<table>
<thead>
<tr>
<th>著者</th>
<th>佐野 直樹</th>
</tr>
</thead>
<tbody>
<tr>
<td>原稿</td>
<td>奈良教育大学紀要 人文学部 文学類 62 1 81-88 2013年11月30日</td>
</tr>
<tr>
<td>URL</td>
<td><a href="http://hdl.handle.net/10105/9798">http://hdl.handle.net/10105/9798</a></td>
</tr>
<tr>
<td>その他のタイトル</td>
<td>プロテスタントの諸セクテと人権の起源 - マックス・ウェーバーのセクテ概念について -</td>
</tr>
<tr>
<td></td>
<td>奈良教育大学紀要 人文学部 文学類 62 1 81-88 2013年11月30日</td>
</tr>
</tbody>
</table>
The Protestant Sects and the Origin of Human Rights:  
On the Concept of Max Weber’s “Sect”

Makoto SANO  
(Department of Law, Nara University of Education)  
(Received May 7, 2013)

Abstract

There are only a few scholars who have dealt with the view on human rights of Max Weber (1864-1920) so far. One of the main reasons is that he did not write the systematic work on human rights. But it does not mean that he was not interested in the subject of human rights. Weber was rather so much interested in some problems of human rights, such as religious toleration, religious liberty, freedom of conscience, equality before the law, and suffrage. In particular, like his colleague Georg Jellinek (1851-1911), he showed interest in the subject regarding the origin of human rights and was engaged in it.

The purpose of this paper is to discuss Weber’s view on the origin of human rights, especially, on the historical and theoretical origin of freedom of religion. Three points made clear in this paper are as follows. The first is that there was a close relationship between the emergence of freedom of religion and the Protestant sects’ doctrines. Weber often stressed the influence of their doctrines and demands on the acquisition of the right to freedom of religion. The second is that the historical materials for Weber’s formation of “sect” in the sociological sense mainly depended on some works written by historians and theologians in the second half of the 19th century. They asserted the historical and political significance of the Protestant sects, such as the Baptists and the Quakers. The third is that an important motif Weber formed the concept of sect consisted in Jellinek’s misunderstandings about the Protestant sects. Jellinek confused the Baptists (the type of sect) with the Calvinists or the Congregationalists (the type of church). The doctrines of Calvinism and Congregationalism in North America in the 17th century had the tendency to theocratic and authoritarian government.

Key Words: Protestant sects, human rights, freedom of religion, Max Weber, Roger Williams

1. Introduction

Many scholars have written the articles and essays on Max Weber’s theory of the spirit of capitalism until now, but scholars who have written about his theory of human rights are only a few. The main reason is that he did not systematically give his view of human rights. One can hardly find the comprehensive and systematic explanation on human rights in Weber’s major works, Economy and Society and Economic Ethics of the World Religions, or the other sociological articles. However, it does not mean that Weber was not interested in the subject of human rights. He was rather so much interested in some problems of human rights, such as freedom of religion and of conscience, religious toleration, equality before the law, and suffrage. In particular, the relationship between the Protestant sects in the 17th century and the origin of freedom of religion or of conscience was for him an important problem. In this paper I would like to propose a few points of Weber’s view on human rights that has not been taken up by scholars so far.

The noticeable points for Weber’s descriptions on human rights are as follows: The first is that Weber’s idea of human rights was based on the doctrines and behaviors of Protestant sects, such as Baptists and Quakers in North America. His experience of travels with his wife Marianne Weber in the United States of 1904, especially his attendance on divine services of some Protestant sects became a good opportunity for thinking democracy, human rights, and their origins. Weber thought that without the opposition and resistance of various Protestant sects to the doctrines of the established
churches, the rights to freedom of religion and of conscience could not have been incorporated into the bills of rights of states in North America after 1776.

The second is that he did not clearly distinguish the concept of human rights (Menschenrechte) from that of basic rights (Grundrechte). Although whether there is any difference of meanings between two terms has been a polemic issue in Germany, he did not pay attention to it. Two terms were for him synonymous. According to Nobuyoshi Ashibe (1923-1999), while human rights are not natural rights themselves so long as they are provided in the constitution, they are distinguished from civil rights guaranteed only to the Germans so long as human rights have the character of rights existing prior to the state and guaranteed to all men. And he regards the concept of basic rights as a superordinate concept of “human rights” and “civil rights”. In German constitutional history, the term “human rights” had not been incorporated in the Constitutions of Germany in the pre-World War II period, for example, in the Constitution of the Kingdom of Prussia of 1850, the Constitution of the German Empire of 1871, and the Weimar Constitution of 1919. It is in the Basic Law for the Federal Republic of Germany (1949) enacted after World War II that the term “human rights” was first incorporated in the Constitution of Germany.\(^{(6)}\)

The third is that Weber was influenced by his colleague Georg Jellinek’s view of human rights, especially his work, The Declaration of the Rights of Man and of Citizens (1895).\(^{(5)}\) Weber wrote in “The Protestant Ethics and the ‘Spirit’ of Capitalism” (1905), “it is well known that Jellinek’s Erklärung der Menschenrechte is fundamental for understanding the history of the emergence and political significance of ‘freedom of conscience’. I, too, am indebted to this work for inspiring me to take up the study of Puritanism” (PEGK (1905), 43/PE (1905), 157). Although this paragraph was deleted from the revised edition (1920) of “The Protestant Ethics” (PEGK (1920), 131/PE (1920), 243), the influence of Jellinek on Weber cannot be denied.

To be sure, Weber did not take up the concept of human rights as his own main theme, but like Jellinek, he was so interested in human rights, especially in their origin. Since I have dealt with some views of Jellinek on the origin of human rights before,\(^{(8)}\) I limit the discussion here to Weber’s view on human rights, especially on freedom of religion or of conscience that Jellinek regarded as their origin.

2. The Origin of Human Rights and Freedom of Religion

While Jellinek often argued about the legal historical origin of codifying human rights, Weber did not directly refer to it, and he little quote Jellinek’s remarks on it. In Economy and Society, Weber only once referred to Jellinek’s view on the origin of human rights: “Such freedom of conscience may be the oldest human rights— as Jellinek has argued convincingly; at any rate, it is the first and basic human rights in principle because it comprises all ethically conditioned action and guarantees freedom from compulsion, especially from the power of the state. In this sense the concept was as unknown to antiquity and the middle ages as it was to Rousseau’s social contract with its power of religious compulsion” (WaG, 725/ES, 1209).

According to Weber, freedom of conscience is the most basic right of man, and it has a close relationship with freedom of religion from the power of the state, i. e. with the separation of church and state. It is no doubt that a source of this short comment lies in Jellinek’s The Declaration of the Rights of Man and of Citizens. Jellinek insisted in this work that the historical origin of the American bills of rights, including the Virginia Bill of Rights (1776), consisted in Protestants’ struggles for freedom of religion in the days of North American colonies, especially in the contributions of the English Protestant theologian Roger Williams (1603-1683) to them.\(^{(9)}\) To be sure, Weber, too, referred to Roger Williams in “The Protestant Ethics and the ‘Spirit’ of Capitalism” (PEGK (1905), 43/PE (1905), 156), but unlike Jellinek, he did not overestimate Williams’ influence on the acquisition of freedom of religion. Moreover, concerning the quotation of “Williams”, there are subtle differences between the first edition (1905) and the revised edition (1920) of this work. Although it is somewhat long, the following are the sentences about Roger Williams of the 1905 edition and the 1920 edition.

(The 1905 edition)

“Roger Williams, (underline is mine) the founder of the first colony (Rhode Island) that was tolerant for these positive religious reasons, and completely rejected the idea of a state church, was once again baptized there and was then—for a time—the Baptist preacher, but the reasons he was already opposed to the principle of
the state church are unclear. The colony of Maryland, which had been founded by Lord Baltimore, proclaimed toleration—a principle that the Catholic Church, as exclusive institution of salvation, cannot concede. It did this, however, merely for opportunist reasons, because a colony that was officially Catholic would have been suppressed. Pennsylvania, of course, held the principle of toleration and the separation of church and state for religious reasons from the beginning' (PEGK(1905), 43/PE(1905), 156-157).

(The 1920 edition)

“The first man who stood out for absolute toleration and the separation of church and state, almost a generation before the Baptists and two before Roger Williams, (underline is mine) was probably John Browne. The first declaration of a church group in this sense appears to be the resolution of the English Baptists in Amsterdam of 1612 or 1613: ‘The magistrate is not to middle with religion or matters of conscience ——because Christ is the King and Lawgiver of the church and conscience.’ The first official document of a church which claimed the positive protection of freedom of conscience by the state as a right was probably article 44 of the Confession of the Particular Baptists of 1644” (PEGK(1920), 131/PE(1920, 243).

What becomes clear from some differences of descriptions about Roger Williams is that in the 1920 edition Weber did not stress the influence of Williams on religious tolerance and the separation of church and state more than in the 1905 edition. The reason is that he tried to stress relatively the great influence of Protestant sects (Baptists, Quakers, etc.) on the acquisition of human rights, especially freedom of religion or of conscience. In other words, for Weber, the origin of freedom of religion or of conscience did not only consist in the thought and behavior of a man: Roger Williams, but in the independent and voluntary character of Protestant sects. I discuss below whether this view can be historically recognized as appropriate or not.

3. The Background of “Sect” in Max Weber and its Significance

As is generally known, Max Weber formed and used the concept of sect in the sociological or ideal typical sense. According to him, a “sect” in the sociological or ideal typical sense of the word is an exclusive association of religious virtuosos or of especially qualified religious persons recruited through individual admission after establishment of qualification (RF, 6). On the other hand, a church that is distinguished from a sect is a compulsory association that one becomes a member by birth (WuG, 30/ES, 56). The Baptists, the Quakers, and the Mennonites belong to the type of sect, while the Catholic Church, the Lutheran Church, and the Reformed Church (the Calvinist Church) belong to the type of church. Weber regarded a sect as the theoretical counterpart of a church.\(^{10}\)

3.1. The Historical Sources of the Concept of Sect and Roger Williams

Little is known about the historical sources of the concept of sect and the reasons it was formed. Concerning its historical sources, the details are certainly unknown, but it is no doubt that in order to formulate the concept of sect, Weber referred to some works and writings which had been published in the second half of the 19th century. Among them, in particular, the following works which he suggested in the footnotes of “The Protestant Ethics and the Spirit of Capitalism” (PEGK(1905), 2, 5/PE(1905), 128, 130, PEGK(1920), 85, 88/RE(1920), 217, 219) are of importance: Studies and Illustrations of the Great Rebellion (1858) of John Langton Sanford, The English in America (1882, 1887) of John Andrew Doyle, and The Puritan Republic (1899) of Daniel Wait Howe.\(^ {11}\) For instance, in Sanford's work, the terms “sect”, “sectarian”, “sectarianism” are used eight times in all.\(^ {12}\) It is no doubt that the comparison of “a national church” and “a sectarian church”, of “churchmen” and “sectarians”, and of “doctrinal Puritanism” and “sectarianism”, and the description about Anabaptists and Quakers regarded as sects by Sanford exerted a certain influence on Weber's formulation of “church” and “sect”.

Concerning the thought of Roger Williams, Howe referred to it in The Puritan Republic. Weber's view about Roger Williams mainly depends on this work of Howe, except Jellinek's work. Howe wrote, “[Roger Williams was] the first resolutely to oppose the pretensions of the Theocracy. He, too, like many other ministers, had been driven from England to escape the persecutions of Laud. ——When the members of his own church refused to follow his advice to withdraw themselves from the other 'unregenerate' churches in Massachusetts, he excommunicated them by withdrawing
himself from fellowship with them. ——At last, toward the close of his life, he dissented from himself, and denounced as unsound the views of baptism which he himself had formerly advocated” (Howe, 211).

Weber, too, as previously shown, asserted that Williams was tolerant to all religions for the positive religious reasons, completely rejected the idea of a state church, was once again baptized in Rhode Island, and was for a time the Baptist preacher. Moreover he knew that Williams later dissented even from the Baptists. However, unlike Howe and Jellinek, Weber did not refer to the primary materials of Roger Williams or his writings. Therefore Weber could not fully understand the reasons Williams “was already opposed to the principle of the state church.” According to Roger Williams’ main work, The Bloody Tenent of Persecution for Cause of Conscience (1644), The biggest reason is that by the unity of church and state, and under a state church or an established church, “the blood of so many hundred thousand souls of protestants and papists was spilt in the wars of present and former ages, for their respective consciences.”

These historical facts were for him neither required nor accepted by “Jesus Christ, the Prince of Peace.” Williams purely believed in Jesus Christ’s Words, i. e. “Happy are those who work for peace. God will call them his children” (Mt. 5:9), “Love your enemies and pray for those who persecute you” (Mt. 5:44), and “All who take the sword will die by the sword” (Mt. 26:52).

In order to make peace, he demanded freedom of religion, freedom of conscience, “soul liberty”, and the complete separation of church and state. Speaking more concretely, for the sake of the realization of freedom of religion and of conscience, it was necessary that a permission of the paganish, the heretic, Jewish, Turkish, and anti-Christian consciences and worship was granted to all men in all nations. For the sake of the realization of the complete separation of church and state, it was necessary that a wall of separation between the “Garden of the Church” and the “Wilderness of the World” was built.

Regarding the latter, it is well known that later, in 1776: Congregationalist, 64.2 percent; Episcopal, 17.7 percent; Baptist, 9.4 percent) complained to Jefferson that they enjoyed religious privileges as religious favors granted by the power of the civil government that were inconsistent with the rights of freemen, but did not enjoy them as inalienable rights. In other words, in the state of Connecticut there was the possibility that the civil government would intervene in a religious matter between God and individuals. Jefferson wrote to them, “I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should ‘make no law respecting an establishment of religion, or prohibiting the free exercise thereof,’ thus building a wall of separation between Church and State.”

The phrase “make no law respecting an establishment of religion, or prohibiting the free exercise thereof” is a passage from the First Amendment (Amendment I) to the United States Constitution. Jefferson was an ardent believer in the separation of religion and politics and the right to freedom of religion. Although it is not obvious whether Jefferson read the writings of Williams and recognized his term “a wall of separation” or not, it is no doubt that the roots of this term consisted in the thought and behavior of Williams.

At any rate, the religious behavior of Williams in Massachusetts had been severely criticized by John Winthrop (1588-1649), the governor in the Massachusetts Bay Colony, and he was finally banished from there. Weber saw a prototype of the concept of sect in the Baptists that Roger Williams had been for a time affiliated with. Weber wrote, “The pure sect must advocate ‘tolerance’ and ‘separation of church and state’ for several reasons: The first reason is because it is in fact not a universalist redemptory institution for the repression of sin and can hear political as little as hierocratic regimentation. The second reason is because no official power can dispense grace to unqualified persons and, hence, all use of political force in religious matters must appear senseless or outright diabolical. The third reason is because the sect is simply not concerned with outsiders. The fourth reason is because, taking all this together, the sect just cannot be anything but an absolutely voluntary association if it wants to retain its true religious identity and its effectiveness. Therefore, consistent sects have always taken this position and have been the most genuine advocates of ‘freedom of conscience’.” It seems obvious that one of the roots of key concepts of Weber's
“sect”, i.e. “tolerance”, “separation of church and state”, “senselessness of all use of political force in religious matters”, and “an absolutely voluntary association” consists in Roger Williams’ views on religion and politics.

3.2. Another Main Reason of the Formation of the Concept of Sect

Another main reason that the concept of Weber’s “sect” was formed has to do with the close connection between the Protestant sects and freedom of religion that Jellinek had regarded as the origin of human rights in his work, The Declaration of the Rights of Man and of Citizens. This work has three editions, i.e. the 1895 edition, the 1904 edition, and the 1919 edition which had been written until about 1909 and was published in 1919 by his son, Walter Jellinek. Weber referred to the 1895 or 1904 edition in “the Protestant Ethics” of 1905. In the editions of 1895 and 1904, Jellinek had not used the term “Baptists” or “sects”. However, these terms were incorporated into the 1919 edition. The reason is that his view on Protestantism or Puritanism was criticized as anarchic by neighboring states.

According to Weber, while an essential characteristic of conscience. Moreover they criticized it as godless skepticism. There was freedom of conscience only in Rhode Island. As this state was the Baptist state, it was severely criticized as anarchic by neighboring states.”

Congregational Churches were in those days the religious majority in Massachusetts. They formed an established church and a theocratic government, and suppressed the religious minority that took the views different from them. In the sense the Congregationalists or Congregationalism cannot be connected to the idea of freedom of religion.

The second is that while Jellinek tried to grasp the character of religious belief of Roger Williams in the category of the Reformed Church (the Calvinist Church) or the Congregational Church, Weber recognized it appropriately in that of the Baptists or the Protestant sects. Troeltsch also pointed out that Jellinek confused Calvinism or the Congregationalists with the Baptists. Weber and Troeltsch traveled in the United States in 1904 and attended some congregations of Protestant churches and sects. In particular, Weber attended the German Reform Church (September 6), Methodist church service (October 16), African American church service at Nineteenth Street Baptist Church (October 23), the Quaker service at Haverford Friends Meeting (October 27), and the First Church of Christ Scientist (November 6). Although Jellinek gave his supports to their travel, his own did not visit the United States. It seems to me that what there was no experience of visit to the United States became a great cause of Jellinek’s mistakes.

At any rate Weber wrote his essays “ ‘Church’ and ‘Sects ’ ” (1906) and “ ‘Church’ and ‘Sects’ in North America” (1906) after his return from the United States. It is doubtless that the most important reason that he described two types of “church” and “sect” in two essays consisted in Jellinek’s confusion of the type of “church” (Reformed Churches, Congregational Churches) with that of “sect” (Baptists, Quakers). Weber analyzed the difference between two types as follows: “For all the sects that grew out of the magnificent Baptist movement, the ‘separation of church and state’ is a principle of dogma, while for radical Pietistic communities (Calvinist Independents and radical Methodists), it is at least a structural principle.”

According to Weber, while an essential characteristic of all the sects that grew out of the magnificent Baptist movement was to demand the prohibition of the state’s intervention into the church and the separation of church and state, concerning the type of church, such as the
Reformed Church, the Calvinist Independents, and the Congregationalists (the Congregational Church), the complete separation of church and state was not realized by them, and they had the tendency of theocratic and authoritarian government. Therefore freedom of religion or of conscience was based upon the principle of the absolute and complete separation of church and state that the Protestant sects had asserted in the 17th century. And this Protestant assertion or demand was in the second half of the 18th century incorporated into the bills of rights in American states (after 1776), the Virginia Act for Establishing Religious Freedom drafted by Thomas Jefferson (1786), and the First Amendment (Amendment I) to the United States Constitution (1791).\(^{(20)}\)

4. Conclusion

From what has been discussed above, I can conclude that there is the historical and theoretical relationship between the Protestant sects (the Baptists, the Quakers, etc.) and freedom of religion or of conscience that Weber asserted in his writings. Unlike Jellinek, Weber emphasized not only the historical and political significance of Roger Williams’ thought, but also that of the Protestant sects’ doctrines and demands. Their primary religious and political purpose was to demand religious toleration, realize the separation of church and state, and acquire the right to freedom of religion or of conscience.

Finally, in connection with this, I would like to refer briefly to the difference of meaning between “religious toleration” and “freedom of religion”. According to Weber, freedom of religion was peculiar to modern times and the West, while religious tolerance was not so. There was religious tolerance even under the caesaro-papist regimes of Rom, China, and India. It “has ruled in China, in India, in the great empires of the Near East in Hellenistic times, in the Roman Empire and the Mohammedan Empires for long periods.” The main factor is that the most diverse cults of subjected states were permitted by such great empires and no religious compulsion existed. However this “tolerance” existing prior to modern times was limited by the official cult of the power of the state and was not granted for pure religious reasons, but for political and expediential reasons. On the other hand, the characteristic of freedom of religion is that the demand for acquiring it was made by pure religious reasons. In other words, the right to freedom of religion or of conscience was the natural, inalienable, and individual right given by God and existing prior to the state.

The reason that James Madison absolutely insisted on incorporating not the term “religious toleration” but the term “religious freedom” into the draft of Virginia Declaration of Rights enacted on June 12, 1776 is that he recognized fully the significance of freedom of religion.\(^{(20)}\)

One of my future issues is to discuss in more detail the conceptual difference between “religious tolerance” and “religious freedom”.

Notes


(2) The following abbreviations of frequently cited writings of Max Weber are used throughout this paper.


(3) “Freedom of religion” and “freedom of conscience” are for Weber synonymous.


(5) Ashibe, N., Kenpo (Japanese), Tokyo, 2011, 83.


(9) Jellinek (1901), 59ff.


(12) Sanford, 65f.


(14) Williams (1848), 435.


(21) Gaustad (1999), 23f., 47.

(22) Howe (1899), 210.

(23) Troeltsch (1906), 31f.


(28) Sano (2012), 107f.

プロテストントの諸ゼクテと人権の起源
—マックス・ヴェーバーのゼクテ概念について—

佐野誠 奈良教育大学社会科教育講座（法律学）

マックス・ヴェーバー（1864－1920）のプロテストンティズムの倫理を基盤とする「資本主義の精神」論は、多くの研究者によって繰り返し論じられてきた。おそらくこれに関する全世界の論文数は千を優に超えるものと思われる。しかし、ヴェーバーのプロテストンティズムの倫理を基盤とする人権論を論議してきた研究者は極めて少ない。その主たる要因の1つは、彼が人権についての体系的、組織的な著作を残していないことである。しかし、このことは彼が人権というテーマに関心がなかったことを意味しない。むしろ事態は逆である。彼は存命中、宗教的宽容、信教の自由、良心の自由、法の前の平等、そして参政権等の人権の諸問題に正面から向き合った。特に、彼の同僚、ゲオルク・イェリネク（1851－1911）と同様に、人権の起源に関する問題に関心を抱き、積極的にそれに取り組んだのである。

本稿の目的は、これまで「ヴェーバリアン」を始めとする多くの研究者によって等閑視されていたヴェーバーの人権の起源論、とりわけ「信教の自由」、「良心の自由」の歴史的、理論的起源についての彼の見解を検討することである。これはヴェーバーの提起した「資本主義の精神」論のいわば法学版とみなすことができる。

本稿で検証したことは以下の3点である。第1は、信教の自由の形成とバプティストやクウェーカーに代表される17世紀プロテストント諸ゼクテの教義との間に密接な関係があったことである。ヴェーバーは再三再四、ゼクテの教義、主張、そして要求が、近代の「信教の自由」や「良心の自由」の獲得に大きな影響を与えたことを強調した。第2は、ヴェーバーの社会学的、理念型的意味におけるゼクテ概念形成の歴史的源泉および諸資料が、19世紀後半の歴史学者や神学者の優秀な著作にあったことである。19世紀後半にすでにヴェーバーが提起した「ゼクテ」類型と「教会」類型の先取りがなされていた。その意味で、一部研究者によって主張されてきたエルンスト・トレルチ（1865－1923）のヴェーバーの教会・ゼクテ類型に与えた学的影響力は、比較的相対的に小さいと考えられる。最後に第3は、ヴェーバーがゼクテ概念を形成しようとした重要な動機の1つに、プロテストンティズムのゼクテに関するイェリネクの誤解があったことである。イェリネクはゼクテ類型であるバプティスト派やクウェーカー派を、教会類型であるカルヴァン派や会衆派と混同した。イェリネクが信教の自由の獲得に貢献した人物として高く評価するロジャー・ウィリアムズ（1603-1683）は会衆派に属する人ではなく、ヴェーバーの言うようにバプティスト派に属し、晩年には様々な宗教的教派から自由になった人である。17世紀の会衆派は、マサチューセッツ湾植民地で神権的、権威主義的統治を推進した宗教的多数派であり、宗教的少数派の信教の自由、良心の自由をむしろ抑制する側にあったのである。