

Summary of Doctoral thesis

# The Impact of the Right to Peace on Security seen in the Deliberations in the United Nations

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Although the right to peace (RIGHT TO PEACE) is a right that enables individuals to approach military power monopolized by the state and its use, it has rarely been analyzed in international politics as a security theory, and the clarification and legal embodiment of the concept have been insufficient. This thesis therefore places the right to peace within the theoretical agenda of the concept of human security, which shares with the right to peace the objective of freedom from fear, and clarifies the significance of the right to peace from the aspect of security theory through an analysis of the deliberative process of the UN Declaration on the Right to Peace at the United Nations.

In security theory, there are two types of security theory: state security theory, which focuses on the role of the state, and critical security theory, which aims at human emancipation, and are described in

Chapter 1. Among critical security theories, Booth et al.'s critical security theory is critical of the conventional discussion of human security and does not limit human security to a policy concept, but emphasizes conceptual formulation, such as how to view the relationship between the state and humans and critical analysis of the structural and historical institutions that give rise to human insecurity. Newman then raised the theoretical issues that should be clarified in the theory of human security.

In the UN deliberations that led to the adoption of the UN Declaration in 2016, there was a contestation between countries that emphasized the primacy of existing structures and norms and opposed the creation of the right to peace, and those that emphasized the role of human beings and individuals in creating the right to peace. Since the competing values are expressed in the contentious debate, this paper clarifies the security significance of the right to peace by analyzing and discussing the content of the debate. Among the issues raised by Newman that can be clarified from the UN deliberations are (1) what are the security implications of the right to peace as an individual right, (2) whether the right to peace encompasses the right to structure, and (3) whether the right to peace can go beyond state security.

As a prerequisite to clarifying the security significance of the right to peace, Chapter 2 will introduce how the right to peace has historically been discussed and in what context it has emerged. In the past, the state seized all authority over war and peace, and individual human harm was not incorporated into the system. However, it was not until the Hague Peace Conference of 1898 that the idea of humanity, which represents individual harm, was first raised against the right of states to wage war. When the UN Charter was established, the Charter incorporated a clause on respect for human rights, and later, as international human rights treaties developed, recognition of the interdependence of human rights and peace evolved. In the course of this historical development, the right to peace came to be discussed in the United Nations.

Chapter 3 presents an analytical framework for analyzing the deliberations of the right to peace at the United Nations. The analytical framework incorporates the results of normative research based on constructivism, which finds positive meaning in contestation. In finding the security-theoretical meaning of the right of peace in the content of the deliberations at the UN, it is necessary to clarify not merely the content of the wording of the adopted declaration, but also the meaning implied in the wording of the declaration. In doing so, referring to the results of preceding studies that point out that the process of learning the meaning of norms can be found in contestations, this paper sets up an analytical framework to determine to what extent the process of learning the meaning of norms was recognized in the contestation of the deliberation of the UN Declaration of the Right to Peace, and to what extent the meaning of norms was shared as a result of such a process.

Conventional normative research suggests that norm entrepreneurs play an active role in the process of norm-making. In the deliberations on the UN Declaration of the Right to Peace, NGOs, led by the Spanish Society for International Human Rights Law, have played a role as norm entrepreneurs in the deliberations of the UN Human Rights Council, and in this paper, we analyze how NGOs have influenced

the content of the UN deliberations using the criterion of the degree to which the agenda they set was incorporated into the UN agenda.

Chapter 4 analyzes the deliberations of the United Nations, focusing on the deliberations of the Human Rights Council, which deliberated for six years on the UN Declaration of the Right to Peace adopted by the UN General Assembly. Regarding the right to disarmament in the Advisory Committee's draft, the United States opposed the creation of the right to peace on the grounds that nuclear disarmament should be left to the existing UN bodies and bilateral negotiations, and that the right to peace prevents this, and that the right to self-defense is considered legitimate by the UN Charter, but the right to peace risks not recognizing it. The representatives of the countries in favor of the right of peace will also recognize the disputed points of contestation of the right of peace by this statement.

As to whether the right to peace is a people's right or an individual right, the Advisory Committee added aspects of individual rights to people's rights as collective rights. The intergovernmental working group eventually converged on individual rights. NGOs influenced the adoption of the UN Declaration as an individual right by emphasizing the right to peace as a human right.

In Chapter 5, we analyzed the meaning of the norms shared among the countries in favor during the deliberations at the Human Rights Council and questioned them from a security perspective. Regarding the issue of whether the right to peace is an individual right or a people's right, the opposing states denied the right of the people as a collective right but insisted on the individual dimension of the right. The supporting countries agreed that each individual is the subject of the right to peace and that establishing this right introduces a person-centered perspective in the security field, and it was unanimously recognized by the supporting and opposing countries that the right to peace is an individual right.

Regarding the issue of the relationship between a state's right to self-defense and the right to peace, the supporting countries voted in favor of the treaty, recognizing in the debate that the opposing countries were afraid that the right of self-defense might be limited, as the U.S. had stated. This means that they voted in favor of the treaty aware that the right of self-defense might be limited to some extent by the right of peace.

Regarding the issue of the relationship between the right to peace and existing disarmament institutions, in the discussion of the right to disarmament, the opposing country, the United States, argued that disarmament issues should be left to negotiations among the powers and existing disarmament conferences. In contrast, the supporting countries did not explicitly oppose this argument, but they agreed with the creation of the right to peace while recognizing that the right to peace could place some restrictions on existing institutions and bilateral negotiations.

Reconsidering the meaning of these shared norms among the supporting states from the perspective of security theory, the right to peace regulates the relationship between the state and the individual with respect to the state's military conduct in terms of a legal relationship of rights and obligations, which means that the relationship of the individual having rights and the state having obligations regarding their

realization has been created as an institution. This means that the relationship between the individual and the state has been created as an institution. This system can be a viable means of implementing the security of human security and freedom from fear, and can provide one answer from the perspective of the right to peace to the conceptual formulation by critical security theory that aims at human emancipation.

The fact that the right to peace is an individual right also means that the possibility has opened up for the right to peace to be incorporated and embodied as a right and human right at the UN and within each country. The embodiment of the right to peace in the United Nations means that it will be taken up as an agenda item of the Human Rights Council, embodied in the investigations and recommendations of the Special Rapporteurs, and, if it grows to an international human rights treaty, activities to realize the right to peace will be conducted through individual communications and reviews by the Committee on Covenants and other bodies. In terms of embodiment in each country, it is conceivable that the right to peace and its embodied rights should be established in the laws and constitutions of each country, and that declarations and treaties on the right to peace should be applied domestically. In the judicial arena, the UN Declaration on the Right to Peace and peace treaties could be applied as judicial norms, and courts could examine whether there is a violation of the right to peace that has been made into domestic law.

With regard to the relationship between human beings and structures, since the right to peace is a right that can demand modifications to norms and institutions that give rise to human insecurity, it can overcome the contradiction that human security reinforces the norms and institutions that produce human insecurity. As to what exactly can be expected of state security and the actions and structures based on it through the right to structure, examples of practices in various countries and the contents of advisory committee drafts and NGO drafts submitted during the UN deliberations are instructive.

Regarding the question of whether the right to peace can exceed the national security, the document of the Commission on Human Security pointed out that the two are complementary, but the fact that the right to peace sets up the relationship between the individual and the state as a relationship of rights and obligations makes it clear that the realization of the right to peace can take priority when there is a conflict between the national security and the human security. Judicial practice in various countries such as Japan and South Korea has shown the possibility of limiting the military actions of the state because the right to live in peace has been violated when the interests of the state, such as those of national defense, take precedence. The impact on the security theory of the right to peace is that individuals, who until now could not say anything under the pretext of national security or national defense, can now be involved through the form of realization of individual rights.

Thus, the right to peace, whose contours have been revealed through shared meanings in the UN debate, is seen in this thesis as one way to achieve human security in the form of individual rights. Regarding the relationship between human beings and structures beyond their reach, we see the right to peace as a way of approaching the existing order, norms, and institutions in terms of the realization of

individual rights, embodied in the creation of the right to peace, and through practical examples of the right to peace in various countries, we have provided an image of how the right to peace can overcome national security.

In the final chapter, as an academic contribution to normative studies, the author provides specific examples of the process of learning the meaning of norms through contestation, and in terms of security theory, by clarifying the UN deliberations on the right to peace, the author has contributed to the conceptualization and theorization of security, which conventional theories of human security have been inadequate to do.