

Toward a Constitution of Justice Forum based on Participation of Minjung

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<Abstract>

Who are summoned to discuss what justice is, and how it can be realized? The question has a variety of answers depending on the perspective and the position of the people who throw it. In the history of the concept justice we can scarcely find designs of justice from the perspective of minjung. Since Plato and Aristotle the concept justice has been designed to maintain order and peace in the commonwealth. In the tradition such a conservative conception has shaped a mainstream. Nowadays some have attempted to discuss justice from the bottom, but such discourses haven't attracted much attention. Therefore, I think that it is one of the most important issues of contemporary theory of justice to respond to the question how justice forum should be constituted on the basis of minjung's participation.

With such a question in mind, I explore first what it means to watch in the eyes of minjung. What looks normal in the view of the people who have vested interests can be seen as turned upside down in the eyes of minjung. If we want to see the world from their viewpoints, we must first hear what they say.

Second, I investigate the context in which the conception of justice emerged and developed itself in minjung-traditions of the Bible and explore some theological clues for designing justice from the perspective of minjung. I pay attention to that the saving and liberating act of God started from hearing the voices of the little people. In hearing them He decided to stand on their side and judged the systems and structures in which their rights were infringed and they were deprived of opportunities to live in dignity. He evoked in the little people imaginations for an alternative world and assigned them to the subjects to shape it. In such procedures the justice of God was realized.

Third, I analyze representative theories of justice settled down in Plato, Aristotle, the stoics, N. Machiavelli, I. Kant, J. Habermas, J. Rawls, M. J. Sandel, etc., so that I can point out the problem that there has been no place of minjung in traditional and modern theories of justice. I gain some impulses from the discussions of Iris M. Young and N. Fraser on Justice and suggest some considerations regarding the constitution of justice forum based on participation of minjung. One is that all the people subjected to and influenced by decision makings on membership, representative power, status, wealth, education, health, social fellowship and the like should participate in decision making processes and speak by themselves. I define it as the principle of equal participation.

Another solution is to start from that each person belongs to a certain social group, and that social groups are differentiated due to continuous and systematic relations among people, that is, social structures. Social and political discourses can be public only under the conditions that the

differentiated voices of the oppressed, the marginalized and the excluded are inclusively heard. Here I would like to speak of the principle of inclusiveness.

I. Forewords

Who are summoned to discuss what justice is, and how it can be realized? The question has a variety of answers depending on the perspective and the position of the people who throw it: Justice as virtue to meet demands of the deity or the natural law, justice as the will of the people in power, justice as civil contract, etc. In the history of the concept justice we can scarcely find designs of justice from the perspective of minjung. Since Plato and Aristotle the concept justice has been designed to maintain order and peace in the commonwealth. In the tradition such a conservative conception has shaped a mainstream. Nowadays some have attempted to discuss justice from the bottom, but such discourses haven't attracted much attention.

I believe that the world appears very different from the viewpoint of minjung. What looks normal in the view of the people who have vested interests can be seen as turned upside down in the eyes of minjung. Such an experience has been shared by minjung-theologians who have performed a 'hermeneutic revolution' by reading the Bible and exploring the world from the standpoint of minjung. I would like to say that a conception of justice from the perspective of minjung could differ from the current discourses on justice in many points. If such a conception of justice is influential in deliberating principles and criteria of justice and discussing concrete guidelines and policies for realizing justice, the possibility to shape an alternative society increases. Therefore, minjung should participate in a justice forum in which they discuss the theme from their own perspective and contribute to a political consensus on justice. I think it one of the most important issues of contemporary theory of justice to support theoretically the constitution of justice forum based on participation of minjung.

In the article I would briefly mention first what it means to watch from the perspective of minjung. Second, I would investigate the context in which the conception of justice emerged and developed itself in minjung-traditions of the Bible and explore some theological clues for designing justice from the perspective of minjung. Third, I would point out the problem that there has been no place of minjung in traditional and modern theories of justice and suggest some considerations regarding the constitution of justice forum based on participation of minjung.

II. What does it mean to watch from the perspective of minjung

From the beginning minjung theologians have refused decisively a conceptual definition of minjung. It has been wondered by almost all scholars who have studied or wanted to study minjung theology in the domestic and abroad. For minjung theologians minjung are the living subjects. From such a starting point they have put two arguments against the conceptual definition of minjung. One is that they cannot but be reduced to objects in the conceptualization.

It violates their subject status. Another is that, who would understand minjung, dares not to observe and watch them from their outside, but rather hear what they say by themselves. In a word: Let minjung speak!

I think that there are some methodological remark points in the arguments of minjung theologians. First and above all, their proposal to meet minjung as living subjects, not to reduce them to objects, entails a warning to the arrogance of the intellectuals that they can represent them.¹

Second, it is a serious point that, who would hear what minjung say, confronts with some difficult methodological problems. Their language and narratives come from the midnth of their lives and experiences. Naturally their language differs from that of the dominating and also from that of intellectuals. They witness their own lives through the narratives that they remember and carry. Their joy and sorrow, fulfillment and frustration, pleasure and pain, hope and despair, memories of and anger at exclusion, discrimination, oppression and exploitation embedded in their narratives. But their narratives cannot be pure and genuine. In so far as they have been the targets of oppression, discrimination, exclusion and marginalization, their narratives can be contaminated by the dominant ideologies and codes which lead to internalization and normalization of oppression, discrimination, exclusion and marginalization. Their narratives have a hard surface structure covered with such ideologies and codes. Therefore the core of their narratives can be entered only with help of narrative analysis and social-scientific context analysis.² Such analyses may be tasks of the intellectuals who stand in solidarity with minjung and participate in their liberation praxis. But it must be noted that the narrative and context analysis by the intellectuals dare not to replace and make secondary what minjung say. Such analyses can be only useful means to make clear and more communicative what they say.

Third, it is the most important point that the reality of minjung shatters dominant discourse and breaks its seemingly solid frameworks. Dominant discourse has its own order of symbols elaborately constructed by the hegemonic powers. It is a closed cosmos which shows a high-leveled integrity. However, minjung remain oppressed at the outside border of the vested interest system or they are merely expelled into the outside of the system. Therefore they appear either as 'zombies' in the hegemonic symbol order or they are located at the outside of it, as if they were nothing. Nowadays a growing number of human scientists are of the opinion that truth is nothing but effects from discourse.³ For them there is nothing outside of discourse. The outside of discourse is constructed through discourse and integrated into discourse. But such mode of

¹ In the similar context Gayatri C. Spivak raised the provocative question "can the subaltern speak?" and expressed a profound doubt about the possibility to analyze and represent the subaltern. Cf. Gayatri C. Spivak, "Can the subaltern speak?," *Marxism and the Interpretation of Culture* (Houndmills, Basingstoke, Hampshire : Macmillan Education, 1988), 295f.

² Nam-dong Suh, "Confluence of Two Narratives," *In Search for a Minjung Theology* (Seoul : Hangilsa, 1983), 43, 73.

³ Cf. Michel Foucault, *L'ordre du discours*, tr. by Jungwoo Lee in Korean (Seoul : Jungwon, 1993), 19f.

thinking is extremely subjectivist and leads to an illusion. The reality of minjung is not constructed in discourse process. They are at the outside border or completely outside of a closed discourse. If the outside of it enters its inside, the inside collapses. The reality of minjung comes into sight at last when the order of a closed discourse implodes or when it is destroyed from its outside. In a word, the reality of minjung cannot be integrated into dominant discourse closed in itself, but remainder excreted into the outer. Minjung annoy it at its outside border, make cracks into its frameworks and break down it. It is the very reality of minjung. Therefore it cannot be grasped and defined with help of dominant discourse.

Lastly, I pay attention to some practical implications of the minjung-theological proposal. From the standpoint of minjung the world is divided into inside and outside of the structure of vested interests, the dividing walls are transparent, but they can be hardly passed into. The structure of vested interests is firmly established on the basis of membership, power of representation, control power, capital, property rights, intellectual property system etc. No commonwealth encompasses the inside and the outside of the vested interest system, neither state, nor civil society, nor even social initiatives including workers' union.

Thousands of people are mobilized for maintaining and reinforcing the system or merely excluded into the outside of it. Codes of discipline are carved into the body of those who are allowed to remain at the border of the system. Their body and soul, affection and emotion, desire and will and the like are exhaustively controlled. They are isolated and scattered, watch the spectacles insides of the system from the very outside border of it and consume illusions and fantasies.⁴ Their everyday lives confront with risks of exclusion, discrimination and dissolution. Therefore they are overwhelmed by fear and anxiety. These feelings are in themselves negative. In many cases, people caught in fear and anxiety are curled in themselves and act regressively. In some cases, however, people with these feelings are attracted to and connected with one another. They ask what has aroused the fear and anxiety. They express doubts about the spectacle society in which all the people, even the isolated and scattered also, are seemingly integrated. They look straight at the divided world in which they and their fellows live in sufferings. At this point they begin to speak of themselves and the real world. In speaking and hearing they are conscious of that the very entity which divides the world should be systematically dismantled in order that they can be free from exclusion, discrimination and dissolution. From such a consciousness emerge struggles of minjung for an alternative commonwealth in justice.

III. Justice in Minjung Traditions of the Bible

In the Bible there are minjung traditions apparently different from the traditions legitimating the

⁴ Guy Debord, *Society of the spectacle* (Detroit: Black & Red, 1983), § 63: "...the spectacle is nothing more than an image of happy unification surrounded by desolation and fear at the tranquil center of misery."

established.⁵ The justice of God expresses itself in His preferential option for the little people and His salvation acts to liberate them from oppression and exploitation, exclusion and discrimination. The Exodus event and the Jesus event are typical.

In the Biblical narratives the Exodus starts from that God has heard the voices of 'habiru,' the lower classes, who suffered from suppression and forced labor in Pharaoh's oriental despotism. The 'habiru' cried and God replied to it. He has decided to stand on the side of 'habiru,' rescued them from the hands of Pharaoh and liberated them in the domination-free wilderness. He had made clear that His justice will be realized through His judgment on the unjust system in which rights of the little people are violated and they are deprived of opportunities to live. In the event of Exodus He has acquired His name Jahweh and introduced Him as God of justice. The 'habiru,' who experienced the Exodus and transmitted their memory of the great event, recognized Jahweh as their only Lord and identified themselves as His people. In such a witness and confession emerged the Exodus community in which the 'mono-Yahwism' played a decisive role.⁶ A long time it collaborated with subaltern groups in Canaan, changed the Canaanite feudal system and shaped the pre-Israelite community where the monopolization of power and the accumulation and privatization of property were tabooed and negated.⁷ The liberated people set up their community on the foundation of laws (mishpatim) in which the justice of God is incarnated. The laws played a role as means to protect rights of the little people and to keep their freedom from oppression and exploitation.⁸

Here I don't attempt to analyze in detail the pre-Israelite society. However, I would like to put some aspects of it in the front. One of them is that the pre-Israelite society had no centralized state form based on king's dominion, the standing army and bureaucracy, but a decentralized and loose network of tribes and great families. Leaders of pre-Israelite groups were called elders and judges. They were recognized as wise and understanding, respected and elected by the group (Deut 1:12-15).⁹ On the basis of laws and customs the leaders had authority over their group and solved disputes among group members. Such a governance form has been maintained until the end of the period of judges. The judges as tribe leaders took the role to adjust and solve the disputes among the people at the peace time and played the role to lead peasants' army and

⁵ Cf. Paul D. Hanson, *The Diversity of scripture* (Philadelphia : Fortress Press, 1982), 18ff.

⁶ The Mono-Yahwism is expressed clearly in the Sinai Covenants (Ex 19:5-6; Deut 7:6) and its renewals (Jos 8:30-36; 24 etc),

⁷ N. K. Gottwald, *The Tribes of Yahweh : A Sociology of the Religion of liberated Israel, 1250-1050 B.C.E.* (New York : Orbis, 1979), 273.

⁸ As José Porfirio Miranda, a liberation theologian, has pointed out a long time ago, the justice of God makes valid by judging the infringement of rights of the little people (mishpat) and guaranteeing their rights through laws (mishpatim). Cf. José Porfirio Miranda, *Marx and the Bible : A Critique of the Philosophy of Oppression*, tr. by John Eagleson (New York : Orbis, 1974), 112.

⁹ In Ex 18:17-23 the selected judges were regarded as "capable men" - "men who fear God and trustworthy men who hate dishonest gain." It is the same in Num 11:16, 24-25.

command battles at the warfare time.

The political characteristics of the pre-Israel were expressively shown in the general assembly in which the people faithful to Yahweh gathered and made crucial decisions like decision to war. The people who gathered in the assembly were called "the whole assembly of Israel." This included "the women and children, and the foreigners who lived among them." (Jos 8:32-35) In the whole assembly of Israel there was no discrimination based on gender, age and ethnicity.¹⁰ In it was crucial only the will of the people to live in faithfulness to the laws which God instructed them. In the whole assembly of Israel the positions of elders, judges and leaders were made secondary, because they were regarded as the tools of the laws for governing the community. In a word, there was no power apparatus which broke the relationship between Yahweh and His people. The whole assembly of Israel was free from the arbitrary dominion of the forces which monopolized the powers.

Another point is that the land was distributed to each tribe by lots, and that the land allocated to the tribe was divided and redistributed to each extended family which belonged to the tribe. The Biblical report that the Yahweh ordered Moses to distribute the land by lots (Num 26:55; Jos 14:2 etc.) shows that Yahweh is very concerned in fair distribution of the land as the most important goods for securing the household. The lots which allowed no vested rights or privileges were regarded as the instrument to make manifest the will of Yahweh to a fair distribution. The land that was once distributed to the great family dared not to be deprived of it and owned by foreign hands. If not so, the family members were forced to slavery and victimized to the arbitrary dominion of the land owners. That is the contrary to the justice of Yahweh. As a consequence, the land ownership which allowed depriving the land of the little people could not be legitimated, and the accumulation economy as the institutional background of the land ownership was from the bottom negated, as seen in the event of 'manna' (Ex 16:4-30).¹¹

The groups who transmitted the memories of Exodus had special concerns in protecting rights of the little people and their opportunities to live among them. The laws and statutes in the Covenants Codes (Ex 21:1-23:19), designed to protect the little people, were based on the

¹⁰ In Deut 23:1-8 the persons who dared not to participate in the assembly of Yahweh were categorized in some types. These types must be carefully analyzed. "Emasculated people" and "people of illegitimate birth and their descendents" were those who were associated with adulatory. They mutilated their body, especially their genitals, for foreign gods or they were born of temple prostitutes. "Ammonites or Moabites" were the people who blockaded the Exodus group in the wilderness and stood against the will of Yahweh expressed in the event of Exodus. Except these types of people any person or people were not excluded from the assembly of Yahweh, even the people who came from Edom or Egypt. In a word, only those who didn't share the Mono-Yahwism, could not participate in it.

¹¹ 'Manna' can be interpreted as symbol for an alternative life which the Exodus community would seek against the accumulation economy on the despotism of Pharaoh. Cf. Jürgen Ebach, *Ursprung und Ziel: Erinnernte Zukunft und erhoffte Vergangenheit : Biblische Exegesen, Reflexionen, Geschichten* (Neukirchen-Vluyn : Neukirchner Verl., 1986), 141.

remembrance of the Exodus and on the acknowledgment that the liberated people, faithful to the justice of God, should protect the little people among them. - In the age of kingdoms the prophetic groups that kept and transmitted the memories of Exodus protested against the monopolization of power, latifundism and idolatry. They would restore the pre-Israelite community. For example, the prophet Samuel warned that the establishment of Kingdom couldn't be but the return to the Pharaoh's despotism (1 Sam 8:10-18); the prophet Elijah cursed Ahab and Isabel, who let Naboth be killed and deprived him of his vineyard (1 King 21:19-24). - The groups with Exodus memories in mind rejected decisively the latifundism that brought little people into poverty and slavery, and the land property right was absolutely prohibited by God's law (Lev 25:23). In the Jubilee year the deprived land should be restituted and the slaved be liberated (Lev 25:8-19). - In the Age of imperial domination the little people were wretched in their land. In the situation Exodus memorial groups kept their mono-Yahwist identity (Dan 11:31), and expected apocalyptically that God restore His sovereignty over the whole world and liberate Israel from imperial domination (Dan 7:13-27; 12:2-3).

Jesus, faithful to the Exodus tradition, proclaimed that the Kingdom of God come near in the midst of the Roman Empire, and asked the little people crowded around him to repent (Mk 1:14-15). The word 'repentance' (metanoia) means turning life orientation into the opposite. In the Biblical context it suggests that the crowded people should abandon their lives adapted to the dominion system in the Roman Empire, orient themselves to the dawning Reign of God and participate in it. To sum up, Jesus rejected completely the Roman Empire and its representative authority in Jerusalem and wanted an alternative world in which the justice of God would be realized. He cried in front of the little people: "seek first His kingdom and His righteousness!" (Mt 6:33) He invited the little people anxious of their daily bread and clothing to action for the just politics of God and, at the same time, proclaimed his judgment on the dominion system in which the little people were deprived of their daily necessities.

Jesus had blueprints and programs for the dawning Kingdom of God.¹² In the Bible we find some clues especially in Matthew 11:28-30, Mark 10:42-43, etc. In Matthew 11:28-30 Jesus said:

"Come to me, all you who are weary and burdened, and I will give you rest. Take my yoke upon you and learn from me, for I am gentle and humble in heart, and you will find rest for your souls. For my yoke is easy and my burden is light."

The little people were 'weary' because they were exhausted at forced labor. They were burdened

¹² In the German and English academic society prevails still the opinion that the contents of the Kingdom of God cannot be known. It is because Jesus never explained the Kingdom of God clearly and evidently. Against such an assertion Byungmu Ahn started from that Jesus must not explain the little people what is the Kingdom of God. As soon as he proclaimed the dawning Kingdom of God, the little people came to him and crowded around him. It means that they knew already what the Kingdom of God is. Byung-mu Ahn, *Jesus of Galilee* (Hong Kong : Christian Conference of Asia, 2004), 95f.

with taxes and ground rents.¹³ Forced labor, tax and rent were the material bases on which the Roman Empire was established. Jesus promised the weary and burdened people that he would liberate them from three chains and connected his promise with the Sabbath tradition. And then he introduced himself as gentle and humble, and so he contrasted himself with the rulers in the world. Gentleness and humbleness are opposite to cruelty and self-assertion, in a word, domination. Jesus is declared to be free from the arbitrary rule of worldly powers with the power of God's reign in the country. Jesus declared that there is, in the reign of God, no place for the arbitrary dominion of those who seized the powers in their hands. Such a vision of Jesus is to be found in Mark 10:42-43:

"You know that those who are regarded as rulers of the Gentiles lord it over them, and their high officials exercise authority over them. Not so with you. Instead, whoever wants to become great among you must be your servant."

Here Jesus pointed out that the arbitrary dominion was exercised as usual by the forces which regarded their powers as if they were their possessions, and negated it decisively, and from the bottom. He suggested an alternative to it. That is to become servants and serve others. In order to serve others people should give up the arrogance to assert themselves against the will of others, and they should be empty for receiving others in the empty. Here emerges the mind to be acquainted with others and serve them. That is the mind to hear voices of others. When people don't assert themselves, but rather hear one another, they begin to go beyond the arbitrary dominion and shape a community relationship based on friendship (*koinonia*) and service (*diakonia*). In the alternative society of which Jesus dreams the little people speak and the humble and gentle people hear them.

Whoever will participate in the reign of God in the world should have the instruction of Jesus in mind.

IV. A Critical Examination of Traditional and Contemporary Opinions Regarding Justice Forum and Some Suggestions for the Constitution of Alternative Justice Forum

We can hardly draw answers to problems of justice in our days directly from justice motifs in the Bible. Between the Biblical world and today's world there is a huge distance. Between them we observe enormous structural differences and complexity gaps at all levels of life. But *minjung* traditions of the Bible are alive if they are still remembered and transmitted. Those who carry memories of what God the liberator did especially in the Exodus and in Jesus event have wisdom

¹³ L. Schottroff, "Das geschundene Volk und die Arbeit in der Ernte Gottes nach dem Matthäusevangelium," *Mitarbeiter der Schöpfung : Bibel und Arbeitswelt*, ed. by L. Schottroff/W. Schottroff (München : Kaiser, 1983), 181-198.

to discern what God is willing to do with minjung today.

I pay attention to that the saving and liberating act of God started from hearing the voices of the little people. In hearing them He decided to stand on their side and judged the systems and structures in which their rights were infringed and they were deprived of opportunities to live in dignity. He evoked in the little people imaginations for an alternative world and assigned them to the subjects to shape it. In such procedures the justice of God was realized.

Minjung theologians have consistently emphasized one point: Let minjung say by themselves! Anyone cannot represent them. If we want to see the world from their viewpoints, we must first hear what they say. It is just the same in our discussion on justice. If we want to speak of justice on the side of minjung, we must hear first what they say regards justice issues. Therefore, in discourses on justice it is the first step to constitute a justice forum in which minjung participate and speak without any restriction. I think that it is the most important issue in the possible theory of justice.

But the issue has been scarcely discussed in the history of justice theories. Even in contemporary discussions on justice the issue is left in the margin. Why then? In the following I see into the problem somewhat deeply at some examples of representative justice theories and suggest some solutions.

1. For Plato justice is the highest idea that played a regulative role to shape a harmonious relationship among classes and statuses which are given certain functions and virtues necessary for performing them. The idea of justice is thought to be revealed to philosophers who have the ability to penetrate the surface of phenomena and intuit the unchangeable and eternal reality. They should instruct members of political community to cultivate moral characters and contribute to realizing the idea of justice. Therefore, what is justice, is a question of philosophers as rulers. The question is beyond deliberations and decision makings of the citizens, let alone the people who are located outside of the political community and merely subjected to dominion.

Such a Platonic model of thought left its vestiges in the tradition of natural law thought. Eternal laws that govern the universe are recognized by human reason. The positive laws that regulate human communities to justice, order and peace should be established in accordance to the eternal laws. In the tradition of natural law thought the casuistic reasoning was highly developed, a manner of judgment to apply the allegedly universal and valid law of justice case by case.

2. Aristotle is a faithful pupil of Plato in his accepting the idea of a universal justice. However, he deliberates the theory of special justices which were necessary for dealing with honors, goods, opportunities to live in security and the like in the community. He pays attention to a variety of relations among people, categorizes their types and conceptualizes each justice adapted to each type. The justice regulating spontaneous exchange relations among people (*justitia commutativa*) differs from the justice regulating non-spontaneous exchange relations, that are, criminal behaviors (*justitia corrective*). These two concepts of justice are apparently different from that of

distributive justice (*justitia distributive*) designed for distributing 'public recognition, money and other goods'.¹⁴ In the Aristotelian theory of justice it is the important point that justice is settled as the objective of public discourse and civil contract. The citizens constitute the political association (*κοινωνία πολιτική*) in which norms and laws necessary for a good and right life in community are deliberated and established.¹⁵

But those who are allowed to participate in the political association must have the status of freeman who is free from the necessity of labor and so has a leisure time for cultivating the virtue of deliberativeness (*Φρονησις*). The working people inclusive of craftsmen were excluded from the political community.

3. The exclusion of *minjung* from the political decision making process is firmly established in the republican tradition at the Greco-Roman times. While the Greek republicanism shows its idealistic character in that the freemen participate directly in deliberation and decision making process, the Roman republicanism is in the point completely realistic that the citizens, armed for the liberty of the republic and eager to be free from arbitrary dominion of the aristocrats, elect their representatives and they deliberate and make decisions on the norms and laws regulating the commonwealth. By the way, the armed citizens as members of the political community make up a minority. A lot of people like women, slaves, foreigners etc. are excluded from the political community.

For Machiavelli, who accepts the Roman republic as ideal model, it is the most important task to guarantee citizen's security and freedom from arbitrary dominion and to cultivate courage and readiness for sacrifice as virtues of citizens who are devoted for the republic. The republic advocated by Machiavelli is civil virtues a community of armed citizens who have the civil virtues. Therefore, the inside and the outside of the community are rigidly separated from each other.¹⁶

4. In the modernity a typical form of justice forum was the so-called bourgeois public sphere and its philosophical model was proposed by I. Kant.

In the modern society which was established on the system of commodity exchange and social labor it was presupposed that the state and the civil society should be basically separated from each other. The civil society resisted against direct interferences of the state and shaped an autonomous sphere of public discussion.¹⁷ The concept 'openness' played a decisive role in the struggle for civil freedom from dominion of the state. Kant connected the concept 'openness' with his conception of public use of the reason..

¹⁴ Aristoteles, *Nikomachische Ethik*, übers. u. komm. v. F. Dirlmeier, 4. ern. u. durchges. Aufl.(Darmstadt : Wiss. Buchges, 1967), 100 (1130b/1131a).

¹⁵ Aristoteles, *Nikomachische Ethik*, 86ff. (1126a).

¹⁶ N. Machiavelli, *The Art of War*, tr. by E. Farnsworth(New York: Da Capo, 1990), 14-43.

¹⁷ J. Habermas, *Strukturwandel der Öffentlichkeit : Untersuchungen zu einer Kategorie der bürgerlichen Gesellschaft*, 13. Aufl.(Darmstadt : Luchterhand, 1986), 42.

According to Kant, truth doesn't flow directly from the reason itself, but it can be constructed through the public use of the reason, namely, in the process of public and reasonable discourse. For such a discourse two things are necessary. One is that each participant in discourse must have the ability to think by himself, and another is that he must be able to express his opinions freely.¹⁸ In the process of public discourse people review all social and political issues critically and make consensus about what is true and right. It is the public that uses the reason in the public manner and shapes the public sphere. The 'openness,' which is realized in the public sphere, becomes the principle of a liberal and republican constitutional state. All procedure of legislation should be open to the public and critically reviewed by it. Critical review should be faithful to the principle of universality and that of justice (Gerechtigkeit): Universal in the sense that each law should be applied to all, and just (gerecht) in the sense that each law should be faithful to the true and right. The law that is not exposed to public review dares not to be recognized as universal and just. Only the legislation that meets requirements of critical openness is believed to stand on the will of the people which originates from the reason. It is because the legislation should be based on deliberateness and consensus of the public. In this sense Kant says that the principle of popular sovereignty comes true through the public use of the reason.¹⁹

But the Kantian Idea of a liberal and republican constitutional state remained inside the limits of a bourgeois design. The public that Kant had in mind were private persons and, at the same time, property owners. In the bourgeois society in which freedom was believed to be guaranteed by property the have-nots could not be recognized as the public. The human beings of which Kant spoke are equated with property owners, that is, bourgeois. In the Kantian state the little people, proletariat, were systematically blockaded to assert their rights and interests.²⁰

5. J. Habermas receives the Kantian model of the public use of the reason and elaborates a theory of discourse. His core idea is that people can come to consensus about truth in a communication community free from dominion and compulsion. Of course, such a communication community is ideal and counter-factual. But an ideal communication community is a constitutive imaginary which plays a regulative function in a real communication process.²¹

¹⁸ I. Kant, "beantwortung der Frage : Was ist Aufklärung?," *Kant Werke Bd. 9 : Schriften zur Anthropologie, Geschichtsphilosophie, Politik und Pädagogik, Erster Teil*(Wiesbaden : Insel, 1964), 60f.

¹⁹ J. Habermas, *op.cit.*, 132f.

²⁰ The young Marx pointed out three problems of the exclusive and oppressive bourgeois society. It lacked social conditions for securing the equality of opportunities; in the name of the bourgeois freedom the proletariat was coerced to be non-free; if the violent class dictatorship came to end, the political authority could not be replaced by a legitimate government. Cf. K. Marx, "Zur Kritik der Hegelschen Rechtsphilosophie. Einleitung," *Marx-Engels-Werke Bd. I*(Berlin : Dietz Verlag, 1983), 388.

²¹ J. Habermas, "Vorbereitende Bemerkungen zu einer Theorie der kommunikativen Kompetenz," J. Habermas/N. Luhmann, *Theorie der Gesellschaft oder Sozialtechnologie : Was leistet die Systemforschung?* (Frankfurt am Main : Suhrkamp, 1971), 140f.

Honesty, truthfulness and sincerity are required for the communication community oriented to truth.

On the ground of his theory of communicative action Habermas issues a conception of life-world (Lebenswelt). He defines Life-world as the horizon on which everyday communication action takes place and community-regulative norms and rules are deliberated. As the complexity of life has increased, a variety of sub-systems like political system, economical system, scientific-technical system, etc. were differentiated from the life-world. Problematic is that such sub-systems have become independent of the life-world and even colonized it.²² Habermas sees such risks in the increasing technocracy in an interventionist state.

From the beginning of the 20th century the state-interventionist principle replaced the liberal principle of separation of state and civil society. To keep the interventionist state from falling in a fascist or developmentalist state, two prerequisite must be fulfilled. One is that the rights of freedom be reinforced by social rights, and the other is that civil participation be widened. Under such conditions the interventionist state could have a shape of social state. The social state intended to secure positively what the liberal state had intended to protect negatively through prohibition of interferences of the state.²³ The mass democracy formed the political background of the interventionist state. In such a constellation civil participation could be indirectly realized, and only through political parties, social and civil initiatives. The opinion of the public in the classical sense was replaced by the opinion of organized persons. Therefore, if such organizations were not democratically controlled to their bottom, civil participation could be systematically neglected, and the technocracy and a sort of expert-professionalism could prevail. If democracy is merely the mechanism to adjust interests of political and social forces, it means that democracy is in reality reduced to a certain function of systems which are firmly established on the basis of power and money.

In such a context Habermas proposes that communicative actions in the life-world should be again vitalized. He expects that the 'civil society' (Zivilgesellschaft) take the role of life-world and shapes the public opinion completely free from the system logics. If the legislation is based on the public opinion, 'communicative power' manifests itself in a democratic manner.²⁴

Here I would like to point out that Habermas settles the persons, who are equal and capable of reasoning, as communicative actors in the life-world. As already indicated, the model of such a person is Kant's enlightened person who is summoned to the public use of the reason. But isn't this a merely abstract being that is difficult to find in reality? A person appears as ensemble of

²² J. Habermas, *Theorie des kommunikativen Handelns*, Bd. 2 : *Zur Kritik der funktionalistischen Vernunft* (Frankfurt am Main : Suhrkamp, 1981), 182.

²³ J. Habermas, *Strukturwandel der Öffentlichkeit : Untersuchungen zu einer Kategorie der bürgerlichen Gesellschaft*, 273.

²⁴ J. Habermas, *Faktizität und Geltung : Beiträge zur Diskurstheorie des Rechts und des demokratischen Rechtsstaats*, tr. by Sanh-jin Han in Korean (Seoul : Nanam, 2007), 478ff. Here Habermas distinguishes the classical concept of civil society from its modern concept. By it he indicates NGO, NPO, etc.

historically concrete relations. If so, how can be a communication community established, in which only the capacity of participants to reasoning is concerned, but their positions in concrete relations are totally neglected? Where are minjung in such a community?

6. In his theory of justice J. Rawls reveals a very similar problem as seen in J. Habermas. Rawls performs two steps in building his justice theory. First, he sets up the principles of fair distribution of social basic goods in Kantian deontological framework. Second, he proposes that a social distributive structure should be shaped according to the principles. Therefore, the principles of justice are a priori. Such principles are rooted neither in the nature law, not in the will of God. They result from a certain of social contract.

Who is summoned to social consensus about distributive principles? They are the persons who make rational choices and are indifferent to other people, even if they acknowledge that social cooperation is necessary to live in society. In order that such persons may accept certain distributive principles unanimously, the principles must be fair and not partial. Therefore, no one should be biased to make a choice by all the factors, such as "his place in society, his class position or social status, his fortune in the distribution of natural assets and abilities, his intelligence and strength and the like." He shouldn't be influenced even by "his conception of the good, the particulars of his rational plan of life, the special features of his psychology such as his aversion to risk or liability to optimism or pessimism." Economic and political situation, civilization level, even the belonging to generation, etc should not be informed of.²⁵ Rawls describes as if the persons were covered with "the veil of ignorance" and gathered together in the original position to choose principles of distribution. As widely known, he suggests that they should come to the consensus about two distributive principles. One is the principle of the priority of liberty and another is the principle of difference.²⁶ Due to these two principles Rawls is inclined to be social liberal and strong egalitarian.

Rawls' conception of justice is, of course, encouraging to "those with lesser opportunities". But, from the viewpoints of minjung, his design of justice is insufficient and inappropriate in some points. Above all, the person who is summoned by Rawls to the original position is not a concrete man/woman with blood and body, but merely an abstract and atomized human being in the tradition of modern enlightenments and liberalism. Such a person is not the reality, but a fantasy. Rawls composes the fantasy to legitimate his concept of justice as fairness, and so in the manner of pure procedure. But people live in concrete situations where they have different interests, different positions in society, different hegemonic arrangements, different psychological dispositions, different worldviews, and so on. They struggle and bargain for the distribution of social goods which are basically of scarcity. Or they can be oppressed, marginalized and frustrated in distribution processes. Concrete situation of distribution are far from the "well ordered" society

²⁵ John Rawls, *A Theory of Justice*, Revised Edition(Cambridge : Harvard Univ. Press, 1999), 118.

²⁶ John Rawls, *op.cit.*, 266f.

in the sense of Rawls. Only if it were to presuppose that contradictions, conflicts and struggles are usual in the society, it could be regarded as a matter of course that minjung could have the opportunity to shatter and break down the framework of a well-designed liberal discourse on justice. The position of minjung must be considered in any possible conception of justice.

7. In his criticizing Rawls' theory of justice that starts from Kantian deontology and social contract theory Michael Sandel suggests a communitarian and republican conception of justice. For it he goes back to the tradition of philosophy of practice since Aristotle. He refuses Rawls' concept of person as a "basically unencumbered self."²⁷ According to Sandel persons form their identity in traditions of community. Attached to community they devote themselves to community, make a variety of recognition relationship and develop patterns of reciprocity among them in community life. In a word: Community constructs a "self." Therefore, an "unencumbered person" is merely absurd and illusionary.²⁸

Following the Aristotelian tradition, Sandel regards it as one of political tasks of community members to establish community-regulative norms and rules. It is the same regarding the matter of justice. There can be no transcendental principle of justice prior to political decisions of community. Political deliberations and consensus on justice are open-ended.

But Sandel's communitarian and republican conception of justice have such apparent two limits, as seen in the Aristotelian ethics of justice. One limit is manifest as soon as a community comes into sight, that is, as soon as the inside and the outside of community are settled. Of whom consists the community as political forum (κοινωνία πολιτική in the Aristotelian sense)? How can be secured rights and opportunities of those who are not allowed to participate in political community? Another limit is manifest in the context that hegemonic positions of persons and groups in the community are completely ignored even though they are very influential in political decision making. How can be realized rights and interests of the poor, of the powerless, and of those who are spatially in the community, but systematically excluded from decision making processes in the community – that is the problem of hegemonic position.

8. As seen above in the analysis of some representative justice theories, I can hardly find perspectives and theoretical frameworks suitable for constituting a justice forum based on participation of minjung. Regarding this issue I would like to present two solutions.

One is that all the people subjected to and influenced by decision makings on membership, representative power, status, wealth, education, health, social fellowship and the like should participate in decision making processes and speak by themselves. I define it as the principle of equal participation. Till now, any existing democracy hasn't guaranteed and realized the principle. It is ignored and neglected especially in social-economic sphere, in which crucial issues of justice,

²⁷ Michael J. Sandel, *Liberalism and the Limits of Justice* (New York : Cambridge Univ. Press, 1982), 87.

²⁸ Op.cit., 172f.

for example, distribution of social basic goods, labor market policies, economic policy and personnel management policy on enterprise level etc. are raised. There the arbitrary dominion in form of capital or enterprise dictatorship is regarded even as ordinary and usual. But if thousands of people are excluded from decision makings on justice issues and merely forced to subjection to the decisions, they cannot be secured opportunities to be free from the arbitrary dominion of others and to be subjects for shaping their lives.²⁹

When socio-political deliberations and decision makings on justice issues take place, the intellectuals in solidarity with the minjung should accept it as their mission to examine the settled frameworks of deliberations and decision makings. They should expose the reality of the people who are not integrated in the settled frameworks, but merely excluded from them, and attempt to dismantle the frameworks. The more firmly the logics constructing the frameworks are, the more deliberately the deconstruction work should be performed.

Another solution is to start from that each person belongs to a certain social group, and that social groups are differentiated due to continuous and systematic relations among people, that is, social structures. The social structures determine power processes, distribution of resources, hegemonic positions in discourse, etc. Some groups occupy advantageous positions and other groups are located in disadvantageous positions in the social structures. Continuous and unfair relations of dominion and oppression are firmly established among the social groups.³⁰

Any discourse on a good and right life, which is ignorant of such sociological facts, cannot be concrete and inclusive. No deliberation and decision about public interests, especially about justice, could be plausible and acceptable, if concrete and specific perspectives, positions and experiences of different social groups were not reflected in social and political discourses. There is nothing more important than to hear in the public decision making process the voices of those who can reveal oppressions and inequalities in the reality. Contradictions, inequalities, vulnerabilities, insufferableness in the reality can be exposed and radically criticized from the standpoints of the oppressed, the marginalized and the excluded. Social change for justice can be in sight if such exposures and critics are activated. In a word, social and political discourses can be public only under the conditions that the differentiated voices of the oppressed, the marginalized and the excluded are inclusively heard. Here I would like to speak of the principle of inclusiveness.

If political decision makings and legislations were in most cases apart from the perspectives, positions, experiences, and interests of minjung, they would protest against the hegemonic forces and their seemingly firm systems. Their discontents and complaints can sink beneath the surface and be unnoticeable for a while, but, after a certain threshold is passed over, their potentials of resistance will explode into motion to radically change the framework of political decision making and the existing systems.

²⁹ For the liberty as freedom from the arbitrary dominion of others cf. P. Pettit, *Republicanism : a theory of freedom and government*, tr. by Jun-hyok Kwak in Korean(Seoul : Nanam, 2012), 151ff.

³⁰ Cf., Iris Marion Young, *Inclusion and Democracy* (Oxford : Oxford University Press, 2000), 108ff.

9. It is all the more complex and difficult to consist a justice forum based on the participation of minjung as the globalization proceeds. Since the rebellion of François-Noël Babeuf the state was settled as the responsible apparatus for distribution the social basic goods. It means that the distributive justice has been designed in the framework of the nation state. Typical may be the so-called interventionist state, as seen above.

Problematic is that the capital moves beyond the territory and sovereignty area of the nation state in the age of globalization. The sovereignty of the state remains still in the framework of the Westphalia contract, but the capital reaches its global scale. A lot of people, whose lives on local and national scale are decisively influenced by the capital on global scale, cannot find means to act against negative effects of the global capital movements. Of course, there are some global governances like IMF, World Bank, WTO, BIS (Bank for International Settlement), Finance Ministers' Meeting of G7 etc. But these governances are inclined to support the global movements of the capital and regarded as far apart from the very interests of the little people at local, national, regional and global level.

In this context I pay attention to the proposal of Nancy Fraser that all people who are "subjected to" decisions on global scale should have the equal right to participation in decision making processes.³¹ They should be recognized as subjects who make clear their perspectives, their positions, their rights and interests in global decision making and legislation processes. And then: How? It is one of the most important, but difficult problems in our days.

V. Conclusion

It is a large-scaled and complex work to discuss justice from the perspective of minjung. Minjung are the little people who are oppressed at the outside border of a vested interests structure or expelled from it. The reality of minjung presupposes the existence of vested interests structure and gives signals to its dismantlement at the same time. It means that vested interests structures cannot be legitimated in any way. The framework of dominant discourses which legitimate the existing structures of vested interests collapse because they cannot embody the reality of minjung and their requirements from the bottom.

Even when vested interest structures remain stubbornly, minjung appear as force to tear down them. Sometimes minjung perform maneuver warfare and sometimes choose position warfare in the sense of Gramsci. In case of position warfare minjung must struggle for securing opportunities to express their opinions about justice issues from their perspective and for participating in the political decision making process to settle norms and rules for distribution of social basic goods.

³¹ Nancy Fraser, *Scales of Justice : Reimagining Political Space in a Globalizing World*(New York : Columbia University Press, 2009), 64.

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<Key Words>

equal participation, inclusiveness, justice, justice of God, minjung, preferential option for the little people.