Rawls and Natural Justice :

The Law of Peoples in view of the *Yin–Yang* Theory in the *Book of Change**

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· **Keyword:** Natural Justice, The Law of Peoples, The Book of Change, International Justice, Liberalism, Yin–Yang Theory

ABSTRACT

This paper attempts to analyze Rawls's liberal conception of international justice in view of natural justice in *the Book of Change* in order to illuminate its limits and problems in practice as well as in theory. Rawls presents a liberal conception of international justice in his book of *The Law of Peoples*. In his theorizing justice for the society of peoples, Rawls introduces the idea of natural justice in a brief form that does not take a serious theoretical position in the law of peoples. Rawls seems to dismiss the importance of natural justice, which, if seriously developed, could dovetail the gap between his ideal theory and non-ideal theory, or enhance the reasonability of his international justice with regard to non-liberal peoples. Natural justice can be employed to resolve conflicts between liberal peoples and non-liberal peoples or even outlaw states. *The Book of Change* contains the idea of natural justice mainly relying upon the principle of *Yin–Yang*. The relationship of *Yin* and *Yang* produces the principles of mutual harmony(相生) and mutual struggle(相剋), which provide a natural perspective on dealing with human conflicts

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in an absence of public principles of justice or even in a situation of rival conceptions of political justice. The idea of natural justice can provide the bedrock for incessantly criticizing non-public reasons as well as public conceptions of justice.

I . Introduction

Rawls presents a liberal conception of international justice in his book of *The Law of Peoples*. Rawls's liberal conception of international justice has inspired a variety of responses from various perspectives. However, it seems that most responses came from western views, thus lacking in seriously challenging responses from other non-western traditions. This paper aims to analyze Rawls's liberal conception of international justice in view of natural justice in *the Book of Change* in order to illuminate its limits and problems in practice as well as in theory.

Rawls attempts to extend the idea of political liberalism to construct a liberal conception of international justice that can be applied to the peoples of both liberal and non-liberal societies. In extending the ideas of original position and public reason to the society of peoples, Rawls addresses the eight principles for justice among free and democratic peoples.¹⁾ These principles are ones in fact historically accepted by Western peoples. As Rawls admits, these principles are incomplete. There is no theoretical order among the eight principles equivalent to the lexical order of the two principles of justice in *A Theory of Justice*. Thus, there are no guidelines or basic principles to resolve the priority problem when the principles are each other in conflict or incompatible in practice. This situation may cause a basic conflict over the right conception of justice for the society of peoples, liberal and non-liberal. Presumably with this conflict situation in mind, Rawls adds "Other principles need to be added, and the principles listed require much explanation and interpretation."²⁾ This statement opens the way for discussions over diversity of conceptions of justice. In the construction of justice for the society of peoples, Rawls is primarily concerned with international pluralism similar to reasonable pluralism, basically non-public, in domestic society. But in the society of peoples, the conflict is more seriously arising from the pluralism of justices rather than from the reasonable pluralism of non-public reasons. This problem leads to the need to explore

1) John Rawls, *The Law of Peoples* (Cambridge: Harvard University Press, 1999), p.37.

2) Rawls, *The Law of Peoples*, p.37.

the fact of reasonable political pluralism rather than the fact of reasonable pluralism in Rawlsian sense.

Rawls mentions simply of the idea of natural justice in his explanation for the extension of liberal political ideas to decent hierarchical peoples, which does not play an important role in theorizing his liberal conception of international justice. He takes as an example of natural justice the rule of formal equality that “similar cases be treated similarly.”³⁾ In a footnote, Rawls introduces Hart’s *The Concept of Law* for further explanations on the rules of natural justice. He does not develop any further the idea of natural justice for his theory of international justice. In his theorizing of justice, Rawls seems to dismiss the importance of natural justice, which could dovetail the gap between his ideal theory and non-ideal theory, or enhance the reasonability of his international justice to non-liberal peoples in his *The Law of Peoples*.

The paper attempts to argue that the idea of natural justice be seriously considered for justice among peoples, through examining Rawls’ liberal conception of international justice in view of natural justice in *the Book of Change*. *The Book of Change* contains the idea of natural justice mainly resting upon the principle of *Yin-Yang*, which is totally different from the liberal contract idea. It concludes that the idea of natural justice can provide the bedrock for incessantly criticizing non-public reasons as well as public reasons.

II. Natural Justice and Indeterminacy in the Law of Peoples

As noted above, in his theorizing justice for the society of peoples, Rawls introduces the idea of natural justice in a brief form that does not take a serious theoretical position in the law of peoples. I attempt to stress the need to develop the idea of natural justice for complementing the theoretical problems of his international justice. Without further explanation for justifying its acceptability to non-liberal peoples, his theory of international justice as a present form simply remains one acceptable mainly to liberal peoples.

In addition to the formal equality that ‘similar cases be treated similarly’, Hart introduces the procedural standard of ‘let no one be a judge in his own cause’ as a principle of Natural Justice.⁴⁾ Hart tries to distinguish the differences among law, morality, and justice, though the three are inextricably interconnected. And he also

3) Rawls, *The Law of Peoples*, p.65.

4) H. L. A. Hart, *The Concept of Law* (Oxford: Clarendon Press, 1986), p.156.

seems to admit the limits and incompleteness of natural justice. Even though he admits that there is much room for doubt and dispute over natural justice itself, his explanation insinuates that natural justice can provide the last bedrock which human beings can resort to in the resolution of conflicts arising from fundamental differences in moral and political outlook.⁵⁾

In Book V of *Nicomachean Ethics*, Aristotle classifies political justice into natural and legal: "Of political justice part is natural, part legal, – natural, that which everywhere has the same force and does not exist by people's thinking this or that; legal, that which is originally indifferent, but when it has been laid down is not indifferent, e.g. that a prisoner's ransom shall be a mina, or that a goat and not two sheep shall be sacrificed, ..." ⁶⁾ Aristotle defines political justice as 'what is found among men who share in a common life, with a view to the attainment of self-sufficiency, as freemen and as equals either proportionately or arithmetically (in a word men living in a polis, and under its system of law).' He sees it as exists in a political association.⁷⁾ In Aristotle's explanation of natural justice, we see that it has universal ground and that it is not a construction by human thinking. Rawls's idea of natural justice is interpreted to follow this characterization. But Rawls attempts to construct public principles of political justice by using practical reason in a hypothetical situation of original position. His political constructivism basically overlooks the importance of natural justice.

We can also find an idea of natural justice in Kant's concept of 'the right to visit' in his idea of perpetual peace. That is, a foreigner may request the right to be a permanent visitor, as long as he behaves peaceably. This means the right of an alien not to be treated as an enemy in another's country.⁸⁾ Kant further explains, "the idea of cosmopolitan right is not fantastic and exaggerated, but rather an amendment to the unwritten code of national and international rights, necessary to the public rights of men in general."⁹⁾ Kant's idea of the right to visit along with his explanation of *providence*¹⁰⁾ reflects the idea of natural justice, though he did not use the exact term of natural justice. Kant explains, "Perpetual peace is insured (guaranteed) by nothing less

5) Hart, *The Concept of Law*, pp.151–163.

6) Aristotle, *Nicomachean Ethics*, Book V. Jonathan Barnes, ed., *The Complete Works of Aristotle*, Vol. Two (Princeton: Princeton University Press, 1984), pp.1790–91.

7) *The Politics of Aristotle*, Edited & Translated by Ernest Barker (Oxford: Oxford University Press, 1958), p.364. Aristotle, *Nicomachean Ethics*, Book V. Barnes, ed. *The Complete Works of Aristotle*, Vol. Two, p.1790.

8) Immanuel Kant, *Perpetual Peace and Other Essays*, Translated by Ted Humphrey, Indianapolis: Hackett Publishing Company, 1992, pp.118–119.

9) Kant, *Perpetual Peace and Other Essays*, p.119.

10) Kant, *Perpetual Peace and Other Essays*, pp.120–125.

than that great artist nature (*natura daedala rerum*), whose mechanical process makes her purposiveness (*Zweckmassigkeit*) visibly manifest, permitting harmony to emerge among men through her discord, even against their wills.”¹¹⁾ After his explanation of the role of nature for insuring perpetual peace, Kant distinguishes providence from fate: “If we regard this design as a compulsion resulting from one of her causes whose laws of operation are unknown to us, we call it *fate*, while, if we reflect on nature’s purposiveness in the flow of world events, and regard it to be underlying wisdom of a higher cause that directs the human race toward its objective goal and predetermines the world’s course, we call it *providence*.”¹²⁾ With these remarks, Kant seems to link public rights including civil, international and cosmopolitan right with the purposiveness of nature through the use of human reason. I argue that Kant’s idea of public right for perpetual peace cannot be separated from the idea of natural justice that we can deduce through our wisdom from the purposiveness and mechanical process of nature.

In a recent article, Doyle explains more clearly the natural principle of justice in critically examining *the Law of Peoples*. He reminds us that there can be domestic exceptions to the priority principle of Rawls’s maximum Equal liberty to the Difference Principle. For example, freedom can be compensated for material well-being in a society of desperation. Doyle explains that “natural principle of justice should operate, determining that the basic minimum subsistence of all is the first duty of public justice.”¹³⁾ Within a society of extreme poverty, inequality, and political anarchy, even liberals can find justifiable the redistributive prescription of natural justice for an eventually just, liberal society. Extended to the global level, however, this prescription of natural justice comes to be incompatible with the liberal constraints such as the difficulty of institutional design for an effective global, liberal polity, the rights of individuals within societies to their integrity and political independence, the domestic tyrannies to oppress their peoples, and individual freedom to pursue a self-determining life. With all these objections, Doyle suggests advancing the basic needs of the poor as the principle of natural justice for greater global justice.¹⁴⁾

In a more positive attempt, by using ‘natural justice’ Binmore argues that we can explore the ground of Rawls’s theory of justice relied upon original position, a

11) Kant, *Perpetual Peace and Other Essays*, p.120.

12) Kant, *Perpetual Peace and Other Essays*, p.120.

13) Michael W. Doyle, “One World, Many Peoples: International Justice in John Rawls’s *The Law of Peoples*,” *Perspectives on Politics*, Vol. 4, No. 1 (March 2006), p.112.

14) For detailed explanation of natural justice and liberal objections against its application on the global level, see Doyle, “One World, Many Peoples: International Justice in John Rawls’s *The Law of Peoples*,” pp.112–113.

hypothetical device for agreement, as natural. Binmore seeks naturalistic foundations in Rawls's ideas of justice as fairness. He claims: "All fairness norms in actual use share deep structure of Rawls' original position. This deep structure is biologically determined, and hence universal in the human species."¹⁵⁾

As explained above, Rawls introduces the idea of natural justice but has not attempted to develop that idea seriously for his liberal conception of international justice in dealing with non-liberal peoples. Employing the social contract idea relying upon the idea of political liberalism with public reason, he addresses the eight principles for the society of peoples that are expected to be agreed by liberal peoples on due reflection or 'reflective equilibrium'. These principles are familiar and traditional principles of justice among free and democratic peoples that are historically embodied in conventional international law:

1. Peoples are free and independent, and their freedom and independence are to be respected by other peoples.
2. Peoples are to observe treaties and undertakings.
3. Peoples are equal and are parties to the agreements that bind them.
4. Peoples are to observe a duty of non-intervention.
5. Peoples have the right of self-defense but no right to instigate war for reasons other than self-defense.
6. Peoples are to honor human rights.
7. Peoples are to observe certain specified restrictions in the conduct of war.
8. Peoples have a duty to assist other peoples living under unfavorable conditions that prevent their having a just or decent political and social regime.¹⁶⁾

In Rawls's theory of international justice, we need to examine the acceptability of the eight principles of international justice through three steps following Rawls's attempt to extend them to the society of peoples. First, can liberal peoples in the international original position agree on the eight principles? Second, can non-liberal decent peoples accept the eight principles? Third, do outlaw states and societies burdened by unfavorable conditions have nothing to say about them?

I can expect that the eight principles provoke negative responses because of their indeterminacy and priority problem in an increasing form beginning from liberal peoples through decent ones to outlaw states and societies burdened by unfavorable conditions.

15) Ken Binmore, *Natural Justice* (Oxford: Oxford University Press, 2005), p.18.

16) Rawls, *The Law of Peoples*, p.37.

For example, the idea of human rights invites various interpretations ranging from the maximal to the minimum. Rawls takes a basic minimum interpretation of human rights. But in a contemporary world, the idea of human rights is increasingly extended from civil rights, to political rights and social rights, even to cultural rights. Different interpretations demand different conceptions of justice and vice-versa. Moreover, in this contemporary world of highly advanced technology, it is not easy to distinguish self-defense war from offense one.

We also confront the priority problem among these eight principles. We can imagine easily a conflict situation among the principle of peoples' freedom and independence in article 1, the principle of non-intervention in article 4, and the principle of human rights in article 6. For example, the principle of peoples' freedom and independence and the principle of non-intervention can contribute to guaranteeing collective autonomy of a certain people or society, but collective autonomy does not guarantee protection of human rights or individual freedoms and rights in a certain society or polity. When these three articles are incompatible, we are not equipped with the priority principle that we can resort to. This incurs controversy. Rawls attempts to manage international order and peace with the eight principles to achieve a realistic utopia. But his liberal conception of international justice raises the fundamental problem of the clash between reasonable conceptions of international justice.

Rawls attempts to establish a liberal public conception of international justice for the society of peoples on international level just as he attempted to separate the political conception of justice from non-public reasons in comprehensive doctrines in civil society on domestic level. But he does not seem to succeed in considering seriously the interconnectedness between conception of justice and cultural tradition in the society of peoples. And moreover he seems to overlook that the clash of rival conceptions of justice in international arena is more serious than in domestic society. When we face the clash of rival conceptions of justice, we have a non-public conception of natural justice as a last resort to criticize the weakness and problems of public conception of justice. Rawls seems to miss the importance of natural justice in his constructing international justice.

III. Natural Justice and the *Yin-Yang* theory in *the Book of Change*

The *Book of Change* does not present directly a concept or a conception of justice. Yet we can construct a conception of justice from the ideas or principles manifested or underlying in *the Book of Change*. Justice in its original meaning has something to do

with maintaining a *balance* or *proportion*. Thus its leading precept is often formulated as 'treat like cases alike' or 'treat different cases differently.'¹⁷⁾ This meaning comes closer to the idea of natural justice. We find the ideas of balance or equilibrium in the *Book of Change* on the basis of which we can construct a conception of natural justice. Natural justice has two elements. One element is that it supposes an independent order of morality prior to human artificial convention or agreement. And the other is that it has reasonability for universal application to achieve balance or stability of human society that can help humans to achieve harmonious life. It is interpreted that the *Yin-Yang* theory in the *Book of Change* meets these criteria.

The principles or ideas in the *Book of Change* do not reflect public principles, rather they provide indirect wisdoms that humans or individuals need interpret to manage personal life or even public politics. The *Yin-Yang*(陰陽) theory runs through the *Book of Change*, which involves the idea of natural justice. More specifically, the ideas of *Zhong*(中), *Zheng*(正), *Ying*(應), *Bi*(比) *Shi*(時), *Yi*(義) direct towards harmony, balance, or equilibrium in human society as well as natural order, thus having an intimate relationship with the idea of natural justice. These ideas are connected to the reciprocal interaction between *Yin* and *Yang*.

The Book of Change sees *Dao*, i.e. the interaction of *Yin* and *Yang*, as an independent principle that exists prior to human construction. In *Xici zhuan*(繫辭上傳), "The reciprocal process of *yin* and *yang* is called the *Dao*. That which allows the *Dao* to continue to operate is human goodness (*shan*), and that which allows it to bring things to completion is human nature (*xing*) (一陰一陽之謂道 繼之者善也 成之者性也)."¹⁸⁾ We also encounter in *Xici zhuan*(繫辭傳) phrases that characterize the change as an independent order: "The changes have no consciousness, no action; they are quiescent and do not move. But if they are stimulated, they penetrate all situations under heaven. If they were not the most divine thing on earth, how could they this?" (易 无思也 无爲也 寂然不動 感而遂通天下之故 非天下之至神 其孰能與於此)¹⁹⁾

According to this principle of Change, man can achieve morality and justice. *Xici zhuan*(繫辭傳) explains: "Heaven and earth determine the scene, and the changes take

17) Hart, *The Concept of Law*, p.155.

18) Richard John Lynn, trans., *The Classic of Changes: A New Interpretation of the I Ching as Interpreted by Wang Bi* (New York: Columbia University Press, 1994), p.53. Sung Baek-Hyo, translated with notes, *Chuyeokchunyi*, Vols. II (周易傳義 下) (Seoul: Chuntongmunhwayonkuhoe, 1998) (in Korean), p.534.

19) Richard Wilhelm/Cary F. Baynes, translated, *The I Ching or Book of Changes* (Princeton: Princeton University Press, 1977, p.315. Sung Baek-Hyo, translated with notes, *Chuyeokchunyi*, Vols. II (周易傳義 下), p.556. Richard John Lynn, trans., *The Classic of Changes*, p.63.

effect within it. The perfected nature of man, sustaining itself and enduring, is the gateway of tao (*Dao*) and of justice” (天地設位 而易 行乎其中矣 成性存存 道義之門).²⁰⁾ As the principle of change allows things to fulfill their natures and preserve them, when man behaves in harmony with the teachings of the *Book of Change*, he can get to the *Dao* of the universe and justice.²¹⁾ The epistemology in the *Book of Change* tells that there is an independent order of principles inherent in nature that can be applied to human society, and that we can get it by cultivating our reason and mind. But it puts more weight on the cultivation of mind rather than rational thinking. In getting the truth, the ultimate principle (*t'ai chi* 太極) or *Dao*, Gao Huai-Min explains that the direct apprehension (直覺體悟) through the cultivation of mind is more emphasized than rational thinking which employs methods of observation, analysis, comparison, or inference through induction and deduction.²²⁾

It is apparent that the principle of change is an interaction of *Yin* and *Yang*. But there has been a variety of understandings and interpretations of the ideas of *Yin* and *Yang*. The concept of *Yang* represents masculinity, the strong or superiors while *Yin* represents femininity or mildness, the weak or subordinates.²³⁾ In this conceptual explanation, the *Yin-Yang* relationship may be interpreted as unequal, *Yang* dominating *Yin* or *Yang* being more important or powerful and *Yin* less important and powerful. Yet in their practices, *Yin* and *Yang* are equal and equivalent. Without *Yin*, *Yang* can not work and vice versa. For the idea underlying the *Book of Change*, Lynn succinctly explains: “the universe is dualistic by nature; everything in it has either a *yin* or a *yang* character and exhibits – or, more precisely should exhibit – either *yin* or *yang* behavior”, and “human society – as a natural part of the universe – is also characterized by *yin-yang* dualism.”²⁴⁾

Yin and *Yang* needs each other both in positive and negative sense. In other words, the relationship between *Yin* and *Yang* involves both mutual harmony and exclusiveness. *Yin* in its nature tries to overcome *Yang* while it is supposed to have a good harmony with *Yang*. *Yang* is also assumed to dominate *Yin* while it needs *Yin* in its nature. And also we may interpret that *Yang* can potentially change into *Yin* and vice-versa. This relationship of *Yin* and *Yang* produces the principles of mutual harmony(相生) and

20) Wilhelm/Baynes, *The I Ching*, p.303. Sung Baek-Hyo, translated with notes. Chuyeokchunyi, Vols. II (周易傳義 下), p.540.

21) See Wilhelm/Baynes, *The I Ching*, p.303; Lynn, *The Classic of Changes*, p.56.

22) Gao Huai-Min/ Jung Byung-Seok trans., *An Understanding of the Philosophy in the Book of Change* (Seoul: Munyeichulpansa, 1996), pp.117–126.

23) For details, see Lynn, “Introduction,” in Lynn, *The Classic of Changes*, p.9.

24) Lynn, “Introduction,” in Lynn, *The Classic of Changes*, p.9.

mutual struggle(相剋) in human living as well as natural order. Usually, the principles of mutual harmony and mutual struggle are more clearly elaborated in the *Wuxing* theory(五行論), which explains mutual harmony and mutual struggle relationship among iron(金) wood(木), water(水), fire(火) and earth(土). That is, in their mutual harmony, water helps to grow wood; wood helps to produce fire; fire helps to produce earth; earth helps to produce iron; iron helps to produce water again. This is the cycling of mutual harmony. On the other hand, in the mutual struggle, water overcomes fire, fire overcomes earth, earth overcomes iron, iron overcomes wood, and wood overcomes water again. This process represents the cycling of mutual struggle. The principle of *Yin-Yang* and the *Wuxing* theory in a combined form are employed to explain the diagrams of *Hetu*(河圖) and *Luoshu*(洛書). It has been often interpreted that *Hetu* entails mutual harmony while *Luoshu*, mutual struggle.

As in the relationship between *Yin* and *Yang*, either of the two principles cannot stand without the other. It is worth noticing that we need both principles of mutual harmony and mutual struggle in understanding human relationships as well as natural order. Both principles underlie natural order. That is to say, natural order maintains its balance or equilibrium with these two principles. This implies that human order also keeps its equilibrium with these two principles. Thus, in its modern understanding, we cannot manage with either of the two principles alone the order of human relationship. The principle of mutual harmony cannot eliminate the mutual conflicts in nature and human society. Reversely, the principle of mutual conflict cannot maintain equilibrium in human society and natural order.

Traditionally, the interaction of *Yin* and *Yang* has been understood to involve the opposite interaction (交易) and the sequential change (變易).²⁵⁾ The former means that *Yin* and *Yang* interacts with each other to produce change whereas the latter tells that *Yang* changes into *Yin* and *Yin* changes into *Yang* in time. The universe moves through the interaction of *Yin* and *Yang* that involves opposite interaction and sequential change. And there is an important idea in the sequential change of the *Yin-Yang* theory: Things in its extreme development are supposed to decline and change into opposite (物極必反).²⁶⁾ For example, when *Yang* grows in its extreme, it begins to gradually change into *Yin*. In other words, *Yin* begins to grow underneath while *Yang* gets thick. This reflects a competing developmental cycle of “*Yin*(*Yang*) grows while *Yang*(*Yin*) declines”. The principle of conversion to the opposite in extreme is well-expressed in the *Xugua*(序卦傳: *the Providing the Sequence of the Hexagrams*), which explains the order of 64

25) See Zhu Xi/ Baek Eun-Ki, trans., *Chuyeokbonyui* (Seoul: Yeogang, 1999), pp.13-14; Zhu Xi/ Kim Sang-Sup, trans., *Yeokhakgyueimong* (Seoul: Yeomunseowon, 1996), p.130.

26) For a detailed explanation, see Yi Sang-Ik, *The Philosophy of History and the Thoughts in the Book of Change* (Seoul: Sunggyungwan University Press, 1996)(in Korean), pp.126-145.

hexagrams in the *Book of Change*.²⁷⁾

In addition to and related to the Yin-Yang theory and its conversion principle, there are ideas of *Zhong*(中), *Zheng*(正), *Ying*(應), *Bi*(比), *Shi*(時), *Yi*(義),²⁸⁾ which have relationship to natural justice.

In the *Book of Change*, the principle of *Zhong* means 'taking a position in the middle of the lower trigram or the upper trigram in a hexagram. For example, in each of 64 hexagrams, the second line and the fifth line from the bottom stand for the middle. *Zheng* means that each line of *Yin* or *Yang* takes a position in its right place. In each hexagram, the first line, the third, and the fifth line from the bottom are the right places for *Yang* while the second, the fourth, and the sixth line from the bottom are the right places for *Yin*. For example, in the hexagram *Qian*(乾卦), the first line of *Yang* from the bottom takes a position in its right place; the second line of *Yang* takes the middle or the center position in the lower trigram but loses its right place. And more, the fifth line in the upper trigram takes the right place as well as the middle. Of course, the sixth line of *Yang* misses its right place. The sixth line from the bottom should be seated by *Yin*. But this kind of geometrical explanation tends to miss the underlying idea of those concepts.

Though the idea of *Zhong* involves a variety of meanings and implications, it seems to mean maintaining balance or equilibrium from the middle. Sometimes *Zhong* means fundamental principles or seeking pragmatic harmony in the conflicts of theoretical positions or in the gap between theory and reality. *Zheng* may be interpreted as the right behavior in the right place. This concept of *Zheng*(正) has an inseparable relationship with the concept of *Yi*(義) which is often translated into righteousness in English. *Zheng* and *Yi* are combined into one word of *Zhengyi*(正義), which is used for the term of *justice* in East-Asian societies. Even if we admit that *Zhengyi* and *justice* have different origins in their conceptual developments and thus different implications each other, the ideas of maintaining equilibrium or balance seem to run through both concepts. The principle of *Zhong* along with the principle of *Zheng* seeks equilibrium or balance in human relationship through the proper action in a proper time and place.

The idea of *Shi*(時) means a proper time for action. And *Bi* and *Ying* signify harmony in specific situation. *Bi*, *Ying*, *Shi* compose the context for the principles of *Zhong* and *Zheng* to work. In the *Book of Change*, *Bi* represents the relationship between two

27) For an English translation of the *Xugua*, see Lynn, *The Classic of Changes*, pp.103–110.

28) I do not translate these ideas or principles into English words, because it is difficult to find proper words equivalent to the original meaning of those concepts which are also open to elaborate interpretations.

adjacent lines. For example, it is usually understood that when a line of *Yang* and a line of *Yin* are situated next to each other, their relationship is good; while two *Yang* lines (or *Yin* lines) are situated next to each other, their relationship is not good. *Ying* also represents harmony. *Ying* means a correspondence, respectively, between the first, the second, the third line from the bottom in the lower trigram in each hexagram, on the one hand, and the fourth, the fifth, the sixth line in the upper hexagram, on the other hand. For example, in a certain hexagram, if the first line of *Yang* in the lower trigram happens to correspond to the fourth line of *Yin* in the upper trigram, their relationship is good and right. If the second line of *Yin* in the lower trigram meets the fifth line of *Yin*, their relationship misses a right corresponding. Like this, the ideas of *Ying* and *Bi* signify specific examples of harmony and disharmony. Thus, like this interconnectedness, the ideas of *Zhong* and *Zheng* along with *Ying*, *Bi*, *Shi*, and *Yi* compose a picture of natural justice.

IV. The Law of Peoples in view of the Yin-Yang Theory

With the principles of the *Yin-Yang* theory, let's analyze Rawls's conception of international justice. Rawls's *Law of Peoples* comprises two parts: the ideal theory for well-ordered peoples including liberal and non-liberal but decent peoples and the non-ideal theory for dealing with outlaw states and societies burdened by unfavorable conditions. In view of the principles of mutual harmony and mutual struggle, Rawls's ideal theory relies heavily upon the theory of mutual harmony, thus overlooking the reality of mutual struggle arising from self-seeking interests among liberal peoples. On the other hand, notably in its treatment with outlaw states in the non-ideal theory, Rawls is skewed towards the theory of mutual struggle to heavily relying upon self-defense war and interventionism, consequently preventing in advance from seeking the methods of mutual understanding and harmony.

In the logic of *Yin-Yang* and the theories of mutual harmony and mutual struggle, it is implied that *Yang* potentially has in itself *Yin* and thus can change into *Yin*, and vice-versa. And also the principle of mutual harmony potentially has an embryo of mutual conflict in itself and must be assisted by the principle of mutual struggle in order to achieve its aim of equilibrium. This interpretation implies in modern terms that liberal societies also have elements of conflict in themselves as well as among them. On the other hand, outlaw states, despite their violations of human rights and dangerous aggressiveness also have a potential to be a good regime without externally enforced

intervention. Thus, according to the logic of *Yin-Yang* and the theories of mutual harmony and mutual struggle, it is recommended to employ both cooperation and deterrence in dealing with outlaw states.

The principle of opposite interaction and the principle of conversion symbolize equality between *Yin* and *Yang* by neutralizing relative strength in a specific time and place. This idea neutralizes different positions and relative strengths of the strong and the weak, or the leader and the common people. This idea also can contribute to maintaining equilibrium in social order by hypothetically positioning of the strong into the weak or the weak into the strong. The whole scheme of explanation in *Xugua* reflects the principle of conversion to the opposite. And specifically, we find some phrases depicting the conversion principle. For example, *Xugua* explains the order of Hexagram 11(*Tai* 泰), Hexagram 12(*Pi* 否), and Hexagram 13(*Tongren* 同人) as follows: “*Tai*(Peace) means ‘smooth going’. Things cannot forever go smoothly. This is why *Tai* is followed by *Pi* (Obstruction, Hexagram 12). Things cannot forever be obstructed. This is why *Pi* is followed by *Tongren* (Fellowship, Hexagram 13).”²⁹⁾ We also see the conversion principle in explaining the order of Hexagram 23(*Bo* 剝) and 24(*Fu* 復): “Just as things cannot remain exhausted forever, so with *Bo* (Peeling): when they reach all the way to the top, they then return to the bottom. This is why *Bo* is followed by *Fu* (return, Hexagram 24)”³⁰⁾ In *Xugua*, we encounter many phrases reflecting the idea of conversion such as “things cannot long abide where they are located,” “things cannot be in withdrawal forever,” “when one exhausts the potential to grow great, he is sure to lose his position,” etc.³¹⁾

It is interesting to note in the explanation for conversion from the *Jiji*(既濟, completeness) to the *Weiji*(未濟, incompleteness) hexagram that “things cannot achieve their completeness, therefore the *Book of Changes* ends up with the *Weiji* following the *Jiji*.”³²⁾ Once thing is in time of climax, it is supposed to decline. We see that beyond the climax, perfect condition changes into its opposite and that there is still some imperfection even in perfection. Completeness is the end of incompleteness and at the same time is the new beginning of incompleteness.³³⁾

This principle of conversion in extremity is applied to the gradual change from the first line (爻 *yao*) of the bottom to the sixth line of the top in a hexagram. Usually, the

29) Lynn, *The Classic of Changes*, p.104.

30) Lynn, *The Classic of Changes*, p.105.

31) Lynn, *The Classic of Changes*, pp.106–110.

32) I by myself translated the last phrase in old Chinese of *Xugua* in Sung Bak-Hyo, translated with notes, *Chuyeokchunyi*, Second Volume (周易傳義 下), p.619.

33) Alfred Huang, trans., *The Complete I Ching* (Rochester: Inner Traditions, 1998), pp.485–494.

first line symbolizes the beginning or embryo of the things; the second and third lines representing gradual growth; the fourth line, getting near to the peak; the fifth line representing its peak and thereafter declining; and finally the sixth line of the top symbolizes symptoms of the decline of things for a new beginning. This process of gradual change for conversion underlies the whole 64 hexagrams. Yet it is more clearly expressed in the explanation of the lines in the hexagram *Qian*(乾卦). The first line of *Yang* signifies “a submerged dragon.” This means that it is not right time for action. It just symbolizes potentiality. The second line of *Yang* symbolizes ‘a dragon appearing in the field’. This is a beginning of manifesting things. You still need the great man’s help when you act. The third line of *Yang* recommends ‘the virtuous man to make sincere efforts with cares throughout the day’. But you still need to wait for a proper time while making efforts. The fourth line of *Yang* symbolizes the time for a test of ‘a dragon’s flying out of the deep water.’ Yet this is not a decisive moment for action or the peak of a thing. The fifth line of *Yang* describes ‘flying dragons in the heavens.’ This is a mature time for action or the peak of things. From this peak on, things begin to decline. The top line of *Yang* depicts ‘a regretting dragon’ insinuating the decline of things. This means coming back again to a new beginning.³⁴⁾

This whole picture of cycling through the principle of conversion in extremity recommends both the strong and the weak not to behave in extreme. It can contribute to enhancing mutuality and reciprocity between conflicting parties, regardless of their moral positions. In fact, in Rawls’s *The Law of Peoples*, mutuality and reciprocity are assumed among liberal peoples. But we can raise a question whether his liberal conception of international justice assumes mutuality and reciprocity between liberal peoples and non-liberal decent peoples, or further between liberal peoples and peoples of outlaw states or societies burdened by unfavorable conditions. In effect, Rawls’s law of peoples does apply at the most to the well-ordered peoples including non-liberal decent peoples. It simply treats with their own principles of justice peoples of outlaw states and societies burdened by unfavorable conditions. We need justice not only among well-ordered peoples but also between well-ordered peoples and non well-ordered peoples. In this context, Rawls’s liberal conception of international justice seems to fail in providing a convincing explanation for justice between well-ordered peoples and non well-ordered peoples. In reality, the place where peoples urgently need justice is among the peoples of competing justice. In this area where there is no agreement on public principles of justice, we can employ basic principles of natural justice. The principle of

34) See Lynn, *The Classic of Changes*, pp.129–142; Richard Wilhelm/Cary F. Baynes, translated, *The I Ching or Book of Changes* (Princeton: Princeton University Press, 1977, pp.3–10.

conversion provides the basic natural principles of justice for mutuality and reciprocity even between well-ordered peoples and peoples of outlaw states.

The *Book of Change* derives natural principles of change for human society from natural events such as the movement of the sun and the moon, the flow of water, the alternation of day and night, and the sequential change of the seasons. It attempts to apply this concept of change to organic forms of life in human society. It recognizes that the law of change also governs human society. Thus, we need to know the laws of change in order to get right way for managing human behaviors.³⁵⁾ The principle of change in the *Book of Change* is represented by the *Yin-Yang* theory which involves the principles of mutual harmony and mutual struggle. And the interaction of *Yin* and *Yang* is comprehended by the principle of opposite interaction and the principle of sequential change, particularly the conversion principle in extremity. These principles and the ideas of *Zhong* and *Zheng* with the help of *Ying*, *Bi*, *Shi*, and *Yi* comprise natural justice that humans should follow.

In view of this conception of natural justice in the *Book of Change*, Rawls's *Law of Peoples* attempts to resolve conflicts among peoples, regardless of liberal, non-liberal, or even peoples of outlaw states by heavily relying upon the principles that are agreeable mainly among liberal peoples. This theory implies that, when it is adopted in practice, it may cause the politics of competing rival conceptions of justice. Rawls does not take into consideration that principles of natural justice can intervene in the relation between liberal peoples and non-liberal peoples. In fact, his non-ideal theory including the right to war and the conduct of war and the duty of assistance reflects no other than natural justice. And also in international society which is characterized by its incompatible competing conceptions of justice, the *Yin-Yang* theory represented by the principles of mutual harmony and struggle and of opposite interaction and the conversion in extremity can provide guidelines to criticize or reflect on prevailing political principles and behaviors that peoples or states employ in managing conflicts between peoples or states.

In a recent article, Muirhead and Rosenblum raise the problem of rival conceptions of political justice: "Rival conceptions of political justice and rival interpretation of principles of justice are consistent with public reason. These rival conceptions can serve as the basis for political organization and legitimate partisan differences."³⁶⁾ More

35) See Helmut Wilhelm/Richard Wilhelm, *Understanding the I Ching* (Princeton: Princeton University Press, 1995), pp.20-32.

36) Russel Muirhead & Nancy L. Rosenblum, "Political Liberalism vs. 'The Great Game of Politics': The Politics of Political Liberalism," *Perspectives on Politics*, Vol. 4, No. 1 (March 2006), p.101.

apparently in international realm, the problem of rival conceptions of political justice increasingly appears to be a thorny issue. Rawls's liberal conception of international justice cannot help but to face challenges from rival conceptions of international justice both in theory and practice. Facing the dilemma of competing conceptions of justice, Rawls's liberal conception of international justice may be understood as the politics of realism to non-liberal peoples. In other words, it is interpreted that Rawls's international justice simply reflects an idea of how to deal with international stability from the perspective of liberal peoples. This situation runs counter to Rawls's original intention to provide a perpetual peace for the society of peoples following Kant. This means that Rawls's project fails to provide a realistic utopia, which is no more than realism.

V. Conclusion

In the *Law of Peoples*, Rawls briefly introduces the idea of natural justice, but does not develop further it. He does not attempt to explain its importance and implications in theorizing justice for a society of peoples. He seems to fail to recognize the importance or the roles of natural justice in international society. In his extension of the idea of political liberalism to international society, he does not seriously apprehend the situation of incompatibility between rival conceptions of political justice that may arise from different cultural traditions or comprehensive doctrines.

Principles of natural justice, such as the rule of formal equality 'similar cases be treated similarly', can be easily known by common people, though formal and incomplete, thus needing to supplement for their specific applications. They are the rules that people or peoples can employ in dealing with conflicts in the situation of absence of political justice, or in the situation of competing conceptions of justice. Rawls's non-ideal theory reflects no other than principles of natural justice. Rawls's non-ideal theory simply addresses foreign policy of liberal peoples in dealing with outlaw state and societies burdened by unfavorable conditions. Rawls's expositions of just war doctrine including the right to war in self defense and conduct of war in dealing with outlaw state and the duty of assistance to burdened societies are basically principles of natural justice that people or peoples can employ in the absence of political principles agreed upon by people or peoples. In fact, Rawls does not suppose that just war doctrine and the duty of assistance are agreed upon between well-ordered peoples including liberal and decent peoples, on the one hand, and outlaw state and burdened societies, on the other hand.

Both in international as well as domestic society, when people or peoples think existent public principles of justice losing their balance, equilibrium, fairness or impartiality, they tend to criticize them by resorting to their own sense of natural justice that may have a considerable degree of reasonability. People or peoples are naturally motivated to employ the sense of natural justice in order to recover balance or equilibrium of human harmony in persistent reality of conflicts.

The idea of *Yin* and *Yang* in the *Book of Change* portrays a picture of natural justice that can be employed to resolve international conflicts among peoples including liberal and non-liberal peoples. The idea of *Yin* and *Yang* seeks to a balance or equilibrium in human world as well as in nature. The idea of *Yin-Yang* provides a more far-reaching equality between peoples, by recognizing each other regardless of political culture, political regime or moral outlooks. It also recommends people or peoples, irrespective of their positions, to behave in self-restraint, not to attempt to break stability of human society and natural equilibrium. The *Yin-Yang* theory can be applied to managing the conflicts between well-ordered and non-well-ordered peoples especially expressed in the non-ideal theory of the *Law of Peoples*. Rawls's ideal theory simply refers to public political justice applying to well-ordered peoples whereas non-ideal theory reflects natural justice to the relation between well-ordered and non-well-ordered peoples. I conclude that the idea of natural justice, if considered seriously, can contribute to enhancing the theoretical reasonability of Rawls's liberal conception of international justice.

REFERENCES

- Barekr, Earnest, ed. & trans. *The Politics of Aristotle*. Oxford: Oxford University Press, 1958.
- Barnes, Jonathan, ed. *The Complete Works of Aristotle*. Vol. Two, Princeton: Princeton University Press, 1984.
- Beitz, Charles R. "Rawls's Law of Peoples." *Ethics*, Vol. 110, No. 4(July 2000): 669-96.
- Binmore, Ken. *Natural Justice*. Oxford: Oxford University Press, 2005.
- Buchanan, Allen. "Rawls's Law of Peoples: Rules for a Vanished Westphalian World," *Ethics*, Vol. 110, No. 4 (July 2000): 697-721.
- Dong-Jin Jang, "East Asian Perspectives on Liberal Democracy," Chung-Si Ahn & Bertrand Fort, Eds., *Democracy in Asia, Europe and the World*, Marshall Cavendish International, 2006: 37-56.
- Doyle, Michael W. "One World, Many Peoples: International Justice in John Rawls's The Law of Peoples," *Perspectives on Politics*, Vol. 4, No. 1 (March 2006): 109-120.
- Gao Huai-Min/ Jung Byung-Seok, trans. *An Understanding of the Philosophy in the Book of Change* (Juyeokchulhakuiyihae) (大易哲學論). Seoul: Munyeichulpansa, 1996.
- Hart, H. L. A. *The Concept of Law*. Oxford: Clarendon Press, 1986.
- Huang, Alfred, trans. *The Complete I Ching*. Rochester: Inner Traditions, 1998.
- Kant, Immanuel. *Perpetual Peace and Other Essays*. Translated by Ted Humphrey, Indianapolis: Hackett Publishing Company, 1992.
- Lynn, Richard John, trans. *The Classic of Changes: A New Translation of the I Ching as Interpreted by Wang Bi*. New York: Columbia University Press, 1994.
- Muirhead, Russel & Nancy L. Rosenblum. "Political Liberalism vs. 'The Great Game of Politics': The Politics of Political Liberalism," *Perspectives on Politics*, Vol. 4, No. 1 (March 2006): 99-108.
- Rawls, John. *A Theory of Justice*. Cambridge: The Belknap Press of Harvard University Press, 1971, 1999(Revised).
- Rawls, John. *Political Liberalism*. New York: Columbia University Press, 1993, 1996, 2005(Expanded Edition).
- Rawls, John. *The Law of Peoples*. Cambridge: Harvard University Press, 1999.

- Sung Baek-Hyo, translated with notes. *Chuyeokchunyi*, Vols. I & II (周易傳義 上, 下). Seoul: Chuntongmunhwayonkuhoe, 1998 (in Korean).
- Wilhelm, Richard/Cary F. Baynes, trans. *The I Ching or Book of Changes*. Princeton: Princeton University Press, 1977.
- Wilhelm, Hellmut/Richard Wilhelm. *Understanding the I Ching*. Princeton: Princeton University Press, 1995.
- Yi Sang-Ik. *The Philosophy of History and the Thoughts in the Book of Change* (Yeoksacheolhakgwa Yeokhaksasang). Seoul: Sunggyungwan University Press, 1996.
- Zhu Xi/ Kim Sang-Sup, trans. *Yeokhakgyueimong* (易學啓蒙). Seoul: Yemunseowon, 1996.
- Zhu Xi/ Baek Eun-Ki, trans. *Chuyeokbonyui* (周易本義). Seoul: Yeogang, 1999.