

近代人權觀念的轉變： 一個社會生態觀點的分析*

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摘 要

本文擬對近代人權的興起和發展，就社會變遷的脈絡，略述其梗概，指陳其當前所形成的最具爭議性的問題，並說明其蘊含的重要意義。

本文分別就下列幾個問題，進行分析和探討。

一、在君主專制制度崩潰以後，基於立憲主義而建立的“有限的政府”，其對人權賦予什麼樣的意義？提供什麼樣的保障？

二、在立憲主義之下，資本主義社會面臨了何種生態變遷的挑戰？其對人權又作了何種新的回應或安排？

三、在二十世紀裡，相距不到三十年發生了兩次世界大戰，而且，人類整體地面臨了核子武器的威脅，這對人權觀念又產生了什麼樣的刺激？

四、人權意涵的擴張及人權保護的國際化，其所衍生的問題是什麼呢？

壹、前言

人權，一如自由，是近代以來最吸引人、也是最富爭議性的一個問題。「不自由，毋寧死！」自由，曾經使許多人為他獻身，這是個歷史的事實。可是，什麼是自由？在理論上，卻始終是一個爭議不斷的問題。甚至有人認

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The Changes of the Conceptions of Human Rights: A Social Ecological Analysis

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ABSTRACT

This article will examine the main changes of human social ecological conditions influencing the development of human rights in the past three centuries. As the tremendous developments of our human surroundings could not be easily analyzed comprehensively, this article will prefer to concentrate on the foci of the following aspects:

First, when the European feudal monarchy-systems collapsed, the varied limited governments took their place. What kind of human rights did the governments, based on Constitutionalism, provide for their individuals respectively?

Secondly, what challenges did the Constitutional-Capitalistic societies meet in the changing social ecological conditions during this period? Did the governments promote new services? What were the enlarged human rights?

Thirdly, did the two world wars and the threat of nuclear weapons stimulate human beings to develop and more peaceful world? What more can we do to develop the concept of human rights?

Finally, what were the problems alongside expanding changes of human rights implication?