countries, South Korea has maintained a relatively egalitarian distribution of income in which the Gini coefficient, calculated by using the data on the distribution of disposable income into quintiles, is 0.36. Because applicable data are not available for all the study periods, it is not possible to compare the trends of income distributions for each Korean regime. A comparison of the change in the shares of the lowest and highest income groups shows that the trends in income distribution in South Korea (1981-1992) have been more egalitarian than in the other Asian states and in selected industrialized countries (except Sweden). Similar trends were seen as well for the lowest 40 % of households.

In fact, in South Korea, the state designated a development strategy that articulated agricultural policies related to wage-goods linkages, agro-input industrial linkages, rural consumption linkages, and human capital investment linkages (Burmeister 1990). Further,

claimed the minimum living cost to be \$1,260, three times higher than the government standards.

32. The Gini coefficient is a common measure for the concentration of income. It is calculated by using information on the frequency distribution of income-recipient units ranked according to the size of their personal income. It is based on a Lorenz curve, which is built with pairs of cumulative percentages measuring units of income and units of recipients. The Gini coefficient is the ratio of the area between the Lorenz curve and the 45-degree line. It ranges from 0 to 1 (or from 0 to 100 in percentage measures); the higher the value, the higher the level of inequality.

state policies assisted agricultural mechanization for both small, medium and large producers, thereby raising yields and output and facilitating rural income distribution. Broadened income distribution also allowed rural households to allocate more disposable income to finance their children's education beyond primary school. This education also improved access to "agricultural extension services and to new technologies and greatly simplified disseminating information concerning nutrition, health, and family planning" (Donnelly 1989a: 175). Eventually, that education helped provide rural migrants with an entry into the better-paying urban industrial sector, while yield increases continued to raise agricultural output. Rural development strategies typically combined a "development from above" approach, stressing active intervention by the centralized state, and a "development from below" approach, emphasizing local participation (Boyer and Ahn, 1991). A large, relatively prosperous farming population was created that supported early industrialization and contributed to domestic economic expansion. Especially important to rural income and wealth distribution were state programs aimed at raising productivity by accelerating and broadening technological diffusion to all social sectors.

Social Security and Welfare Expenditures

Unlike the egalitarian trend of income distribution, Table 6-12 shows that South Korea has not met international standards for social security and welfare expenditures. Countries with a similar income level to South Korea spent much more on their social

services.³³ For example, although its per capita GNP rank is lower than that of South Korea, Costa Rica has established a comprehensive social security and welfare system. South Korea is particularly slow to spend on health,³⁴ and housing, amenities, social security and welfare,³⁵ focusing rather on education.³⁶ South Korea's combined expenditures for all of these services was 34% of its government budget, a figure much lower than Costa Rica's 60.2 %, Spain's 56.1 %, Chile's 49.9 %, and the USA's 43.4 %. A cross-national analysis of the relationship between democracy and budgetary priorities finds that higher percentages of central government expenditures for education, health care, and welfare are positively

33. Social service expenditures include those for education, health, housing, community amenities, social security, and welfare. It also covers compensation for loss of income to the sick, the temporarily disabled, and the unemployed; family, maternity, and child allowances; and the cost of welfare services such as care for the aged, the disabled, and children. For more detail, see World Bank, *World Development Report 1998/99*: 241-242.

34. According to the *World Development Report*, "health" covers "public expenditure on hospital, maternity and dental centers, and clinics with a major medical component; on national health and medical insurance schemes; and on family planning and preventive care." World Bank, *World Development Report 1992*: 292.

35. "Housing, amenities; social security and welfare" cover "expenditure on housing (excluding interest subsidies) such as income-related schemes; on provision and support of housing and slum-clearance activities; on community development; and on sanitation services. These categories also cover compensation for loss of income to the sick and temporarily disabled; payment to the elderly, the permanently disabled, and the unemployed; family, maternity, and child allowances; and the cost of welfare services, such as care of the aged, the disabled, and children. Many expenditures relevant to environmental defense, such as pollution abatement, water supply, sanitary affairs, and refuse collection, are included indistinguishably in this category." World Bank, *World Development Report 1992*: 292

36. "Education" comprises "expenditure on the provision, management, inspection, and support of preprimary, primary, and secondary schools; of universities and colleges; and of vocational, technical, and other training institutions. Also included is expenditure on the general administration and regulation of the education system; on research into its objectives, organization, administration, and methods; and on such subsidiary services as transport, school meals, and school medical and dental services." World Bank, *World Development Report 1992*: 292.

related to the level of democracy in developing countries (Hofferbert 1988). Military expenditures demonstrate a negative relationship.

Table 6-12
Social Services on Central Government Expenditures in Selected Countries

Country	Education		Health		Housing, Amenities, Social Security and Welfare		Total Social Service Expenditures	
	1972	1990	1972	1990	1972	1990	1972	1990
South Korea(24)	15.8	19.6	1.2	2.2	5.9	12.2	22.9	34.0
Spain (22)	8.3	5.6	0.9	12.8	49.8	37.7	59.0	56.1
Chile (27)	14.5	10.1	10.0	5.9	39.8	33.9	64.3	49.9
Costa Rica (44)	28.5	19.0	4.0	26.3	26.5	14.9	59.0	60.2
USA (2)	3.2	1.7	8.6	13.5	35.3	28.2	47.1	43.4

* Numbers refer to percentage of total expenditure. Total expenditure includes lending minus repayments.

** The Numbers in parentheses refer to the per capita GNP rank in 1997 among 122 countries.

Source: World Bank, *World Development Report 1992*: 238-239.

World Bank, *World Development Report 1998/99*: 190-191.

5. Policy Implications

As we have discussed thus far, although South Korea prospered economically, the human rights of its citizens have been seriously abused by the authoritarian governments who relentlessly implemented a growth-oriented strategy. Civil and political rights have been more seriously neglected than economic, social and cultural rights in the recent history of development.

Like other Asian leaders today, Korean authoritarian leaders have stressed the strength of Korean culture and values which are based on family solidarity and discipline, claiming that an overemphasis on individual freedom at the cost of the entire community is the main source of the economic and moral decay of Western societies. The arguments assume that social order and political stability are more important than individual rights and democracy. The advocates of this argument clearly give priority to the group rather than the individual and to the whole society rather than its individual members. From this perspective, democracy is not something to be placed above other social values or taken as an end in itself. Rather, it is an instrument to serve higher social goals such as order and economic well-being. Not only do these leaders not believe democracy useful in the building of an orderly society, they openly repudiate it as a political goal because they believe that Western-style democracy hinders the orderly development of society.

In this context, South Korea has set forth "Korean style" human rights, which have been the excuse for human rights violations. Each Korean regime has justified its broad security laws and the resulting restrictions by arguing that Korea is in a "special situation" and needs to keep order and law in this context. In sum, the logic of Korean style democracy has played a major role for Korean repressive regimes and has been used to support the trade-off proposition: that a certain degree of authoritarianism was necessary to make the hard political and economic decisions that produced the region's spectacular growth. Even proponents of such a trade-off thesis would find it hard to argue that this suppression of political rights required the violations of civil rights that occurred under Korea's

authoritarian administrations. But without channels to criticize the government and hold police and military accountable for abuse, there is no check on such excesses save innate benevolence.

The main problem in the argument that authoritarianism may be essential to growth is that it ignores the possibility that factors other than authoritarianism may have been equally important in producing economic achievements. The economic policies and circumstances that led to the success of the Korean economy need to be carefully understood.

Though the conclusions of empirical studies vary, most point to the existence of "helpful policies" in South Korea. Such policies include those that promoted openness of competition, the use of international markets, a high level of literacy and education, successful land reforms, and public provision of incentives for investment, exporting, and industrialization (Sen, 1997: 34). There is nothing whatsoever to indicate that any of these policies is inconsistent with greater democracy, that any one of them had to be sustained by the elements of authoritarianism that happened to be present in South Korea.³⁷ Although South Korea's economic success seems to support the authoritarian logic, most of countries in the rest of the Third World which are ruled by dictators are still below the poverty line. It is also important to observe that the reduced incidence of the number of people indicted by antidemocratic laws in the Civilian Government in South Korea has had more to do with democratization than with economic growth.

37. For example, the recent Indian experience shows that what is needed for generating faster economic growth is a friendlier economic climate rather than a harsher political system (Sen, 1997: 34).

Generally, a strong rule of law helps to assure sustainable economic development, to combat corruption, to support social stability and peace, and to carve out a necessary space for individual, political, and economic activity. It also provides the average citizen with the confidence that s/he has access to a mechanism to hold leaders and institutions accountable in both the public and private sectors. In the name of maintaining law and order, however, the rule of law has long been warped to fit the whims of a tiny ruling elite in South Korea. The rule of law can be truly effective only when a country's legal system is independent and conforms to universal human rights principles. As South Korean history clearly shows, absent an independent judiciary and the rule of law, democracy simply lacks mechanisms to ensure that laws and procedures protect universal human rights.

After all, in South Korea, there is little obvious correlation between civil and political rights and economic growth. Despite higher economic prosperity, the human rights record of Roh Tae Woo government of 1988 to 1992 was worse than that of its immediate predecessor in terms of the sheer numbers of political arrests under the repressive NSL. Despite the impressive economic growth and democratic progress made by South Korea since 1987, there were more arrests under the NSL in the 6th Republic than in the 5th Republic. Statistics also show that the average number of people indicted under the antidemocratic laws in the 6th Republic is much higher than in the 5th Republic or the Civilian Government. That fact in and of itself should be a reminder of the dangers of equating economic growth and human rights.

CHAPTER VII

SUMMARY AND CONCLUSION

1. Assessment of Asian Values and the Trade-off Thesis: Policy Implications

The process of economic and political change in the Western world that started in the late medieval era, known as modernization, has established itself as a model of development for non-Western countries. Though it has been assumed to be a natural and inevitable process, the overwhelming transformation it brings, touching every human relationship, has acted as a disruptive force of staggering magnitude in transitional societies. Particularly in developing countries, the goal of rapid modernization has been used by repressive regimes to justify human rights abuses.

In fact, the relationship between human rights and the process of development remains one of the most recalcitrant aspects of economic and political inquiry. The conventional theory of economic growth asserts that a climate conducive to human rights and a more equitable distribution of benefits evolve naturally from the process of economic growth. In other words, human rights development is expected to ride on the “coat tails” of economic growth factors. Hence, the repressive regimes of developing countries, including East Asian countries, are sometimes said to be justified in the denial of human rights if economic growth is enhanced. That is, a certain degree of repression is taken to be inherent in any development project and economic growth is assumed to entail human costs and

sacrifices of varying intensity. Authoritarian leaders have usually justified this repression as necessary to the successful development an “economic-growth-first strategy” or to the maintenance of law and order and national security. Such a trade-off thesis has prevailed in many developing countries, and even some developed countries, as the justification for human rights abuses. Proponents of this thesis and supporters of the concept of “Asian Values” point to the remarkable growth of East Asian countries in recent decades as confirmation of their beliefs.

The primary objective of this study has been to examine the nature of Asian Values and the legitimacy of the trade-off thesis with special attention to the relationship between human rights and the process of economic growth, using South Korea as a case study. This study also tried to ascertain whether human rights violations are indeed warranted in the name of economic growth and the maintenance of law and order. Accordingly, this study sought to assess whether the claim by some authoritarian leaders that a country's economic policies should promote the rule of law was valid or merely a pretext to protect the power and justify the abuses of their government.

In the aftermath of the Cold War, several East Asian states in particular mounted a ‘challenge’ to Western beliefs on human rights (Table 7-1). This East Asian challenge has been supported by remarkable economic development, the so-called “Asian miracle,” which was a key subject of intense World Bank research in 1992.¹ Based on such successful

1. See World Bank, *The East Asian Miracle: Economic Growth and Public Policy*, 1992.

economic growth and on the Confucian logic inherent in their tradition, East Asian states sought to redefine the concepts of human rights by questioning the applicability of universal human rights in different cultural, economic and socio-political settings.

Table 7-1
Disputing Human Rights Agendas between the West and East Asia

	Western Perspectives	Asian Perspectives
Philosophical Background	Lockean Liberalism	Confucianism
Rights Priority	Individual Rights	Collective Rights
Development Priority	Political Development	Economic Development
Emphasis on Human Rights	Civil and Political Rights	Socio-economic and Cultural Rights
Development History	Consolidated Democratic Institutionalism since Medieval Era	Rapid Economic Growth since 1960s
The Notion of Human Rights	Universalism	Cultural Relativism
Political Regime	Democratic System	Authoritarian System
Enforcement of the Rule of Law	Constitution	Anti-democratic Laws
Trade-off between Human Rights and Development	Negative (or limited)	Positive (or essential)
Representative Declaration	UDHR (1948) and Vienna Declaration (1993)	Bangkok Declaration (1993)

Such an Asian concept of human rights has been supported for decades by several East Asian authoritarian leaders including those of Singapore, China, Indonesia, and Malaysia and the former ones of South Korea. In its most basic version, this “special” concept holds that economic development has to precede the full flowering of political and civil rights; that East Asians place greater value on the harmony of the community than on individual freedoms; and that individual states should be able to interpret international standards on human rights in accordance with their history, culture, political system, and level of economic development. It suggests that the exercise of individual rights will naturally emerge from economic development, and that such rights will be less valued than stability and order, even in developed East Asian societies. These arguments are often labeled “soft authoritarianism” or “Asian-style” democracy. For proponents of Asian Values, Western style democracy is not merely considered useless in the building of an orderly society but as an actual hindrance therefore and so is repudiated as a political goal. The logic of Asian style democracy has been used by Asian repressive states to support the trade-off proposition: that a certain degree of authoritarianism is necessary to make the hard political and economic decisions that produce a state’s spectacular growth, and that such growth will facilitate the promotion of human rights.

However, the spectacular Asian economic development often cited in support of such a proposition is not without its contradictions. There is massive and deepening poverty in the midst of the growing affluence of some sections of the people. The large number of Asian peoples still living in relative poverty or being denied adequate access to health and

social welfare service is appalling. Instead of seeking to address these problems, Asian authoritarian governments have focused on arrogating enormous powers to themselves, enacting legislation to suppress people's rights and freedoms. Corruption and nepotism are rampant and there is little accountability by those holding public or private power.

It cannot be declined that order and stability are important social goals since they are preconditions for the survival and meaningful life of human beings. But these goals are not to be attained at the cost of other, equally important values, such as individual rights, freedom, ingenuity, and democracy. We often find that these two sets of values contradict one another and that political leaders have to make difficult choices between them. Leaders should, however, take care of not to choose one at the cost of the other. In early 1970s, John Rawls, in his book *A Theory of Justice*, clearly states about this view points:

Each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override. For this reason justice denies that the loss freedom for some is made right by a greater good shared by others. It does not allow that the sacrifices imposed on a few are outweighed by the larger sum of advantages enjoyed by many. Therefore in a just society the liberties of equal citizenship are taken as settled; the rights secured by justice are not subject to political bargaining or to the calculus of social interests. ...Being first virtues of human activities, truth and justice uncompromising (1971: 3-4).

Rawls' "justice" means that human dignity should not be sacrificed by implementation of the national or societal goals, for human being itself is an inviolable end. However, today we note that Asian states have raised authoritarianism to the level of a national ideology, which denounces rights and freedoms as foreign ideas inappropriate to the religious and cultural

traditions of Asia and so justifies depriving citizens of them. In the place of rights and freedom, such states offer Asian Values, which serve only as a thin disguise for their authoritarianism. Not surprisingly, Asia, of all the major regions of the world, is without a regional official charter or other regional arrangements for the protection of rights and freedoms.²

On the basis of the discussion in previous chapters, we can draw the following conclusions of this study. First, we need to respect the valuable cultural traditions that have developed throughout each country's history. Regional and national circumstances also need to be taken into account in the promotion and protection of human rights. However, those cultural traditions and special circumstances need to be reconsidered in the context of human dignity and universal human rights. No cultural tradition or special circumstance should be allowed to serve as an instrument for the abuse of human rights. For example, developing states have consistently argued that human rights and democracy are meaningless in an environment of political instability or poverty, claiming that civil and political rights have little meaning without their social and economic underpinning. However, research has shown that the improvement of civil and political rights does not hinder the realization of economic development and of socio-economic and cultural rights. South Korean history is a case in point, showing us that special circumstances do not justify abuses of human rights. Though

2. The Asian regional Conference for the Declaration of an Asian Human Rights Charter was held in Kwangju, South Korea in May of 1998. This conference was managed by the Asian Human Rights Commission, an independent non-government organization, whose headquarters are in Hong Kong.

lack of development was used in South Korea as an excuse for human rights abuse in the past, recent South Korean leaders have come to see the danger of allowing circumstance to limit human rights. Han Sung-joo, the Minister of Foreign Affairs of South Korea, has strongly voiced this belief:

During our struggle, we found out that the fight for human rights is inherent to human nature. Human rights are something mankind is eventually bound to cherish and aspire to regardless of political economic circumstances. Human rights are universal, indivisible and interdependent. They cannot be altered according to circumstances. It is neither justifiable nor appropriate to deny some human rights in order to guarantee others (Tang, 1995: 220).

Second, our study concludes that we should heed the warning of twentieth century history, which shows that uncritical acceptance of the trade-off proposition leads to the empirically dangerous rationalization of socio-economic and political costs, such as relative poverty, inequality, unemployment, exploitation of labor, absence of political participation, and even considerable human rights violations. The trade-off thesis can have a degree of validity for countries suffering from continuous poverty or social instability, i.e., countries remaining at the stage of pre- or early modernization.³ However, even at these stages, human rights abuses should be minimized. Once a country reaches a certain level of economic development, attaining to the graduation stage, the trade-off proposition become completely

3. In this context, John Rawls' argument can be referred. "The only thing that permits us to acquiesce in an erroneous theory is the lack of a better one; analogously, an injustice is tolerable only when it is necessary to avoid an even greater injustice" (1971: 4).

invalid and should not be used to justify human rights violations.

As already discussed, the remarkable economic growth of South Korea did not facilitate the realization of human rights. Therefore, the South Korean case shows us that economic growth does not necessarily facilitate the realization of human rights and democracy, allowing us to conclude that various restrictions on human rights cannot be justified in the name of economic growth. In fact, for many years economic growth has been a major goal of policy-makers and political leaders, based on the deeply ingrained view that delivering an ever larger quantity of goods and services is the best way to improve people's standards of living. And economic growth is often seen as a solution to other problems, such as increasing employment and reducing absolute poverty. We have no wish here to deny that economic growth is necessary to reduce poverty and generate the resources required for basic human needs in low income countries. However, the relentless pursuit of such economic growth without consideration for basic human rights has come under closer scrutiny and become open to considerable criticism. The critics are not just human rights NGOs, but also a broad range of people who recognize from the deteriorating quality of their lives that "growth is not the answer to everything" (Human Development Report, 1996: 43). It would seem that the quality of people's lives can be poor even in the midst of plenty.⁴

The history of human rights in South Korea of recent decades offers no promise or

4. The doubts about economic growth may seem new, but they have persisted for two centuries or more – since the birth of industrial capitalism. From the outset the benefits of the revolutionary methods of production were concentrated in the hands of small, elite groups in a few rich countries. For many other people, such growth meant a form of enslavement. See *Human Development Report* 1996: 43-45.

proof that civil and political rights will be extended to citizens upon the realization of economic development goals. Though several economic indicators point to a positive climate for socio-economic and cultural rights in South Korea, a deeper analysis reveals that many problems remain to be solved including relative poverty, the poor conditions of health and social welfare, and continuing abuses of civil and political rights.

In general, Korea's economic development has had an exceptionally negative impact on political structure, democracy, and human rights. When Park started to employ an export-oriented economic development strategy in the early 1960s, he did so in accordance with the U.S. politico-military strategy of the Cold War, including its emphasis on maintaining tensions between South and North Korea. Park's regime has shaped the political, legal, and social life of the Korean people, leading to the ideological militarization of society, political repression, repeated human rights violations, and contempt for legal procedures.

In South Korea, the independence of the judicial system has been doubted and often cited as a sign of the dictatorial concentration of power in the ruling party. Prosecutors and police have long been considered as mere subordinates of the ruling power, used to repress democratic and progressive forces in the society. The army has also been a strong supporter of authoritarian political power. All of the above repressive strategies and human rights abuses were done under the pretext of the need for national security and economic growth.

South Korea's economic growth strategy has not been able to avoid criticism by the West that it is merely "a thin disguise for authoritarian rule." How then, can deepening restrictions on human rights be warranted under the name of economic growth? A country's

economic policies should promote the rule of law and not serve as a politically expedient means for abuses governments to bolster their legitimacy. Although strongmen have long invoked “the law” as cover for “cracking heads,” the idea of a rule of law is in starkest contrast with the arbitrary rule of rulers. What a rule of law really means is rule not by men or of political parties, but justice under a set of guidelines applied equally to all. The rule of law does not mean just “the existence of law,” but it means that the law is clear, understandable and fairly predictable, without the arbitrary swings to and fro that characterize both totalitarian and authoritarian regimes. It holds due process in as high regard as outcome.

This study also disputes the notion that there is a necessary link between authoritarian government and economic growth. Though often cited as a vivid example of such a necessary link, South Korea’s history in fact offers no evidence in support of this thesis. It would be an oversimplification to say that the authoritarian political regime was a prerequisite for the rapid growth of South Korea. On the prevailing authoritarianism in South Korea, one scholar has commented interestingly:

More than at any other time in recent history, we are now constantly hearing from different sources about how bad authoritarianism is, and in this fresh time of the sixth republic the most talked-about subject by people from presidents to harmless ordinary citizens on the street is complete elimination of this hated authoritarianism for government as well as our minds and surroundings, both public and private (Chongik Rhee, 1989: 197).

Ever since the first post-war constitution, adopted 17 July 1948, South Korea has claimed to be a democratic republic. Though the elite asserted the validity of this claim, commoners were more likely to see it as “a meager cloak for rule by the few” (Helgesen, 1998: 91). The results of several recent surveys by Helgesen, in which people were asked to respond to the proposition that “South Korea is at present a democratic society,” clearly show that the Korean populace recognizes the traits of true democracy. According to the survey in 1990 conducted, three years after democracy was introduced as something more than a disguise for military rule, only 30% agreed with this statement. Five years later, and after the transition from military to civilian rule had been successfully accomplished, 49% accepted the claim. Although authoritarian leaders have strongly argued that a powerful government is needed for “order and national security,” most Korean people have long been looking for “anything but military dictatorship” (Helgesen, 1998: 72-74).

The primary conclusion of this study is that political and economic systems have to operate within a framework of human rights and freedoms to ensure economic justice, political participation and accountability, and social peace. Human rights are universal, and every person is entitled to them by virtue of being a human being. Cultural traditions affect the way in which a society organizes relationships within itself, but they do not detract from the universality of human rights which are primarily concerned with the relationship of citizens with the state and the inherent dignity of persons and groups. Human rights are indivisible and it is a fallacy to suppose that some types of human rights can be suppressed

in the name of other rights. The economic, social and cultural needs and the aspirations of people are mutually dependent and cannot be fragmented or compartmentalized. Some may argue that civil and political rights have little meaning unless there are the economic resources to exercise and enjoy them. However, by the same token, the pursuit and acquisition of material wealth is sterile and self-defeating without political freedoms and the opportunity to develop and express one's personality and to engage in cultural and other discourses.

The responsibility for the protection of human rights is both international and domestic. The international community has agreed upon norms and institutions that should govern the practice of human rights. State sovereignty cannot be used as an excuse to evade international norms or ignore international institutions. The claim of state sovereignty is justified only when a state fully protects the rights of its citizens.

The primary responsibility for the protection and promotion of human rights rests with states. The rights of states and peoples to just political, economic, social and cultural development must not be negated by global process. States must establish open political processes in which the rights and obligations of different groups are acknowledged and a balance between the interests of individuals and the community is achieved. Democratic and accountable governments, not authoritarian or dictatorial ones, are the keys to the promotion and protection of human rights.

On the other hand, the international community should not selectively chastise or punish particular state or privilege one set of rights over others. We have to admit that one

of the fundamental causes of the violation of human rights lie in the inequities of the international world economic and political order. The radical transformation and democratization of the world order is a necessary condition for the global enjoyment of human rights. It is the responsibility of the international community to assure that the logic of the universality and equality of human rights is applied in such a way that it promotes the social and economic welfare of all people by fostering a more equitable distribution of resources and opportunities throughout the world.

2. For Future Study: "Joining East and West"

As human rights issues return to the international agenda, the record of East Asian states has been subjected to critical scrutiny by the global community. While there may be some scope for interpreting human rights differently and perhaps even assigning different priorities to specific human rights according to the region's special circumstances, East Asian countries are on the defensive. However, despite its inherent limitations, the concept of Asian Values highlights some very important values, such as the emphasis on the family unit and respect for education and social order. Despite the merits of its political and democratic traditions, the West is vulnerable to the criticisms that its exclusive individualism has led to social and moral decay and that its foreign policy has been self-serving. Asian societies are different from those of the West, as are the value preferences and shortcomings

of each. It is perhaps through a reconciliation of what is best in both traditions that we can arrive at a better model for human rights.

There is a global debate about human rights because there is a global world system in which global economic, political and cultural networks co-exist with national and local economies, political systems and cultures. Today development is impossible without participation in the world technological system, but modern technologies of communication and transportation make rigid forms of political authoritarianism more difficult to maintain (Kent, 1993: 236-237). With the advances in information technology and increase in international trade, borders between national economies have begun to erode. Because the fast-changing global environment no longer makes it possible for states to exist in isolation, some scholars (Kim Dae Jung, 1994; Ghai, 1995; de Bary, 1997; Tu, 1998a) have called for a dialogue of equals on human rights between Asian and Westerners on the basis of mutual respect.

Recently, Asia has at long last started to assert its own distinct identity. Such a recognition of regional ties and steps to increase cooperation between Asian countries, the so-called "Asianization of Asia" can strengthen the new world order (Funabashi, 1993). That is, even though several Asian countries have been suffering from economic crisis recently, some scholars argue that the region's dynamic growth, emerging middle class, gradual democratization, self-help discipline, open regionalism, self-confidence, and healthy optimism can be positive factors in shaping the new world order. However, several proofs show that Asia should not delude itself into thinking that its identity can be developed solely

in regional terms, its economy sustained in a regional bloc, and its political ambitions fulfilled in regional integration alone. Asia's unique approach to the human rights issues, which seems to solidify Asian countries against the West, may well keep Asian countries from looking beyond their own national interests and prevent them from integrating into a truly Asian community. Ultimately, Asia should work to reinforce the United Nations and ensure cooperation with the rest of the world.

The acceptance by East Asian countries of the universal character of the original UN Declaration need not call into question the underlying assumptions of their Confucian "core values." Those values include "the perception of the person as a center of relationships rather than simply as an isolated individual, the idea of society as a community of trust rather than merely a system of adversarial relationships, and the belief that human beings are duty-bound to respect their family, society, and nation" (Tu, 1998a: 3). Indeed, these values are not only compatible with the implementation of human rights but can, in a sophisticated way, enhance their universal appeal. Arguing the necessity of "joining East and West," Tu Weiming asserts:

Actually there is virtual consensus that since respect for rights and exercise of responsibility are evidence of human dignity, individual rights and responsibility are inseparable in all domains of human flourishing: self-cultivation, regulation of family, order in society, governance of state, peace throughout the world, and harmony with nature. In any concrete experience of human encounter, rights and responsibility form an interactive mutual relationship signifying a necessary continuum for human well-being. The danger of using Confucian values as a cover for authoritarian practices notwithstanding, the authentic possibility of dialogue, communication, and mutually beneficial exchange must be fully explored. The perceived

Confucian preference for duty, harmony, consensus, network, ritual, trust, and sympathy need not be a threat to rights-consciousness at all (1998a: 3).

As richly textured ideas of human flourishing, Confucian values can demonstrate that human rights are the common language of humanity. The challenge is how we can fruitfully introduce a Confucian perspective on the evolving human rights discourse without diffusing the focused energy of the national and international instruments that have been promoting political rights with telling effectiveness in some selected areas of the world.

Family, which plays so crucial a role in any Asian conception of political order, is not absent in the major texts of classic Western political thought. Contrary to the accusation made by East Asian authoritarian leaders, the main thrust of political theorists from Aristotle to Hegel has been the clear distinction between the affective and ethical bonds operative in the family on the one hand and politics on the other (Tu, 1998a: 4). By sharply contrasting political obligations and filial piety, they perceive a major rupture between familial and political relation. Understandably, they do not see the relevance of ethical behavior in the privacy of the family to the moral obligations of the public domain.

Like many Western countries in the past, the Asian economies are moving from a capital- and labor-intensive industrial phase into an information- and technology-intensive one. Many experts as well as the government authorities have acknowledged that this new economic world order requires the guaranteed freedom of information and creativity. Such freedoms are possible only in a democratic society (Kim, D. J. 1994: 192). As Asians increasingly embrace democratic values, they have the opportunity and obligation to learn

from older democracies. In this context, Kim Dae Jung, the current president of South Korea and former human rights activist, argues:

Instead of making Western culture the scapegoat for the disruptions of rapid economic change, it is more appropriate to look at how the traditional strengths of Asian society can provide for a better democracy. In Asia, democracy can encourage greater self-reliance while respecting cultural values. Such a democracy is the only true expression of a people, but it requires the full participation of all elements of society. Only then will it have legitimacy and reflect a country's vision (193).

As I pointed in previous chapters earlier, Asian authoritarian leaders misunderstand the relationship between the rules of effective governance and the real meaning of keeping the rule of law. Based on the people's consent and the rule of law, we need to strive for a new democracy that guarantees the right of personal development and wholesome existence for all human beings. A natural first step toward realizing such a new democracy would be full adherence to the universality of human rights based on the UDHR and the other UN Covenants.

There is no immediate solution for resolving the human rights conflict between Western industrialized countries and Asian states in the Asia-Pacific region. However, the Asia-Pacific region clearly has the potential to develop a human rights protection system. Economic developments have rendered many East Asian societies affluent and the standards of living and social and economic conditions of some parts of the region have caught up with the industrialized world. Although several Asian states are raising many excuses for

hesitating to implement democracy and strengthen human rights, as we found out through this study, the biggest obstacle to such democratization is posed not by its cultural heritage but by the resistance of authoritarian rulers and their apologists. In fact, important political, economic and social changes have already forced East Asian states to reexamine their positions towards human rights problems at home. Therefore, if Asian states strive for promotion of human rights protection, no one can deny that Asian societies can make a significant contribution to the evolution of global democracy, based on its rich heritage of democracy-oriented philosophies and traditions.

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