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## BOOK REVIEW

HUMAN RIGHTS IN KOREA: HISTORICAL AND POLICY PERSPECTIVES, edited by William Shaw. Cambridge (Massachusetts) and London, East Asian Legal Studies Program of the Harvard Law School and the Council on East Asian Studies, 1991. 350 pp. No price given.

STANLEY M. YUKEVICH†

*Human Rights in Korea*, a collection of essays examining the Korean human rights experience since the late nineteenth century, comes at a time of apparent triumph for South Korea. The nation has enjoyed decades of rapid economic growth, staged a successful 1988 Summer Olympics, and profited diplomatically from the demise of Communism worldwide. Indeed, as it forges growing ties with a North Korea suffering from the loss of Communist diplomatic and economic patronage, South Korea seems to be moving confidently, if cautiously, towards reunification with the North on its own terms.

However, the abysmal record of persistent and virulent repression of civil and political rights by successive authoritarian regimes has marred the South Korean success story. Political repression in South Korea has often been conspicuous and sensational; government acts against opposition leader Kim Dae Jung have been well chronicled, and Seoul street battles between university students and riot police have provided frequent international television fare. Nonetheless, despite awareness of rights abuse in South Korea, no consensus has emerged that addresses the causes of and remedies for these practices. In this respect, *Human Rights in Korea* goes far towards providing the critical historical analysis necessary to effect civil and political rights gains, both in South Korea and elsewhere.

Most impressively, the assembled authors thoroughly and rigorously scrutinize the historical record to trace the development of Korean human rights consciousness both before and after the peninsula's 1945 division, the histories of various reform movements, and the depressing rights legacies of South Korean regimes. The authors argue that the record has been ignored or distorted both by

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"cultural historians" employing unsubstantiated generalizations about Confucian tradition to explain social developments on the Korean peninsula, and by patriotic historians falsely presenting the colonial period as a time of unified and heroic struggle against the Japanese oppressors.

To remedy these shortcomings, the authors devote detailed attention to various reform movements, especially the Independence Club of the 1890s and the Equalization Society of the 1920s. Further, the authors carefully chronicle the 1945-1948 U.S. military interregnum and precisely describe specific instances of torture, sham political show trials, and other excesses of the Park Chung Hee and Chun Doo Hwan regimes. Through this empirical detail, the authors forcefully argue that students of the Korean peninsula must eschew banal cultural generalizations and instead probe the actual historical record.

Although the authors view different periods of history from divergent perspectives, a number of consistent themes emerge. The first is the capacity and readiness of the Korean people to accept modern notions of civil and political rights entitlements. The authors posit that Koreans have always been aware of rights infringements but have lacked the institutional remedies essential for effective redress.

In *Korea Before Rights*, William Shaw briefly describes the human rights experience in traditional Korea, a place where individuals seeking legal satisfaction were offered only sporadic expressions of paternalistic mercy in an environment of bureaucratic indifference. Shaw argues that, largely because the Confucian structure of unequal status that underpinned traditional Korean society inescapably clashed with equality in rights enforcement, the people were aware of their sufferings but lacked access to institutional remedies.

Similarly, in *Korean Human-Rights Consciousness in an Era of Transition: A Survey of Late-Nineteenth-Century Developments*, Vipin Chandra analyzes the writings of the Independence Club whose proponents extolled human dignity and inalienable rights as enshrined in the American Declaration of Independence and other Western legal documents. For Chandra, the work of the Independence Club marked a break from repressive Confucian doctrine and provided a philosophical tradition for subsequent rights advocates struggling against dictatorial oppression.

As a second theme, the authors assert that progress has been impeded by an ambivalence concerning human rights held even by ardent social reformers. Too often, obsession with exalted causes has left little room for rights gains. Thus the Independence Club leaders emphasized the necessity of a strong and united state to modernize Korean society in the face of foreign encroachment. In

this model, the common people were not to participate directly in government but only ensure that appointed officials governed justly.

In *Nationalism and Human-Rights Thought in Korea under Colonial Rule*, Michael Robinson criticizes the Korean leaders opposing Japanese colonial rule for their lack of a serious commitment to human rights. Describing as illusory the presumed alliance of Korean patriots united in struggle against Japanese domination, Robinson posits that the anticolonialist movement was fragmented into two camps. The moderate leadership emphasized nationalist cultural unity and gradual modernization within the colonial framework. Seeing civil rights abuses as only another facet of Japanese oppression and rejecting comprehensive social reforms that would endanger their own privileged positions, the moderates offered little relief to the public.

The Marxist-influenced reformers wished to sweep out the Japanese in the course of a revolutionary social restructuring. However, viewing rights reform exclusively through doctrinal Marxist lenses, the radical reformers failed to recognize and respond to the precise needs of the Korean peasantry, and thus failed to galvanize the countryside against the colonial overlords. Robinson describes how the Japanese were able to play the two contentious reform groups against one another to consolidate control and perpetuate the suffering of the Korean people.

By illustrating how the ideological preoccupations of the two Korean reform parties obstructed chances for human rights advances, Robinson argues that grand causes such as nationalist liberation and social transformation rarely accord priority to human rights gains, but instead advocate rights progress only when convenient. In *Between Class and Nation: The Equalization Society of the 1920s*, an essay that supports Robinson's contention, Shaw examines the Equalization Society. The Society was dedicated solely to winning respect and equality for members of Korea's *paekchǒng* population, a low-caste group whose members had long suffered from severe discrimination. Due to its exclusive focus on gaining civil and political rights, the Equalization Society did not fit into either the moderate nationalist or the radical Marxist anticolonialist camps.

Because its adherents fought for changes in discriminatory practices that long predated Japanese colonial control, the Equalization Society challenged the notion that Korean suffering resulted solely from Japanese oppression. Shaw notes both the unease of Korean anticolonialists toward the Equalization Society and the continued reluctance of contemporary historians to examine the Society because it exclusively focused on human rights without considering the ideological battle between North and South Korea. Shaw proposes that the rejection of the Society's point of view indi-

cates the need of Koreans to think about human rights independently from extraneous priorities.

In *Human Rights in South Korea, 1945-1953*, Gregory Henderson contends that the U.S. military government in Korea (USAMGIK), which administered South Korea from August 1945 until the nation's official formation in August 1948, preserved the Korean legacy of ambivalence toward human rights by failing to effect fundamental institutional changes necessary for lasting rights progress. In particular, Henderson asserts that USAMGIK lacked trained and dedicated officials, knowledge of South Korean social conditions and legal history, and popular support essential to move South Korea decisively past its traumatic Japanese legacy. Instead, faced with an overwhelming influx of refugees returning from Japan and North Korea, and fearful of explosive social tensions, USAMGIK relied upon the very institutions that Japanese colonizers had used to terrorize and subjugate the Korean populace.

Most visibly, the highly centralized American administration relied heavily upon Japanese-trained South Korean police to enforce order throughout the nation. This police force received no significant retraining to liberalize their brutal methods and quickly gained unrivaled power while jailing thousands on alleged security violations.

Although Henderson acknowledges the limited legal reforms attempted by USAMGIK, he reveals the unsettling fact that USAMGIK initially adopted without change all of the written laws that the Japanese colonial regime had promulgated for repressive purposes. While many of the most brutal measures were later repealed, much of the actual text and basic tenor of the Japanese colonial code remained untouched; USAMGIK thus established a practice which was followed closely by successive South Korean regimes. Henderson contends that at least ninety-five percent of the laws established by the Syngman Rhee government for the new South Korean republic were adopted unaltered from Japanese colonial codes.

In *U.S. Foreign Policy and Human Rights in South Korea*, Jerome A. Cohen and Edward Baker discuss how the goals of national security and economic development were used to justify the brutal, totalitarian rights policies adopted by the authoritarian dictatorships of Park Chung Hee and Chun Doo Hwan. Citing the need to maintain social order, the military strongmen employed widespread torture and intimidation, vague and dragnet sedition laws, a subservient and biased judiciary, and a corrupt and vindictive police force in order to cow the nation into submission. The authors' descriptions of specific instances of rights abuses that occurred under the Park and Chun governments are at times shocking and reveal the human cost of repressive practices.

As a final coherent element, the book focuses upon structural reform of governmental institutions as the most certain means of providing South Koreans with lasting human rights protection. Due greatly to the shortcomings of the American occupation, the Park and Chun regimes were able to inherit the institutional tools of repression forged by Japanese colonialism, consolidate all governing authority in the executive branch, and render impotent any potential checks upon their arbitrary and repressive power.

In *The 1987 Constitutional Reforms in South Korea: Electoral Processes and Judicial Independence*, Baker and James H. West cautiously applaud the 1987 constitutional reforms that purport to grant significant autonomy to the legislative and judicial branches but remain skeptical of the government's commitment to real rights reform, citing frequent and blatant violations of constitutional law. Shaw emphasizes the need for institutional checks on executive authority in his introduction. He voices particular unease over the 1990 merger of Kim Young Sam's opposition party with President Roh Tae Woo's governing party; since the opposition parties had helped to erode the executive branch's monopoly of power, the opposition's demise bodes ill for the separation of powers necessary to achieve human rights gains in South Korea.

The book offers critical perspectives on the influence of American foreign policy upon South Korean rights reform. As Shaw states in his introduction, the authors' views conflict on this topic. For example, Baker and Cohen attribute much of the blame for South Korean rights abuses to myopic, irresolute, and indifferent U.S. foreign policy. These authors assign the U.S. a special responsibility for South Korea because of the American occupation and sponsorship of the new nation, America's dominant role in the Korean War, the continuing U.S. military presence in South Korea, and the billions of dollars of aid to South Korea.

Baker and Cohen find fault with both the American encouragement of Park's repressive regime in return for his support of the Vietnam War and the U.S. later use of noninterventionist doctrine to support Park and Chun. These authors believe that America's failure to demand an end to human rights abuses, combined with a policy of quiet diplomacy that has distorted popular perceptions of American involvement in South Korean affairs, have encouraged burgeoning anti-American sentiment in many young South Koreans that will impede future friendly relations.

In rebuttal, retired U.S. Foreign Service Officer Donald Macdonald accepts Baker's and Cohen's factual account of South Korean rights abuses but rejects American responsibility for these excesses. Macdonald states that America's quiet diplomacy was necessary in order to nurture South Korean sovereignty. More controversially, he argues that the abysmal human rights record under

Park and Chun resulted largely from the choice made by South Koreans to pursue economic development. This notion of tradeoff between economic development and human rights progress receives scant attention by the book's other authors, a neglect that is especially unfortunate given the prevalence of civil and political repression in the other economically dynamic "dragon" nations on the Pacific Rim. The relationship between rights reform and economic progress must be convincingly addressed in order to forever bury the claim that rapid economic development cannot occur in an enlightened human rights environment.

Moreover, Macdonald posits that many South Korean leaders genuinely rejected American governmental institutions as ill-suited to their nation. This point is widely echoed by leaders of developing nations attempting to forge independent destinies. For instance, Prime Minister Mahathir Mohammed of Malaysia has often voiced his desire to independently fashion his nation's social institutions to meet unique Malaysian needs.

This rejection of American institutional models reflects the need to rethink theoretical rationales for human rights reform. As Lawrence W. Beer notes in his epilogue, American rights policies often extol "individualism." According to this philosophy, human rights reform offers a means for each person to realize her full potential and to enjoy life. This perspective, familiar to Westerners comfortable with Millian liberalism, finds fewer adherents in societies less committed to the goal of self-actualization.

Furthermore, a model emphasizing personal autonomy rather than harmonious cooperation may provide an inappropriate rationale for human rights. Beer contends that formulating alternatives to the liberal model might free human rights thought from an American cultural domination that has antagonized developing nations and impeded progress. In place of classic liberalism, Beer proposes a transcultural ethic of "mutualism" which focuses upon "mutual respect for equal individual dignity" and thus fits harmoniously in a variety of social milieus.

Beer's thought-provoking and insightful epilogue ends a book noteworthy for its empirical rigor and balanced critical analysis. The reader new to Korean history will profit greatly from the factual detail of the essays, while the experienced student of Korean affairs will find intriguing the variety of theoretical perspectives advanced by the authors. While *Human Rights in Korea* does not provide a blueprint for future rights reform in South Korea, the book recounts the chilling story of human rights abuses and identifies the structural deficiencies in Korean society that must be remedied in order to ease the burden of the nation's people.