

A Few Thoughts on the Challenges that Current Legal Education Faces from the Viewpoint of International Human Rights

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The human history tells that the law had existed before democracy. The law was indispensable wherever there was a large enough human community. The law has the tendency to stand on the side of the powerful. Since one of the purposes of the law is to establish and maintain the order, which is the basis of any human community if a sphere of human co-habitation once to be called “community”, it is no wonder that the law stands on the side of the powerful. As you can recall, Goddess of the Justice holds a sword in her hand.

Even though the law has a long history to have worked as a tool for the powerful, the law is not just conglomeration of rules for the governor to tell the governed to do or not to. It carries the notion of being “right”, “just” or “equitable”. The governor told the governed to obey the law because it was the right thing to do. Democracy emerged as people had started to realize that the existing set of rules was not real law that was entitled to claim to be just or right. Enlightenment was the key to the development of democracy, which is the system that enables the people to decide what is right for them by themselves. It made it possible for people, including not only the powerful but also the powerless to believe that they are governed by the right rule, i.e. the law.

Even though twenty century was the century of democracy, there is no democracy in the global scale yet. For the case that you might not agree, let me quote the picture book that became million seller a few years ago in Japan.

In the world today, 6 billion 300 million people live.

If this world were shrunk to the size of a village, what would it look like?

If 100 people lived in this village,

52 would be women,

48 would be men.

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70 would be non-white,

30 would be white.

61 would be Asians,
13 Africans,
13 from North and South America,
12 Europeans, and
the remaining one from the South Pacific.

17 would speak Chinese,
9 English,
8 Hindi and Urdu,
6 Spanish,
6 Russian, and
4 would speak Arabic.

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In such a village, with so many sorts of folks,
it would be very important to learn to understand people different from yourself,
and accept others as they are.

But consider this.

Of the 100 people in this village,
20 are undernourished, 1 is dying of starvation, while 15 are overweight.

Of Wealth in this village,
6 people own 59%,
74 people own 39%, and
20 people share the remaining 2%.

75 people have some supply of food and
a place to shelter them from the wind and the rain.

But 25 do not.

17 have no clean, safe water to drink.

If you have money in the bank,
you are among the richest 8.

If you have a car, you are among the richest 7.

Among the villagers,
1 has a college education.
2 have computers.
14 cannot read.

If you can speak and act according to your faith and your conscience
then you are more fortunate than 48, who can not.

If you do not live in fear of death by bombardment, armed attack, landmines,
or of rape or kidnapping by armed groups,
then you are more fortunate than 20, who do.

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This village would look a lot different if we had democracy in this village. This is what I mean by saying there is no democracy in the global scale yet. Democracy has made it possible to ensure that the law does not exist not only for the powerful but also for the powerless, even if it does not benefit the both in the same degree.

The ever-increasing size and dimension of flow of goods, people, and information is making the world smaller than ever everyday. Economic globalization is making it possible for the powerful to be more powerful and the weak to be weaker. This phenomenon is accelerated by the fact that the powerful have stopped being contained within the national border, in which they can be watched that they do not harm more than they benefit, i.e., within which they are subject to the democratic check.

In such a world, we ought to be watchful against the inherent tendency in the law to be on the side of the powerful. After all legal education has always attracted people for it would help them earn their bread.

You might not care about that there is no democracy in the village pictured above since the world is not a village after all. Nowadays many people do not live in a village but live in a big city. They do not live in a small village anymore. However, those who literally live in a rural village cannot be said to live in small village that they used to because they are not free from the various impacts from the economic globalization. Their life can so easily be endangered by something happening outside of their village nowadays. What people do or do not could actually make other people suffer who live

very apart from them. The picture book says at the end “what you send out comes back again”. If you send out hatred, the hatred will come back. If you send out love, the love will come back. In this very sense, we could be said to be living in a village called “the globe.”

One of the challenges that we lawyers face, or we law teachers face, is how to develop a program that ensures the developing law for the transnational transactions to be something that could be conceived “just” universally, not only by the powerful but also by the powerless, for that is after all what the word “law” means. Otherwise we cannot continue to believe in what we do.