

## I . Defining Right

Through the history the term right has been changing. It is much rare adequate to define the term right within the historical background Many scholars have defined right in different Ways, but let us try to find out how Max Weber defined-

## II . Max Weber's Definition of Right

“The state of mutual social relationships in which the possibility of the member of a social group enjoying exclusive spiritual and material interest under its internal order in a continuous way is guaranteed.”

## III. Mutual social relationship

Mutual social relationship is where each social group has some kind of influence, and exercise certain degree of Power over one another. Here, the word Power can be interpreted into various meanings and hence the word power is the relative concept that is changeable according to the relationship between the social groups, wtuch could be applied between state and people. Above mutual smal relationship means that all rights are based on two parties. You would not need to think about the term right when you are alone, because your rights would not collide with other people's rights.

## IV. Possibility

The term possibility is closely related to power. If you excercise power too much, what will happen ? Power is the ability to achieve desired ends despite resistance from others. Without the possibility of two powers conflicting there won't be the term 'right'.

## V. Enjoying

Enjoying the rights you have. Enjoying the economical and psychological profits of life is based on economical utility theory. The branch of decision theory concerned with measurement and representation of preferences. Utility theories focus on accounts of preferences in rational decision making , where and individual's preperences cohere with associated beliefs and action. Utility refers to the scale on Which Preference is measured.

Identification of measurement as an issue is usually credited to Bernoulli, who exhibited a prospect (Probability distribution over outcomes) that had infinite *expected* monetary value, but apparently not infinite utility. . Bernoulli resolved the “St. Petersburg paradox” by suggesting that utility be logarithmic in monetary amounts, which in this case would yield a finite expected utility.

That utility could apply to all sorts of outcomes, not merely monetary rewards, was first argued forcefully by Bentham, who proposed a system for tabulating "pleasures" and 'pains'(positive and negative utility factors), which he called the "hedonic calculus".

Although modern economists are quite reluctant to aggregate preferences across individuals, the concept of individual utility plays a foundational role in the standard neoclassical theory. Recognition of this role was the result of the so called marginal utility revolution? From th 1870s, in which Menger, Jevons, Edgewortk and other leading 'marginahsts' demonstrated that values prices could be found on utility.

## VI. Exclusive

Exclusive means 1. shutting out other considerations, happenings, existence, etc. 2. not shared or divided 3. refusing to admit all but what is specified 4. being the only one of its kind.

We have many exclusive things. But there are also many things, which are not exclusive. Within a free market system property right is one of the most important aspects. Without your ownership of your property you would have to share your property with others, or you would not be able to specifically identify your property from others.

## VII. Spiritual and Material

According to Weber's definition on 'rights', rights can be divided into spiritual and material rights.

### 1) Spiritual Rights

Private life means individual, personal life, distinguished from public and social life. Right to privacy that one can freely construct and develop his or her private life and that whenever fundamental personal liberties are involved, they may not be infringed by anyone.

Spiritual rights are closely associated with an individual's control over his mind and living. Spiritual rights include right to privacy, freedom of speech, freedom of assembly, freedom of religion, freedom of abortion and etc. All of above, spiritual rights are protected through the constitution universally.

### 2) Material Rights

Modern society approves an individual to take complete control over his property and forbids people to violate each other's property. The state and other individuals cannot interfere or set limits on other people's property. This definition started in the modern ages, the destruction of the feudal system led to a high regard for private property rights.

But for Korea land owning was limited because of lack of land.

Material rights are closely associated with an individual's control over his property.

Material rights include the right to own, property right, intellectual property right, and etc.

## VIII. Under its internal order

In Max Weber's definition of rights, the "internal order" of society is stressed as a precondition to realization and protection of its members' rights. Internal order in a society is achieved when the member's behaviors follow a common set of rules and are standardized within the boundaries of social norms. The existence of law provides these rules to set a standard for what ought to be, but in maintaining social order, an institution to enforce the law and regulate the action of people is necessary. As conformity is rewarded and reinforced, while nonconformity is penalized and sanctioned, the integration of members into a single social order becomes possible.

Every state has its own sense of order and within that boundary, the people should have their rights and duty.

## IX. In a Continuous

Every state has laws, and the people have to obey that law, but if the law or the execution of law by state is not predictable, the people cannot obey that law. Predictability is mostly shown in criminal law, administrative law, and government policies.

Predictability in criminal law is implemented under the principle of *nulum in lege poenitentia*, *nulla poena sine lege*. According to this principle, an act cannot constitute a crime or call for punishment unless there exists a written provision. Compared to other fields, protection of predictability is rather strictly enforced in criminal law because of its direct connection with fundamental rights.

## X. Guaranteed

Rights cannot be realized unless a state plays a role of securing rights of individuals. In addition, deciding limits and kinds of rights, which should be protected, is 'Mostly influenced by capability of a state. Therefore, when we define the rights, a guarantee by a state must be considered.

### **XI. conclusion**

Right itself has all kinds of aspects in it. Its definition has changed through the course of history. There is no right or wrong in defining 'right'. The definition of right depends on the culture, area, history and etc. So every different states should be able to define 'right' in their own term.