

# Max Weber's definitions about rights

## II. The Possibility

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[If not exercise your right, still your right there.]

### 1. General Idea of Rights

- The power given by the law to fulfill one's benefit
- The control of one's intention to possess benefit

### 2. Types of Rights

#### 1) Public Rights

- a. the rights owned by a government or other public organizations (=governing power)
- b. the rights owned by people toward a government or other public organizations (civil liberties, voting right, the right to make petition toward public organizations)

#### 2) Private Rights

- a. personal right - The owner himself is the object of the right.  
(the right of life, the right of body)
- b. the right of identity (the right of domestic relations, the right of inheritance)
- c. property right - The economic benefit is the object of the right.  
(a real right, obligatory right, intellectual property right)

### 3. Prescription System

- The acquisition or extinction of the right (esp. property right) can be acknowledged by the flow of time.
- It protects the persons who did legal actions on the base of a certain state of the fact, because they trusted the fact even though the fact was not valid.

#### 1) Positive Prescription

- If one has been in the appearance of the rightful person during the period of prescription, he can be acknowledged as a valid rightful person even though he is not.

#### 2) Negative Prescription

- If one has not been exercising the right during over 1the period of prescription, he cannot be acknowledged as a valid rightful person even though

he is.

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## Introduction of The Weberian Approach to Domination

Domination in the most general sense is one of the most important elements of social action. Of course, not every form of social action reveals a structure of dominancy. But in most of the varieties of social action domination plays a considerable role, even where it is not obvious at first sight (Weber, 1978: 941).

-Weber's views on the centrality of domination to political action were consistent across his formal sociology and his more political writings, of which 'Politics as a Vocation' is a central example. (.a state is a human community that claims the monopoly of the legitimate use of physical force within a given territory... the state is a relation of men dominating men, a relation supported by means of legitimate.)

Weber initially defines domination (Herrschaft) as:

... the probability that a command with a specific content will be obeyed by a given group of persons (1978:53).

more specifically ; it refers only to those cases of the exercise of power of domination may rest upon quite different motives, ranging from sheer habit to the cynical promotion of self-advantage. The possibility of obtaining material rewards and of securing social esteem, however, are two of the most pervasive forms of tie binding leader and follower. But no stable system of domination is based purely upon either automatic habituation or upon the appeal to self-interest: the main prop is belief by subordinates in the legitimacy of their subordination.

If it possesses an administrative staff, an organization is always to some degree based on domination. (Weber, 1978: 54).

domination does not include every mode of exercising 'power' or 'influence' over others. He qualifies the concept with the word 'authority', and notes that the bases of obedience can range widely from habit through to rational calculation of advantage (Weber, 1978: 212 & 216).

Like the political institutions historically preceding it, the state is a relation of men dominating men, a relation supported by means of legitimate (i.e. considered to be legitimate) violence (Weber, 1970: 78)

-the activity which claims the right of domination on behalf of the authority established in a territory, with the possibility of using force or violence in case of need, either to maintain internal order and the advantages which it entails, or to defend the community against external threat (Freund, 1968: 221).

### **A. Max Webers View on the Efficient Exercise of Power & Authority**

"From a purely technical point of view, a bureaucracy is capable of attaining the highest degree of efficiency, and is in this sense formally the most rational known means of exercising authority over human beings. It is superior to any other form in precision, in stability, in the stringency of its discipline, and in its reliability. It thus makes possible a particularly high degree of calculability of results for the heads of the organization and for those acting in relation to it. It is finally superior both in intensive efficiency and in the scope of its operations and is formally capable of application to all kinds of administrative tasks.

### **B. Max Webers Explanation About the Bureaucratic System**

1. Weber's interest in the nature of power and authority, as well as his pervasive preoccupation with modern trends of rationalization, led him to concern himself with the operation of modern large-scale enterprises in the political, administrative, and economic sphere. Bureaucratic coordination of activities, he argued, is the distinctive mark of the modern era. According to Weber, bureaucracies are goal-oriented organizations designed according to rational principles in order to efficiently attain their goals. Offices are ranked in a hierarchical order, with information flowing up the chain of command, directives flowing down.

2. Only through this organizational device has large-scale planning, both for the modern state and the modern economy, become possible. Only through it could heads of state mobilize and centralize resources of political power, which in feudal times, for example, had been dispersed in a variety of centers. Only with its aid could economic resources be mobilized, which lay fallow in pre-modern times.

### **C. Characteristics of Bureaucracy**

Modern officialdom functions in the following specific manner:

- I. There is the principle of fixed and official jurisdictional areas, which are generally ordered by rules, that is, by laws or administrative regulations.
- II. The principles of office hierarchy and of levels of graded authority mean a firmly ordered system of super- and subordination in which there is a supervision of the lower offices by the higher ones. Such a system offers the governed the possibility of appealing the decision of a lower office to its higher

authority, in a definitely regulated manner.

III. The management of the modern office is based upon written documents ('the files'), which are preserved in their original or draught form. There is, therefore, a staff of subaltern officials and scribes of all sorts. The body of officials actively engaged in a 'public' office, along with the respective apparatus of material implements and the files, make up a 'bureau.' In private enterprise, 'the bureau' is often called 'the office.'

IV. Office management, at least all specialized office management-- and such management is distinctly modern--usually presupposes thorough and expert training. This increasingly holds for the modern executive and employee of private enterprises, in the same manner as it holds for the state official.

V. When the office is fully developed, official activity demands the full working capacity of the official, irrespective of the fact that his obligatory time in the bureau may be firmly delimited. In the normal case, this is only the product of a long development, in the public as well as in the private office. Formerly, in all cases, the normal state of affairs was reversed: official business was discharged as a secondary activity.

VI. The management of the office follows general rules, which are more or less stable, more or less exhaustive, and which can be learned. Knowledge of these rules represents a special technical learning which the officials possess. It involves jurisprudence, or administrative or business management.

#### **D. Technical Advantages of Bureaucratic Organization**

The decisive reason for the advance of bureaucratic organization has always been its purely technical superiority over any other form of organization. The fully developed bureaucratic mechanism compares with other organizations exactly as does the machine with the nonmechanical modes of production. Precision, speed, unambiguity, knowledge of files, continuity, discretion, unity, strict subordination, reduction of friction and of material and personal costs these are raised to the optimum point in the strictly bureaucratic administration.

#### **E. Disfunctions of Bureaucracy**

Yet Weber also noted the dysfunctions of bureaucracy. Its major advantage, the calculability of results, also makes it unwieldy and even stultifying in dealing with individual cases. Thus modern rationalized and bureaucratized systems of law have become incapable of dealing with individual particularities, to which earlier types of justice were well suited. Weber also argued that the bureaucratization of the modern world has led to its depersonalization.

[The calculability of decision-making] and with it its appropriateness for capitalism . . . [is] the more fully realized the more bureaucracy "depersonalizes" itself, i.e., the more completely it succeeds in achieving the exclusion of love, hatred, and every purely personal, especially irrational and incalculable, feeling

from the execution of official tasks. In the place of the old-type ruler who is moved by sympathy, favor, grace, and gratitude, modern culture requires for its sustaining external apparatus the emotionally detached, and hence rigorously "professional" expert.

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## **Example of Dictatorship in Korean History...**

### **[Presentation]**

This presentation is on Marx Webber's concept of "Possibility".

For the further understanding on the definition of "Possibility", considering what happens when one exercise power excessively would provide useful ideas. And looking into the historical example of dictatorship in Korea would be one way for the consideration of it.

In this presentation, Korea's most well known dictator, Park Jeong-hui is searched as the example, and the negative effect of Park's dictatorship period would be focused on.

### **[About historical background]**

It was shortly after Korea's independence in 1945 when Park took the exclusive power of the Korean army. In fact taking the exclusive power in the army meant becoming the only leader in every part of Korea including Korea's politics and economy. Since Koreans were not familiar with the new social situation after the independence from Japan, the basis of democratic system and Korean's legal mind were not established. Such political background made challengeable situation for Park to take the exclusive power. Another good reason for Park's dictatorship was economical recession. Actually, Korean society needed one powerful leader who could centralize all the Koreans' concern and potential power for the economical development. Some theories that justify Park's dictatorship is also based on such historical background in which order and unified constituents were required.

### **[Negative effects of Park's dictatorship]**

#### **1. on the political area**

First of all, Park's dictatorship had much negative influence on the democratization procedure of Korean politics. As referred before, Korea was facing new social situation and disorder that had to be solved by the firmly established basis of democratic system and Koreans' citizenship. Park's purpose to solve social disorder and to centralize national power failed in the long run and ,in reverse, even impeded the formation of democratic foundation. Speaking in detail, Koreans who were familiar with the experience of dictatorship period rather than democratic progress were not acknowledged about the term "democracy", and the social environment made some Koreans be accustomed to

being ruled by one exclusive leader since some short-sighted citizens thought the economical and political system governed by one powerful leader were much more efficient. Few people could feel any responsibility of the ownership of the whole society, and the trend to authorize someone else the responsibility instead became common. In conclusion, the longer the dictatorship is performed, the farther the society is estranged from real democracy.

## **2. on Korean's legal and social mind.**

According to Webber, Hobbes and other sociologists' theories, society is made up by the mutual relationship of citizens, and thus, citizens with legal mind come as the very one to be respected by the tool so called "law". But for Koreans under the dictatorship of one ruler, law was not so familiar term, and considered to be a kind of way to regulate public in order to make it comfortable for the exclusive leader to govern the whole society. It means that people under dictatorship are not so well acknowledged about the necessity of law. In fact, after the period of dictatorship, not so many Koreans were legal minded so that there were not many constituents who could evaluate the procedure and progress of government by the measure of law. Many Koreans felt that they were ruled by the law which is made by small privileged group of people, and took passive attitude in front of law. Obedience and subordination rather than active participation in the legal process were thought to be the virtue required to the modern society. The establishment of legal mind and correct concept on the society was negatively influenced by dictatorship.

### **[Conclusion]**

No dictatorship can be justified by the democratic and legal view because dictatorship influences the sensible and realized understanding of society in negative way. As society consists of constituents who have to be self respected as the very owner of society, dictatorship always goes against of the current of democratization and therefore impede the sense of ownership and responsibility of every citizen.