

RETHINKING THE HISTORICAL BASIS FOR THE PROTECTION OF
HUMAN RIGHTS: THE ROLE OF UNIVERSAL NORMS, STATE POWER,
AND SOCIAL STRUGGLES

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HUMAN RIGHTS: THE ROLE OF UNIVERSAL NORMS, STATE POWER,
AND SOCIAL STRUGGLES**

submitted by **BİLGE ECE ZEYREK** in partial fulfillment of the requirements for the degree of **Master of Science in International Relations, the Graduate School of Social Sciences of Middle East Technical University** by,

Prof. Dr. Yaşar KONDAKÇI
Dean
Graduate School of Social Sciences

Prof. Dr. Ebru BOYAR
Head of Department
Department of International Relations

Assoc. Prof. Dr. Pınar BEDİR HANOĞLU TOKER
Supervisor
Department of International Relations

Examining Committee Members:

Assoc. Prof. Dr. Cenk SARAÇOĞLU (Head of the
Examining Committee)
Ankara University
Department of Journalism

Assoc. Prof. Dr. Pınar BEDİR HANOĞLU TOKER
(Supervisor)
Middle East Technical University
Department of International Relations

Assoc. Prof. Dr. Şerif Onur BAHÇECİK
Middle East Technical University
Department of International Relations

I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.

Name, Last Name: Bilge Ece ZEYREK

Signature:

ABSTRACT

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ZEYREK, Bilge Ece

M.S., The Department of International Relations

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The continuation of human rights crises at a time when human rights have become a common value in both international and local politics is a puzzle that needs to be questioned. This thesis searches for an answer to this question by critically overviewing the history of human rights, in which the idea and practice of universal human rights have developed by considering universal norms, state power, and social struggles. The 18th century, the post-1945 period, and the post-Cold War period are examined with the conceptual framework developed by Hannah Arendt and Jacques Ranciere to argue that the modern state plays a critical role in protecting human rights, but it is also a potential violator. The state's position in its dual role is determined by the social struggles of people who have become the subjects of rights through the process of political subjectivation. Thus, the concept of human rights is a field of struggle, and its subjects and content are constantly redefined by social struggles.

Keywords: Human Rights, History of Human Rights, Human Rights Norms, Human Rights and State, Human Rights and Social Struggles

ÖZ

İNSAN HAKLARININ KORUNMASININ TARİHSEL TEMELİNİ YENİDEN DÜŞÜNMEK: EVRENSEL NORMLARIN, DEVLET GÜCÜNÜN VE SOSYAL MÜCADELELERİN ROLÜ

ZEYREK, Bilge Ece

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İnsan haklarının hem uluslararası hem de yerel siyasette ortak bir değer haline geldiği bir dönemde insan hakları krizlerinin devam etmesi sorgulanması gereken bir bilmececiir. Bu tez, evrensel insan hakları düşüncesinin ve pratiğinin geliştiği insan hakları tarihine evrensel normları, devlet iktidarını ve toplumsal mücadeleleri göz önünde bulundurarak eleştirel bir gözle bakarak bu soruya yanıt aramaktadır. 18. yüzyıl, 1945 sonrası dönem ve Soğuk Savaş sonrası dönem Hannah Arendt ve Jacques Ranciere tarafından modern devletin insan haklarının korunmasında kritik bir rol oynadığını, ancak aynı zamanda potansiyel bir ihlalcii olduğunu savunmak için geliştirilen kavramsal çerçeve ile incelenmektedir. Devletin ikili rolünde hangi konumda durduđu, siyasal özneleşme süreciyle hakların öznesi haline gelen insanların toplumsal mücadeleleri tarafından belirlenir. Dolayısıyla insan hakları kavramı bir mücadele alanıdır ve özneleri ve içeriği toplumsal mücadelelerle sürekli olarak yeniden tanımlanır.

Anahtar Kelimeler: İnsan Hakları, İnsan Hakları Tarihi, İnsan Hakları Normları, İnsan Hakları ve Devlet, İnsan Hakları ve Sosyal Mücadeleler

To the victims of human rights violations

To the people who struggle for a life worthy of human dignity

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LIST OF ABBREVIATIONS

AI	Amnesty International
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CMEA	Council of Mutual Economic Assistance
COVID-19	Corona Virus Disease 2019 caused by SARS-CoV-2
CRC	Convention on the Rights of the Child
CRPD	Convention on the Rights of Persons with Disabilities
CSCE	Conference on Security and Cooperation in Europe
EU	European Union
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
IMF	International Monetary Fund
LN	League of Nations
NGO	Non-governmental Organization
OHCHR	The Office of the United Nations High Commissioner for Human Rights
RSE	Right to Have a Safe Environment
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNAIDS	Joint United Nations Programme on HIV/AIDS
UNEP	United Nations Environment Program
UNFCCC	UN Framework Convention on Climate Change
UPR	Universal Periodic Review
US	United States
USSR	Union of Soviet Socialist Republics

WTO World Health Organization

CHAPTER 1

INTRODUCTION

1.1. Subject of the Thesis

The idea that every human has certain rights by virtue of his/her humanity has gained popularity in international politics after the devastating consequences of the Second World War. Fifty-one states came together and established the United Nations (UN) in 1945 to maintain world peace and security. On 10 December 1948, the UN General Assembly (1948b) adopted one of the most referenced human rights documents, the Universal Declaration of Human Rights (UDHR). The Declaration has set standards for human rights for the first time. States, having legally, ideologically, and culturally different backgrounds, have declared that they are committed to the universal protection of human rights. Today, the Declaration has been translated into more than 500 languages (Universal Declaration of Human Rights, n.d.).

In the 1990s, with the dissolution of the Soviet Union and the intensification of globalization, the importance of human rights in international and local politics seemed to increase. Liberal institutionalist perspectives in International Relations have argued that the efforts of various intergovernmental and non-governmental organizations, as well as numerous bilateral and multilateral agreements and mechanisms, have formed the basis of the international human rights regime. Human rights have become synonymous with liberal democracies, and today, the legitimate constitution of sovereignty is said to base on human rights (Barkin, 1998).

In such a context where human rights are firmly safeguarded by international law, states are given clear duties to protect them, and thus human rights are almost universally accepted. One would expect no human rights violations, at least no gross ones worldwide. In fact, our world was envisaged to be “a peaceful posthistorical world where global democracy would match the global market of liberal economy,” as Ranciere (2004, p. 297) maintained. However, the reality has been just the opposite. The last decades have been marked by gross human rights violations such as ethnic massacres, acts of terrorism, poverty, civil wars, and discrimination based on race, gender, religion, and identity. Torture, disappearances, and sexual assaults take place all over the world. In response to these, states and the international community are denouncing human rights violations and making promises that they will make more efforts to stop them, while on the other side holding talks with the Taliban, who is responsible for gross human rights violations, and recognizing it as the legitimate sovereign.¹

This contradictory picture requires critical investigation. While more than 70 years have passed since the Universal Declaration was adopted and the need to protect human rights has become a universal norm in the 21st century, how can we explain the prevalence of gross human rights violations worldwide? The continuation of human rights crises at a time when human rights have become a shared value in both international and local politics is a puzzle that needs to be questioned. This thesis will search for an answer to this question by critically overviewing the history of human rights, in other words, the historical context within which the idea and practice of universal human rights have developed.

¹ An example is the US-Taliban Deal on February 29, 2020.

Indeed, this history has already been written with different emphases by competing perspectives in the field. One of the essential points of divergence in this regard turns out to be the historical origin of universal human rights, where there are three different views. According to the first view, the beginning of the notion of universal human rights goes back to Ancient Greece (Freeman, 2017). This view argues that although there are ups and downs in history, the concept of universal human rights has evolved over time, a perspective that problematizes the development of the concept within a progressive historical continuity.

According to the second view, rights gain meaning when they acquire political content. Unlike the first view, the second view argues that universal human rights have emerged as a result of political events and popular movements starting from the 1700s, rather than following an evolutionary path since ancient times. Hunt (2007) argues that rights had no direct political statement until the United States Declaration of Independence of 1776 and the French Declaration of the Rights of Man and Citizen of 1789. In addition to the fact that rights acquired a political content in the 17th and 18th centuries, this was the period when the struggles for rights led to a significant maturation in terms of ideas, and a compact human rights doctrine began to take shape (Uygun, 2020).

Lastly, the third view states that the history of universal human rights started in 1945 when the United Nations was established (Freeman, 2017). The proponents accept that many precursors took place before the establishment of the UN and the Universal Declaration. However, one can speak of universal, inalienable, and indivisible human rights only in the second half of the 1940s. This view is based on international and regional human rights documents and instruments signed and ratified nearly universally.

This brief overview of different historical origins identified for the original development of universal human rights shows that the crux of the matter lies

in its timing and context. What gives human rights their universality can be problematized regarding their normative acceptance as ideals, political enforcement by states, and/or social enforcement by societal forces at different scales (national, international, global, or transnational). Moreover, these different contextual frameworks would also lead to comprehending the same historical process differently. In this thesis, the historical basis of the protection of human rights will be critically re-examined by taking into consideration of all these three dynamics, namely universal norms, state power, and social struggles, while the thesis will follow those critical perspectives that associate the idea and practice of universal human rights with the development of modernity.

This will mean that even though ancient Greek and Roman civilizations have given significant inspiration to the modern development of the concept, ancient period will not be discussed here². The investigation will firstly focus on the 18th century when rights were 'invented' and used closest to their modern meaning. Then the post-1945 period will be rethought as it was in this period that the concept of universal human rights gained popularity and started defining the international policy agenda via various pioneering political and social developments. Lastly, the human rights developments in the post-Cold War era will be analyzed by focusing on three current human rights crises.

The conceptual framework derived from Hannah Arendt and Jacques Ranciere will be used during this re-examination. Arendt's concept of the 'right to have rights' via the very existence of the modern state, to which Arendt attaches a fundamental role in the constitution of human rights and

² For the contributions of Ancient Greece and other pre-modern civilizations to human rights, see Ishay, M. R. (2004). *The history of human rights: From ancient times to the globalization era*. University of California Press., and Donnelly, J. (2013). *Universal human rights in theory and practice* (3rd edition). Cornell University Press.

citizenship, will be rethought in the light of Ranciere's critique of Arendt. It will be maintained that while there is the need to recognize the centrality of modern states in protecting human rights, it is also essential to highlight the constitutive role of social struggles in drawing limits to political actors in human rights politics. In other words, as Ranciere underlines, while examining the history of human rights, the struggles for the inclusion of new subjects and issues in the human rights category need to be problematized within the political and social context of the specific period analyzed.

1.2. Conceptual Framework

International human rights standards and mechanisms emphasize that rights are universal and that people are born with these rights regardless of their gender, race, religion, or state. However, states are the main actors in the implementation and protection of these rights, even though the universal attributes of these rights transcend any political institution, including the states. This creates tension between the state and the people because states emerge as also potential violators³ (Dağı, 2006). The state carries out its duty to implement and protect the human rights of individuals through the citizenship relationship. In order to understand the issue of the protection of universal human rights, it is important to discuss the subjects of human rights and their relationship with the state.

Hannah Arendt's contribution is important in the discussions about who is the subject of human rights. Arendt radically criticizes the universality of human rights. Her criticism of human rights mainly focuses on statelessness, which she experienced herself and whose members increased rapidly with the construction of the nation-states in the mid-20th century. Although this

³ For a legal examination of the function of state officials in the dual role of the state as both a protector and a violator of human rights, see Aydın, O. (2022). *İhlal eden ve koruyan olarak devletin insan hakları geriliminde failin kaybı* [Unpublished doctoral dissertation]. Ankara Üniversitesi.

study does not directly focus on statelessness, Arendt's work is included in terms of her contribution to the discussion of the subject of human rights. Stateless people apparently seem to have lost their legal citizenship status in only one state. However, Arendt argues that this loss of citizenship in one state also means the loss of human rights everywhere. In this case, a right can be mentioned as a prerequisite for human rights, and that is the right to have rights (Arendt, 1973).

Arendt's critique of human rights does not suggest the abolition of rights altogether but underlines the importance of citizenship and being a member of a political community to be able to enjoy these rights. The only real human right she emphasized, the right to have rights, can, in fact, be understood as the right to be a citizen or a member of a political community. However, in her discussion, she does not explain the institutional guarantee of the right to have rights. The plight of the stateless has shown that nation-states do not guarantee the protection of their citizens' universal human rights by themselves (Gündoğdu, 2014).

Arendt questions the subjects of rights and argues that universal human rights are citizens' rights because when people become stateless, they can no longer use their human rights. Arendt does not find the abstract subject of humanity on which international human rights documents are based correct. According to her, the most basic right is the right to be a member of a political community. People enjoy all other human rights only when they have this right. Arendt's contribution to this thesis is her emphasis on the state and citizenship in the human rights debate. This study acknowledges that the issue of human rights actually involves a necessary discussion of the state. The state is at the very center of human rights, both as a protector and potential abuser.

One reason why Arendt considers it necessary to be a member of a political community as a condition of having human rights is that she sees man as a 'political animal' as Aristotle did (Arendt, 1973). She considers speech and

action the most basic features of human life, and these two characteristics can only occur in the public sphere. According to Arendt (1973), there is a sharp distinction between the public and private spheres; while the former is the field of equality, the latter is the field of inequality. Individuals who are not members of a political community are stuck in the private sphere and are in a situation of rightlessness, such as the stateless people who not only lose their homes but also their rights when deprived of citizenship (Arendt, 1973).

On the other hand, French philosopher Jacques Ranciere (1940-) has a different account of human rights. Ranciere criticizes the Arendtian approach to human rights. For him, the Arendtian approach creates an “ontological trap” by seeing the subject of human rights as either human (mere life, belonging to the private sphere) or citizen (belonging to the public sphere) (Schaap, 2011, p. 29). If the subjects of human rights are citizens, meaning human rights can be reduced to citizenship rights, they are unnecessary because “they are the rights of those who have rights,” which leads to tautology (Ranciere, 2004, p. 302). On the contrary, if the subject of human rights is human, without the condition of membership in any political community, this leads to nothing since Arendt says that people in this situation are rightless since they do not have state protection. So, in this case, human rights mean “rights of those who have no rights” (Ranciere, 2004, p. 302). Arendt’s quandary amounts to “at best, to a depoliticized account of human rights and, at worst, to the justification of an anti-political humanitarian politics” (Schaap, 2011, p. 29).

People not members of any political community are deprived of their rights and place in public space and politics (Arendt, 1973). Arendt does not answer how these people, stuck in private life, claim their right to have rights publicly (Schaap, 2011). As an alternative to Arendt’s dilemma on the subject of rights, Ranciere offers a third option: “the Rights of Man are the rights of those who have not the rights that they have and have the rights that they

have not” (p. 302). To understand this concept, which he calls ‘the process of political subjectivation⁴’, it is necessary to look at his political thought.

Ranciere distinguishes between ‘the police order’ and ‘the politics.’ According to him, what comes to mind today when politics is mentioned is the order protected by ‘the police’ (Ranciere, 1999). It involves “the institutions and processes governing the organization and representation of communities, the exercise of power, the way social roles are distributed and the way that distribution is legitimated” (Davis, 2010, p. 76), namely the field of everyday politics with all its institutions, processes, and ways of doing. Ranciere defines the field of struggle in which subjects show their equality in politics and uses it interchangeably with democracy (Gündoğdu, 2017). He sees democratic politics as “the terrain upon which the verification of equality confronts the established order of identification and classification” (Rockhill, 2013, p. 93-94).

According to Ranciere, democratic politics is “the struggles of disenfranchised or marginalized groups who demonstrate their equality by exercising the very capacities they supposedly lack and by enacting the rights they are not entitled to claim” (Gündoğdu, 2017, p. 189). The functioning of the subjects’ struggle is based on “the presupposition of the equality of anyone and everyone” (Ranciere, 1999, p. 17). With the equality precondition, the subjects reject the roles and hierarchies distributed by the police order that prevent them from being equal. In other words, democratic politics is a field of struggle in which existing definitions, institutions, and orders are tried to be changed by political subjects. As May (2010) summarizes, “[e]quality, instead of being the result of a political process, must be conceived as the presupposition of those who act” (p. 5).

⁴ In different translations of Ranciere's work, the terms subjectivation and subjectification are used to mean the same thing. In this text, these terms are used interchangeably.

Ranciere calls the subject's struggle for equality as political subjectivation. Regarding the subjectification process that underlies democratic politics, Ranciere (1999) says:

[b]y subjectification I mean the production through a series of actions of a body and a capacity for enunciation not previously identifiable within a given field of experience, whose identification is thus part of the reconfiguration of the field of experience (p. 35).

The process of political subjectivation, which is a "struggle for existence as a political subject" takes place:

[w]hen those who have no recognized part in the social order, the *sans-part* who do not 'count', who are invisible or inaudible politically speaking, assert their egalitarian claim, which is always also a collective claim to existence as political subjects (Davis, 2010, p. 84).

Several features stand out in the process of political subjectivation. First, the subjects come together to form a collective subject. Here, it is necessary to emphasize the distinction between identity politics and subjectivation (May, 2010). The aim of Ranciere's process of becoming a collective subject is not to unite the subjects under a particular name, label, or belonging, "but their declassification from the identities of the police order" (May, 2010, p. 12). Secondly, the collective subject becomes recognized as the collective subject through certain actions, and it emerges as a previously nonexistent or unrecognizable subject. Finally, the collective subject leads to the reconfiguration of the existing experiences. All fields of experience are reshaped when a collective subject demands equality by challenging the hierarchy and inequality in the police order (May, 2010).

One example of political subjectivation is the women's movement. There were women as individuals before the women's movement. However, through the process of political subjectivation, women created a new subject as a group, a collectivity. At the same time, this subject consists not only of women but "women-equal-to-men," which is a new identity (May, 2010, p. 48). This new collective subject has been recognized as a political subject

that demands equality through various actions and speeches. Women cause a political redistribution by breaking away from their roles in the police order.

Through this example, the difference between the process of becoming a collective subject and identity politics should be emphasized once again. In the process of political subjectivation, individuals come together to form a collective subject. Women, blacks, and queer people can be given as examples. Nevertheless, the driving force that brings these people together is the principle of equality, not identities (May, 2010). May continues that subjectification rejects existing classifications and identities in the police order and "does not repeat the names of a police order; it creates its own name" (p. 13). In this context, according to Ranciere, the political subject can be defined as:

an empty operator that produces cases of political dispute by challenging the established framework of identification and classification. Through the process of subjectivation, political subjects bring politics proper into existence and confront the police order with the heterology of emancipation (Rockhill, 2013, p. 94).

A few elements of democratic politics in which the political subjectivation process that Ranciere emphasizes takes place can be summarized as follows. First, Ranciere's portrayal of democratic politics is bottom-up because "[i]t starts from the people who engage in political action, and sees changes in the state (or the economy, or the family, etc.) as resulting from that (May, 2010, p. 14). Individuals take an active role in verifying the presupposition of equality and become political subjects. In this sense, the principle of equality has an active, not passive, meaning.

Second, Ranciere's process of political subjectivation is non-violent (Gündoğdu, 2017). As mentioned earlier, individuals reject identifications in the police order, becoming collective subjects that have a new meaning and thus detach themselves from existing definitions. In other words, they create 'dissensus' (May, 2010). "Dissensus as a political activity differs from mere revolt that pits force against force" (Gündoğdu, 2017, p. 204). Non-violent

political action does not mean being passive. On the contrary, Ranciere argues that it is necessary to resist elites trying to maintain police order, but “that resistance must recognize the equal humanity of those who see themselves as greater than equal to the rest of us” (May, 2010, p. 23). People try to verify their equality and pretend to have rights they do not have and become subjects of rights by non-violent actions such as demonstrations, protests, and marches aiming at “a logical or argumentative confrontation over whose speech counts in a political community” (Gündoğdu, 2017, p. 188).

Thirdly, Ranciere’s democratic politics can happen “anywhere from the workplace to the classroom to the theater to the street” (May, 2010, p. 22). The struggle of the subjects that Ranciere emphasizes is possible not only in electoral politics but also in all areas of life where the police distribute the sensible. The presupposition of equality applies to every aspect of life, “from gender equality to workplace equality to equality in participation in athletic events” (May, 2010, p. 24). In summary, Ranciere’s democratic politics includes all areas of life and can engage in the struggle to verify equality in all areas through the process of political subjectivation.

Ranciere’s contribution to the human rights debate is his examination of who is the subject of rights and critique of Arendt’s depoliticizing approach to human rights. In Arendt, people who are stateless and cut off from political life are completely rightless and do not know how to become subjects of rights again. However, with Ranciere’s concept of ‘the process of political subjectivation,’ even if people are not citizens, they can become subjects of politics and rights by resisting existing definitions and limitations.

There is always tension between the police order and democratic politics. The police try to protect the existing order and subjects. Despite this, new subjects and new issues can become a part of politics through the process of political subjectivation. The abstractness of the subject of rights, which is

not limited to citizenship, which Arendt fears and finds dangerous, is liberating for Ranciere (2004) because:

Political subjects are not definite collectivities. They are surplus names, names that set out a question or a dispute (litige) about who is included in their count. Correspondingly, freedom and equality are not predicates belonging to definite subjects. Political predicates are open predicates: they open up a dispute about what they exactly entail and whom they concern in which cases (p. 303).

The more open and unclear the subject of rights is, the more inclusive and open to change it becomes. When it is said that human rights, for example, are citizens' rights, then many groups are excluded from the definition of subjectivity. Developing a universal discourse of human rights and expanding both their content and their subjects are only possible through the struggle for the political subjectivation of individuals.

The conceptual framework of this study will rest on the views of Hannah Arendt and Jacques Ranciere within the boundaries of the above discussion. Arendt, who considers being a member of a political community as a condition of being entitled to rights and asserts that universal human rights are actually citizens' rights, shows the importance of the modern state as an institution in the implementation and protection of human rights. In contrast to Arendt's somewhat limited definition of the subject of rights, Ranciere uses the concept of political subjectivation. He sees a constant struggle between politics, whose subjects and boundaries are determined by the police, and a political field in which the subjects try to get involved in politics. Ranciere, who equates being the subject of politics with being the subject of rights, favors the definition of a universal subject whose meaning and content are contingent upon the struggles in the political field rather than its defined and limited meaning in politics. Drawing on Ranciere, this study looks at human rights as a field of struggle, in which while the dominant classes try to protect the existing definitions and subjects of human rights following their interests, new subjects, especially the lower classes as well as disadvantaged people based on their identities, are trying to expand the definition and subject of

rights. The history of universal human rights will be reconsidered with the above-mentioned conceptual framework.

In short, while providing a critical re-consideration of the history of universal human rights, this thesis will maintain that both the universality of human rights and their state of protection by the states are subject to change by the processes of political subjectivation, thus within political and social struggles. While modern states are part of the field of 'police order,' social and political struggles capable of constituting new political subjects within democratic politics would force the states to protect universal human rights more effectively, or the contrary is also true. The thesis will argue that the history of universal human rights is a process of continuous redefinition of the content and subject of human rights through social struggles.

1.3. Outline of the Thesis

This thesis consists of four main chapters. The following second chapter examines the developments in the 18th century, which point to a break in modern politics and human rights. The contributions of the thinkers of the period to political philosophy in the context of the social contract are discussed. Then, in the American War of Independence and the French Revolution, the efforts of the lower classes to equalize with the dominant classes in the political field and to enjoy human rights are mentioned. The declarations, which were written as a result of these revolutions and accepted as the first human rights documents, are discussed in terms of their universality claims and understanding of state power in enforcing newly defined rights.

The third chapter focuses on human rights developments in the post-World War II period, which was another breaking moment in world history as well as in the history of human rights. In response to the gross human rights violations during the war, the world came together with the slogan 'never again' in the post-War period. In addition to the human rights developments

in this period, which meant the institutionalization and internationalization of the protection of human rights, the political context in which these developments took place will also be examined. The ideological, political, and economic conflicts of this period, known as the Cold War, were also reflected in human rights politics, and the bipolar world witnessed the efforts of expanding the content of human rights and the political subjectivation of different groups.

The human rights developments in the post-Cold War era are analyzed briefly in the fourth chapter. The prominent issue of this period is that with the end of the Cold War tension, human rights ceased to be an issue of interstate struggle and became a popular notion that mobilized the masses. After drawing the general framework of the human rights debates in this period, three human rights cases will be focused to understand the current condition of the protection of human rights. These cases are the rights of non-citizens, environmental rights, and COVID-19-related rights. Then, the developments of this period will be reconsidered in the context of Arendt' and Ranciere's ideas on human rights.

Finally, in the last chapter, the conclusions reached after rethinking the history of the protection of universal human rights in the context of international norms, state power, and social struggles and through the conceptual framework formed by the views of Arendt and Ranciere are summarized. Then, the current regression of human rights, which was discussed in the introduction chapter as human rights crises, is re-evaluated with reference to the obtained results. This will include a brief discussion on the essence and future of this regression.

CHAPTER 2

18TH CENTURY: ENLIGHTENMENT IDEAS AND REVOLUTIONS

Introduction

The Enlightenment radically changed European political thought and contributed to the discussion and public awareness of new concepts such as the rights of man in the following decades. During the Renaissance period in the 15th and 16th centuries, man was considered a valuable asset. Renaissance humanism, which puts people at the center of fields such as philosophy, art, and morality, also contributed to the individualist approach in political philosophy that peaked with the Enlightenment. To summarize, Enlightenment was:

a European intellectual movement of the 17th and 18th centuries in which ideas concerning God, reason, nature, and humanity were synthesized into a worldview that gained wide assent in the West and instigated revolutionary developments in art, philosophy, and politics (Duignan, 2021).

In this period, when the idea of the rights of man emerged and became widespread, natural law theory also had an important place. The theory of natural law is built on the existence of natural law based on an eternal and immutable understanding of justice in the 17th century; it was above the law created by humans (Demir, 2006). In the understanding of natural law, the source of law was not society or the sovereign but God or nature. People had certain innate rights, and people in the state of nature renounced these natural rights and entered into social life with a social contract (Demir, 2006). The thinkers influenced by the natural rights theory were also interested in the social contract theory.

The capabilities of human reason became prominent, and thinkers started to question human nature, the formation of society, political authority, and inequalities inherited from the past. Philosophers such as Hobbes, Locke, and Rousseau were the first to develop social contract theory, which profoundly influenced political philosophy and the debate on the rights of man. Although there are differences between each theorist, social contract generally means that individuals living in the state of nature leave their absolute freedom and establish society and government with a contract.

2.1. Social Contract Theory

Thomas Hobbes (1588-1679) is the thinker who first elaborated on the social contract theory. In his work *Leviathan* (1651), Hobbes starts with human nature and describes humans as reasonable self-interested creatures whose primary concerns are attaining satisfaction and avoiding harm, living in a 'state of nature', a place which is "amoral, a pre-political stage of human social development" (Hayden, 2001, p. 57). In the state of nature, people are equal in their capabilities and demands. However, their egoistic nature requires them to compete with others for the scant resources (Hayden, 2001), which leads to a perpetual war "of every man against every man" as "men live without a common power to keep them all in awe" (Hobbes, 1998, p. 84). In short, Hobbes describes the life of a man in the state of nature as "solitary, poor, nasty, brutish, and short", and under such conditions, "there is no place for industry; because the fruit thereof is uncertain: and consequently, no culture of the earth; . . . no society; and which is worst of all, continual fear, and danger of violent death" (Hobbes, 1998, p. 84). Hobbes sees the way out of this constant state of war, where it is impossible to establish security and society somehow and form political authority. For this, free and equal individuals accept the transfer of their unlimited liberty to an absolute sovereign, the state, namely *Leviathan*, in order to punish those who do not obey the rules of the society; thus, a social contract is established between the governed and the governing (Hayden, 2001). The source of

legitimacy of the political authority established in this way is the natural rights of people transferred by the contract, not a 'divine right' as the absolutists advocate (Hayden, 2001). From the perspective of the rights of man, Hobbes' crucial contribution was the man's right to security and life, without which, for him, the social contract would be null (Ishay, 2004).

Another contributor to the social contract theory was the English philosopher and politician John Locke (1632-1704). He was undoubtedly one of the thinkers who played an essential role in developing and spreading the concept of individual rights. Locke witnessed the Glorious Revolution in 1688-1689, the period of peaceful political change in England, and anonymously published *Two Treatises of Government*, which was a source of inspiration for the 18th-century debates on the rights of man and the Revolutions (Stearns, 2012). In the *First Treatise*, he criticized Sir Robert Filmer's *Patriarcha*, opposing the divine rights granted to royal power (Encyclopedia Britannica, 2020c). In the *Second Treatise*, he asserted a theory of society, in which there is a tacit contract between government and governed, based on natural rights (Stearns, 2012).

Locke, like Hobbes, portrays a state of nature. However, his description is less brutal than Hobbes' because it is subject to the rules of natural law and divinely commanded moral principles that people can use their reason to find out (Wood, 2012). However, a government is still required to be formed since there is a need for an institution to settle disputes among free people and secure the fundamental natural rights of life, liberty, and property, which are hard to implement in a chaotic state of nature (Hayden, 2001). The government is empowered under certain conditions. If it does not comply with these terms, the power returns to the people again, which does not mean the disintegration of society and its return to the state of nature (Wood, 2012). With this argument, Locke indeed meant to limit the government's power and emphasized the individual's priority since the government's

source of legitimacy was conditional on protecting the natural rights of individuals and not acting arbitrarily (Hayden, 2001).

Locke's account of the formation of political government and civil society implies that people have a right to revolt and topple down a despotic government (Wood, 2012). Unlike previous thinkers, Locke sees this right to resist as an individual right and imposes responsibility on the individual to resist tyrannical governments (Uygun, 2020). Individuals who determine that the government has become illegitimate can overthrow the government with a popular uprising.

Social contract theory has often been applied to protect individual liberties against the state. According to Locke's approach, individuals do not transfer all the rights they have, but only certain rights necessary for providing security and justice. Thus, individuals still have inalienable natural rights, where "these rights define clear and precise limits to state power" (Uygun, 2020, p. 234). On the other hand, Hobbes departed from the majority's opinion and made use of the social contract to find a basis for absolute authority. Therefore, it is possible to say that the social contract thesis is not a foundation in his system but "a tool to establish authority" (Güriz, 2003, p. 199).

Locke's significant contribution to the rights of man discourse is property rights. In the *Second Treatises* (2003), he asserts that God has given the earth and all its resources to men in common. Employing their reason, men use these resources to meet their needs for survival and comfort. While rejecting the divine right of kingdoms over lands, he explains that private property is possible with the 'labor theory of estate' (Tannenbaum, 2012). A man who combines the existing resource in nature with his labor now becomes the owner of that output and thus overrides other people's right to appropriate (Wood, 2012). People began to own more property than they could consume by inventing a durable medium of exchange, namely, money, instead of exchanging perishable resources (Tannenbaum, 2012).

According to Locke, with the common meaning and consent given to money, people accepted the disproportionate, unequal distribution of property and the economic inequalities it created (Tannenbaum, 2012). Wood (2012) critically approaches Locke's argument and summarizes it as follows:

. . . no government can override that agreement [consenting to money] by seeking to alter the conditions of inequality to which men have agreed. The invention of money and everything that follows from it changes conditions so radically that natural law, together with man's natural freedom, equality and common possession of the earth, become consistent not only with private property but also with gross inequalities. And all of this has the legitimacy that comes from free consent (p. 268).

Hence, two controversial issues in Locke's political theory are social inequalities and the subject of rights. While in his description of the state of nature, people are born equal and free, in some cases, he accepts the inequalities that exist in the private sphere as natural (for example, the relationships between master-servant and the husband-wife) (Tannenbaum, 2012). In addition, his list of right-holders is limited to "propertied European males", excluding "women, along with savages, servants and wage laborers of either sex" (Donnelly, 1999, p. 82). Although he emphasized the self-made man, he was convinced that the rich dominate the poor, and he even rationalized the institution of slavery and serfdom (Wood, 2012).

Although Locke's failure to spread the principle of universal equality to all layers of society raises questions, his intellectual contribution to liberal political philosophy and popular movements cannot be denied (Tannenbaum, 2012). Locke's views undermined the absolutist governments and formed one of the intellectual foundations of the American and French Revolutions (Uygun, 2020). It should be noted that the right to resist mentioned by Locke is not passive resistance but rather the overthrow of the existing government by the people with an armed uprising. In this context, it can be said that Locke's views were taken forward and radicalized, leading to the bloody years known as the 'reign of terror' in post-revolutionary France.

Jean-Jacques Rousseau (1712–1778) is a political philosopher who differs from the Enlightenment thinkers by emphasizing passion and emotions rather than reason and arguing that civilization is not something that improves humanity (Tannenbaum, 2012). In *Discourse on the Origins of Inequality* (1755), he describes the multi-stage evolution of humanity from its primitive state to the advanced society (Bertram, 2020). Despite Hobbes and Locke, who describe human nature as unchanging, Rousseau argues the opposite and states that human nature is different at different evolutionary stages, namely “the primitive, aboriginal, transitional, and liberated” (Tannenbaum, 2012, p. 188). In *Social Contract* (1762), similar to his precedents, he states that “man is born free”; however, the subjection to civilization is the reason why “everywhere he is in chains” (Rousseau, 1962, Ch. 1). Humanity started to change and moved from primitiveness to civilization. Social, isolated individuals began to come together and form the nuclear family, eventually creating larger tribes and communities. The such transition led to civilization and to the two evils, private property and the division of labor, with which inequality and oppression became inescapable (Tannenbaum, 2012). Private property is the reason for the differentiation between master and servant, ruler and ruled. It paves the way for the transition of the ‘self-love’ of man into an egoistic self-interest (Tannenbaum, 2012). For human beings to be freed from their chains, individuals must ignore their interests and strive for the common good to be a part of a whole (Tannenbaum, 2012).

Rousseau agrees with Hobbes and Locke that agreement is the only legitimate way of forming a sovereign authority in society. In his social contract account, people transfer their natural rights to create a new sovereign political authority, representing the ‘general will’ of the community. The theory of the state described by Rousseau prioritizes, unlike Hobbes and Locke, the interests of the community, not the individual, and sees direct democracy as the ideal form of government, an idea which influenced the establishment of the French revolutionary government (Hayden, 2001).

Rousseau's social contract does not limit the sovereign's power because "there is not, nor can be, any fundamental law which is obligatory for the whole body of the People, not even the social contract itself" (Rousseau, 1962, Ch. 7). In addition, the sovereign power does not have to give guarantee to its subjects and cannot harm any of its members as it is composed of the will of the people. Rousseau argues that "the Sovereign, merely by virtue of what it is, always what it should be" (Rousseau, 1962, Ch. 7).

As for the contribution of his views to individual rights and freedoms, he limits the list of citizens constituting the general will to men only and emphasizes that the genders were not equal, as understood from his other works, such as *Emile*, in which male and female characters are educated based on their roles in the society, former as the breadwinner, later as the mother and wife. Considering the years he wrote, Rousseau's not seeing women as equals does not reduce the political importance of his thought. Even though, as with Locke, he does not even dwell on women's potential to become citizens and participate in the political arena, he gives the ordinary man, who may not own property, a new dignity by offering him the potential to be a citizen and form the general will (Tannenbaum, 2012). Instead of a group of elites making decisions on behalf of the whole society, Rousseau's suggestion to create a general will that all the people decide together for the common good was a possible answer to the question of 'who should govern' for the newly established states in the coming centuries.

2.2. Revolutions and Declarations

Those ideas and political thoughts, such as the social contract theories of the Enlightenment period, found response and transformed politics in Europe via processes of subjectivation in the political field in the 'age of revolutions'. It was true that they had been initially shaped by the political and social concerns of the enriching mercantile classes of the time, but the bourgeois transformative demands that they comprised moved beyond the

mercantile classes due to their universal claims. Thus, the ideas of equality and liberty became the basis for revolutionaries who wanted to change the existing political order and eliminate inequalities in society. The two revolutions that have an important place in history in defining the current meaning of human rights are the American and French Revolutions. In this part, rather than focusing on historical events, the contribution of the two documents declared after these revolutions to the development of human rights will be discussed.

Before getting into details of the declarations, one precursor event was the Glorious Revolution of England, also known as the 'Bloodless Revolution', which occurred in 1688 and 1689. James II was replaced by his daughter Mary II and her husband William III, or the Prince of Orange (Encyclopedia Britannica, 2020b). The new monarchy accepted the Bill of Rights, which acknowledged the role of the Parliament in governing the land and granted the right to free speech to its members (Brummett et al., 2005). This document formed the basis of the constitutional monarchy in England.

While the ideas of Locke and Rousseau began to be known by the literate middle-class all over Europe, they were also adopted by political leaders such as Thomas Jefferson in the American colonies (Stearns, 2012). The colonies that won the war against the British declared their independence in 1776. Embracing the concepts of the social contract and general will, the founders stated in the Declaration of Independence that the core values their newly founded state adheres to. Thus, the ideas put forward by political theorists gained a legal basis by taking place in the American Constitution later. In the U.S. Declaration, it is stated that "... all men are created equal, that they are endowed by their Creator with certain unalienable Rights...." (U.S. National Archives and Records Administration, n.d.)

Another turbulent country was France. Unable to cope with rising debts and growing economic and social inequalities in society, Louis XVI decided to summon the Estates-General, the representative assembly that had not met

since 1614 (Brummett et al., 2005). This assembly consisted of three groups, each having an equal weight of votes. There were the clergy (the First Estate), the nobles, well-established families that make up about five percent of the population (the Second Estate), and the commoners, the tax-paying males over 25 (the Third Estate) (Brummett et al., 2005). Although representing a larger segment of society, commoners had the same vote as the clergy and the nobility and thus insisted on a voting system by number. Some delegates from the clergy supported and joined the commoners. The delegates ultimately declared themselves as the National Constituent Assembly of France, sparking the fire that led to the French Revolution.

A period of radical political and social changes began in which their influence spread from France to the whole world. The slogans of 'liberty, equality, and fraternity' echoing in France were embodied in the Declaration of the Rights of Man and the Citizen prepared by the National Assembly. Similar to the American Declaration of Independence, it is emphasized in the first article of the French Declaration that "Men are born and remain free and equal in rights" (Hunt, 1996). Lockean ideas were decisive in drawing the purpose and boundaries of the newly formed government of the revolutionaries. In Article 2, the purpose of every political association was defined as "the preservation of the natural and inalienable rights of man; these rights are liberty, property, security, and resistance to oppression" (Ishay, 2007, p. 490). Rousseau's general will was depicted in Article 3, "The source of all sovereignty resides essentially in the nation; no group, no individual may exercise authority not emanating expressly therefrom" (Ishay, 2007, p. 490). In this sense, the Declaration was "an act of revolutionary power carried out in the name of the popular will" (Freeman, 2017, p. 47).

The demand of the ordinary people, who started to realize that they are valued as individuals and that they have rights, to stop inequalities in society and to ensure justice, brought about the expansion of both the subjects and the content of the concept of natural rights (Donnelly, 2013). As mentioned

above, the idea of human rights was initially defined and limited in terms of its content and subjects by the rising bourgeois classes of that period. Indeed, when Aristotle proposed them, he had not counted slaves in the category of “humans” because they were not capable of speech and social interaction. The mercantile classes of the 18th century were also willing to keep the framework as such. Thus, when the popular uprisings and rights struggles of the 18th century created a fertile ground for processes of political subjectivation of the women, the poor, and the enslaved Black people, bourgeois ‘politics’ of the time struggled to limit the subjects of politics, and therefore of rights, primarily to white and propertied men. As Hunt (2007) also mentions, colored people and women were tried to be imprisoned in private life, and their inclusion in social life and the political sphere was not deemed appropriate by the newly rising classes as well since they were considered to lack the essential capability to reason.

Considering the enlargement of the subject of the rights of man, Hunt (2007) compares the English Bill of Rights of 1689, prepared after the Glorious Revolution of 1688-1689, with the American and French Declarations. As mentioned above, the American and French Revolutions resulted from political and social struggles during the 18th century. The subsequent declarations were written assurances of the demand for equal rights that the ordinary people fought for. On the other hand, the English Bill of Rights granted rights to a particular subject, a free-born Englishman, because there was a reference to “ancient rights and liberties” in the document (Hunt, 2007, p. 21). In the French Declaration, the subject of the rights of man was not Frenchman, but all humanity, unlike the British Bill of Rights (Hunt, 2007). Bedirhanoğlu and Saraçoğlu (forthcoming) make a similar argument in relation to the rise of republicanism in this period - as the more appropriate new state practice to administer people with equal rights- and say that “[t]he most important development that led to the republican rupture in the 18th century was the French Revolution, which socially and universally fulfilled

the political courage that the American Revolution displayed in the fight against despotism.”

2.3. Rethinking the Rights of Man

A significant success for the great masses was achieved during the French Revolution: the dominant and influential position held by the aristocracy for centuries has begun to break down by what can be called integrated political subjectivation processes of the bourgeoisie and the lower-class masses. The bourgeoisie had risen and strengthened economically with European overseas trade; however, despite this enrichment, it could not hold power in the political arena. When the bourgeoisie made new demands for being equal with the aristocracy through a political discourse that underlined the universality of human rights -hence the bourgeois political subjectivation-this paved the way for the political subjectivation of the poor, who re-interpreted this ideal from their own class point of view. This increasingly more radicalized equality movement affected every segment of society from top to bottom throughout the 18th century.

If we re-write the story of the French Revolution by drawing on Ranciere’s understanding of politics, we can argue that the feudal order had acted as the police in accordance with the interests of the aristocracy and attempted to determine the boundaries of who could have a say and who could not speak before the Revolution. The Third Estate members, mostly middle-class mercantile representatives, did not find it right to have the same vote as nobility and clergy as they represented a larger part of the population. When the Third Estate declared itself the viable parliament, they actually carried out ‘the process of political subjectivation’ of Ranciere. With the influence of Rousseau’s republican ideas, they were opposed to the feudal elites ruling the whole society. They pretended to have the right to representation according to the number of votes they thought they deserved, even if they did not have this right. As a result, the ‘one-person, one-vote’ rule was obtained, and the middle-class masses, who were tried to be kept

out of politics, had the opportunity to claim a change in the order created by the feudal ruling classes. Other than equal representation, their demands included equal rights and liberties.

The demands of the Third Estate were based on the idea that underlies Ranciere's political thought, which is "the presupposition of the equality of anyone and everyone" (Ranciere, 1999, p. 17). Middle- and lower-class peoples saw themselves as equal with the aristocracy and argued that they should have equal rights. As the revolutions have shown, the shifting of hierarchical roles distributed within the police order has not been smooth, not as non-violent as Ranciere suggests. However, considering the political and social dynamics of the period, it would be naive to expect a peaceful transition.

Ranciere acknowledges that not every police system is open to requests for non-violent change; thus, there is a possibility that "not all forms of political subjectivation conform exactly to the type of dissensus exemplified by Rancière's account" (Gündoğdu, 2017, p. 207). Although violence was used in the French Revolution, this was not only the use of force but also turned into political action. In this context, the collective subjects who oppose the systemically imposed inequalities have caused political transformation even if they have not remained entirely non-violent in their actions and have turned the presupposition of equality into a reality with years of struggle.

An important, maybe ironic point is that when the bourgeoisie demanded equal representation and rights, it was the aristocracy, not the peasants, that they wanted to equalize themselves with. In addition, it is not surprising to guess that there were not many of those who argued that peasants who were oppressed should also have equal rights and freedoms with the aristocracy -and indeed with the bourgeoisie- for purely humanitarian reasons. Interestingly, when a class threatens the power of the upper class and demands change in accordance with its interests, it conveys the demand for equality to the lower sections of society. It is impossible to see the French

Revolution as simply the revolution of the bourgeoisie because the working classes, peasants, and the poor masses have also become stronger with the equality claims of the bourgeoisie. French Revolution would not be such a crucial political turning point in world history without the “irreversible presence of the working and poor classes in politics”, and without the Jacobins’ futile attempt to take the socially destabilizing impact of the masses under control via the republican state that claimed them at the least political equality (Bedirhanoğlu and Saraçoğlu, forthcoming). It can be argued that the political subjectivation of the masses, in addition to the political subjectivation of the bourgeoisie, did not let the French Revolution be limited to a constitutional monarchial revolution but forced the threatened bourgeoisie to agree on a republican state formulation, which of course was not welcomed at the time by the European elites elsewhere.

As mentioned in the introduction chapter, Arendt criticizes universal human rights over the situation of stateless people and underlines that these rights are not enjoyed without being a member of any political community. She was a stateless person herself between 1933 and 1951 until she obtained American citizenship. This first-hand experience determined her path as a thinker (Gündoğdu, 2014). In her influential book *Origins of Totalitarianism*, published in 1951, Arendt examines the political movements of Nazism and Stalinism, two totalitarian regimes that marked the first half of the 20th century. In chapter 9, entitled ‘The Decline of the Nation State and the End of the Rights of Man’, she describes the perplexities of the rights of man and proposes her argument of the ‘right to have rights’.

Arendt begins her critique of human rights by pointing to developments in the 18th century. She agrees that the French Declaration was a turning point in history since it meant “man’s emancipation from all tutelage” (Arendt, 1973, p. 290). However, people were not sure that rights were guaranteed in this newly secularized and emancipated society because rights used to be protected by social and religious institutions, not governments or

constitutions. For Arendt, both the source and the target of rights was man, who “. . . appeared as the only sovereign in matters of law as the people were proclaimed the only sovereign in matters of government” (Arendt, 1973, p. 291). The source of sovereignty was no longer God but the man himself. For this reason, the guarantee of inalienable rights was again in the governments established by the people (Arendt, 1973). Arendt, therefore, argues that the notion of human rights has become inseparable from national emancipation, indicating that “only the emancipated sovereignty of the people, of one’s own people, seemed to be able to insure them” (Arendt, 1973, p. 291). This contradiction is the source of the ‘perplexities’ of the rights of man.

Arendt’s analysis reveals that the 18th century declarations reckoned every human being as a right-holding citizen, who eventually emerged as a problem when there was a large number of stateless people in the 20th century (Gündoğdu, 2014). She argues that:

The Rights of Man, after all, had been defined as "inalienable" because they were supposed to be independent of all governments; but it turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them (Arendt, 1973, p. 291-292).

Edmund Burke (1729-1797) was a source of inspiration for Arendt. In *Reflections on the Revolution in France*, published in 1790, Burke opposes the idea of absolute freedom and universal rights expressed by the revolution, sees them as “a useless metaphysical abstraction,” and argues that rights are not natural but social (Freeman, 2017, p. 53). According to him, rights should be restrained for the continuity of social order and government (Hayden, 2001). Arendt interprets the fact that those who lose their citizenship also lose their human rights as a confirmation of Burke’s criticism that the right of man is an abstraction. The plight of the stateless, who has no title other than their humanity alone, shows that “the world found nothing sacred in the abstract nakedness of being human”, and in fact, as

Burke argues, “the abstract nakedness of being nothing but human was their greatest danger” (Arendt, 1973, p. 299).

Criticizing the idea of human rights, Arendt finds it dangerous to ascribe rights to abstract humanity by breaking off the individual from the political community. The human rights that one should have just because one is a human are useless when he/she needs them, that is, when he/she is only human and does not have any titles such as citizenship. Thus, human rights are not universal rights but citizen rights (Arendt, 1973). Having seen two devastating world wars and being stateless for years, Arendt undoubtedly understood the importance of state protection from her own experience. However, Arendt did not see the state as a potential abuser due to the historical context she was in and focused on the role of the state as the guarantor of rights.

As a result of the events that shook the existing order and started to transform it in the 18th century, a republican modern state based on human rights and equal citizenship began to form. At this point, the intertwined relationship and development of the modern state and human rights have become clear. According to Arendt, the principles of the French Revolution, which gave the hope of equality and freedom to the masses, created an abstract idea of human, which meant nothing without citizenship. Arendt’s warning, while making sense to highlight the importance of the state in the protection of human rights, seems to neglect how they were these abstract rights that had given way to the establishment of a new state form that enabled the constitution of a new modern field of ‘politics’ (with reference to Ranciere). Since the 20th century, while nation-states emerged as the locus of these ‘politics’, naked humanity, especially stateless people, has been left unprotected and has fallen into a rightless situation in many instances. This part of history will be explored in the next chapter.

2.4. Chapter Conclusion

At the end of the 18th century, a modern state institution with the primary task of protecting the rights of the individual emerged, and equal citizenship relations were established between people as well as between the state and the people. As stated in the French Declaration, these rights were proclaimed for everyone, not just for the French people. The Declarations were the first step in the institutionalization of human rights norms. After that, many states had to use them when drafting their constitutions. An essential factor in this process was the popular movements. The demands of the bourgeois class, who wanted to be equal with the aristocracy, started defining the demands of all segments of society. Thus, the irreversible existence of ordinary people on the political scene as the subject of human rights began.

CHAPTER 3

HUMAN RIGHTS AFTER 1945

Introduction

This chapter discusses the developments after the Second World War, which created a critical breaking point in the history of universal human rights. This break begins with the United Nations, established in 1945 to restore world peace and protect fundamental rights and freedoms after the atrocities of Nazi Germany, where millions of people lost their lives or were displaced. The period after 1945 can be summarized as the period of institutionalization and internationalization of rights. Cold War conflict and decolonization were the political contexts in which rights were shaped. In this chapter, firstly, World Wars are mentioned. Afterward, human rights struggles and developments in the period up to the end of the Cold War are discussed.

3.1. Rights Until 1945

The history of rights between the revolutions of the late 18th century and the end of the Second World War was mixed. At the beginning of the 19th century, rights did not advance as rapidly as before. This period can be referred to as "the decline of natural rights" (Freeman, 2017, p. 53). Popularized by the French Revolution, the rights of man were often ignored even by the revolutionary governments in France. Many executions and arrests were made in 1793-1794, known as *the Reign of Terror*. Freedom of expression was restricted through several censorship mechanisms by the revolutionaries, who claimed to be protecting the revolutionary ideals. Afterward, Napoleon's coming to power in France, leaving the revolutionary

principles aside, and following expansionist policies in Europe did not contribute to the rights of man either.

Similarly, freedom of expression was curtailed in the newly established United States of America. With the internal security law of 1798, criticizing the government and the leaders was prohibited, and its contradiction with the Bill of Rights was disregarded (Stearns, 2012). Simply put, in the 19th century, the concept of rights was hardly included in the dominant legal and political discourse; relatively new concepts such as “civilization, nation, race, and class” came to the fore (Hoffmann, 2010, p. 1). Unlike the 18th century, which was shaped by the demands and struggles of the masses for change, a possible reason why the 19th century was stagnant in terms of the development of human rights can be explained as the hard work of the ruling classes to preserve (or maybe restore) the hierarchical political order they used to enjoy before.

In the middle of the 19th century, European states, whose economic and military power increased as a result of technological and industrial developments, started a new wave of imperialism (Stearns, 2012). The abolition of slavery and the new expansionist policies of Europe were not seen as mutually exclusive concepts (Hoffmann, 2010). Imperialist powers spoke of the “civilizing mission” of the West to give a more human face to their expansionist policies and created more opportunities for exploitation under the pretext that they were supporting and liberating races that were undeveloped (Stearns, 2012, p. 102). No matter what sort of “humanitarian” reasons were put forward, imperialism did not include any positive development for common humanity or human rights (Stearns, 2012).

The First World War, or Great War, was the first large-scale war that lasted from 1914 to 1918 and killed millions of people. The losing central powers were trying to overcome the devastating effects of the war, signing the peace agreements imposed by the Allies, and at the same time trying to re-establish their political unity on the lands they held. Four great empires were

destroyed due to the war: Austria-Hungarian, German, Russian, and the Ottoman empires (Encyclopedia Britannica (2020d)). The concept of nationalism has become the primary source of political rights and state sovereignty. With the right to national self-determination, first cultivated by Lenin and then by Woodrow Wilson, nation-states were established (Hoffmann, 2010). Due to increasing nationalism and the decline of hereditary authority, loyalty in the newly established nation-states was defined on the basis of citizenship, determined by either blood or birth (Wilmer, 2015). This was also a period of universalization of rights that transcends classes based on citizenship.

Socialists also contributed to the rights debate in the early 20th century. With the Russian Revolution during the First World War, the monarchy was abolished in the Russian Empire, and the Bolsheviks led by Lenin came to power by adopting a socialist form of government. In 1918 The Declaration of Rights of The Working and Exploited People was signed and announced the fundamental principles and objectives of the socialist state. The Declaration stated the principal aim of the Russian Soviet Republic as:

to abolish all exploitation of man by man, to completely eliminate the division of society into classes, to mercilessly crush the resistance of the exploiters, to establish a socialist organisation of society and to achieve the victory of socialism in all countries. . . (Lenin, 1972, p. 423).

As explained by the 18th-century theorists, private property has an important place in Western political thought. At that time, to be the subject of rights, it was necessary to own property. With the popular revolutions, this restriction was overturned, and the ordinary citizen became the subject of rights, but the concept of private property was not abandoned. Socialist Russia has created an alternative to this idea. The Russian Declaration prohibited the private ownership of land, the banks were nationalized, and the sovereign power of the workers was secured. The socialist approach was one of the two poles of the Cold War conflict that emerged after the Second World War, which will be discussed later.

While minorities arose within newly founded nation-states, a new refugee and stateless group consisting of people who were deprived of their citizenship and could not obtain asylum from another state emerged (Hoffmann, 2010). Mazower (1999) summarizes the minority situation after the First World War as follows:

Versailles had given sixty million people a state of their own, but it turned another twenty-five million into minorities. They included not only Jews, Gypsies, Ukrainians and Macedonians but also former ruling groups such as the Germans, Hungarians and Muslims (p. 42).

Founded in 1920 by the Allied powers, the League of Nations (LN) was an international collaboration organization to maintain peace and collective security and solve problems such as those of the minorities after the Great War (Encyclopedia Britannica, 2020a). Unable to prevent another world war, the League stopped its operations in 1946 and transferred many of its duties to the United Nations. Although the League was a failure in practice and did not mention the rights of man in its Covenant, it did address the following issues: “questions of justice in the colonies, minorities, workers’ rights, slavery, the rights of women and children and the plight of refugees” (Freeman, 2017, p. 58).

Despite its idealistic goals, the League showed its exclusionary face by ignoring peoples’ rights to self-determination in places such as the Middle East, leaving their fate to the imperial powers under the mandate system, and not talking about the rights of the colonized people (Ishay, 2004). Similarly, the situation of minorities and stateless people in Europe, where post-war economic and political depression was effective, was not encouraging. With the reorganization of the world order on the axis of “egoistic nation-states”, ethnic homogenization and genocide became essential instruments for bio-politics (Hoffmann, 2010, p. 12). As Nazi Germany rose, a new concept of “racial nationalism” and attacks on minorities emerged in Eastern Europe (Mazower, 1999). In the second half of the twentieth century, only after the brutality of the Nazis and the

Holocaust the rights of man revived, and the concept of human rights began to gain its current meaning (Freeman, 2017).

3.2. Rights After the World War II

The Second World War, which lasted between 1939-1945, is considered the bloodiest war of contemporary history, for as many as 50 million people lost their lives, and countless crimes against humanity were committed (Brummett et al., 2005). Undoubtedly, the greatest slaughter took place during the Holocaust. The number of victims included "six million Jews, a half-million Gypsies (Roma), and tens of thousands of communists, social democrats, homosexuals, church activists, and just ordinary decent people who refused complicity in the new politics and technology of barbarism" (Donnelly & Whelan, 2018, p.4).

Following the war's end, the issue of how to deal with Nazis and their collaborators was a hot topic. In 1945, the Nazi leaders were tried in what became known as the Nuremberg Trials. A new crime against humanity, distinct from previous war crimes, was presented at these trials, and for the first time, "officials were held legally accountable to the international community for offenses against individual civilians, not states, whether or not those civilians were citizens of the governments that committed the crimes" (Donnelly & Whelan, 2018, p. 5). These international military tribunals ensured that justice was served for the persecuted (Ishay, 2004). However, prosecuting the violators was not enough. An international initiative was needed to ensure that such a disaster would not happen again.

3.2.1. Post-war Order

The post-war recovery period was not entirely peaceful. The conflict between the Union of Soviet Socialist Republics (USSR) and the United States of America (USA) shaped world politics for almost fifty years. Contesting ideologies of the two superpowers led to the emergence of two different economic systems. In addition, these ideologies have divergent

solutions to the questions such as “the nature of politics, society, religion, and the role of the individual” (Brummett et al., 2005, p. 941). The period when all these conflicts continued, but the debate never turned into a hot war is called the Cold War and lasted until the dissolution of the Soviet Union in 1991. United States-USSR rivalry that softens or hardens from time to time deeply affected the process when human rights were institutionalized and internationalized.

The rivalry of the two poles was most intense in the economic field. Both sides tried to attract the states trying to re-establish themselves economically and politically after the war to their ideologies with various support mechanisms and sometimes threats. The United States sought to create an open world economy. In the Bretton Woods Conference in 1944, “the institutional framework for the postwar international economy” was established, and the United States took the leading position in the postwar economy only after a clear Soviet threat had emerged (Gilpin, 2001, p. 43). Many institutions were established at the conference, for example, the International Monetary Fund (IMF), World Bank, and the World Trade Organization (Gilpin, 2001). The par value system, which also known as the Bretton Woods system lasted from 1945 to 1971, and can be summarized as a system in which states:

agreed to keep their exchange rates (the value of their currencies in terms of the U.S. dollar and, in the case of the United States, the value of the dollar in terms of gold) pegged at rates that could be adjusted only to correct a "fundamental disequilibrium" in the balance of payments, and only with the IMF's agreement (IMF, n.d.).

Seeking to revive war-torn economies and forge a strong anti-Soviet alliance, the United States transferred large sums of money to Western Europe with the Marshall Plan (Gilpin, 2001). This recovery aid to Europe was not for economic purposes only but to stop the local communist movements in Western Europe (Brummett et al., 2005).

Soviet Russia also increased its sphere of influence and spread its ideology. Communist parties in East Central European states which were not yet entirely under communist regime at that time, such as Czechoslovakia, Hungary, and Poland, sought “a middle way between Soviet socialism and Western capitalism” and were willing to benefit from the European recovery aid led by the United States (Bideleux & Jeffries, 2007, p. 479). Soviet Russia, to prevent the Balkan and East Central European states from benefiting from the Marshall plan, established the Council of Mutual Economic Assistance (CMEA), also known as Comecon, in 1949 (Bideleux & Jeffries, 2007). Eastern European countries did not receive Marshall aid and were included in the Comecon system. Each ally gets specialized in producing a particular product in the Comecon system. The system, which provided economic growth for the Soviet countries until the 1970s, could not renew itself due to new technological developments, and the priorities of the allied states and its influence decreased (Brummett et al., 2005).

There is one issue that the political and economic order established after the Second World War brought to the fore. During the Cold War, two different ideological blocs represented two different alternatives in world politics. The existence of two alternatives opened up a field of struggle for the masses fighting for equal rights and freedoms. While both blocs were trying to attract supporters, they created various support mechanisms for the states, as mentioned above. In addition, the opposition within the bloc was supported by the other bloc and posed a threat to the current administration. For example, labor movements in liberal states enjoyed Soviet support, while Eastern Europeans, who demanded civil and political rights, received Western support. The existence of an opposing alternative has been decisive in both blocs’ political, economic, and social decisions. Similarly, the peoples of the two blocs also saw alternative struggles and sometimes showed solidarity.

3.2.2. Establishment of the UN and the Universal Declaration

While economic and political re-establishments were taking place in the post-World War II period, human rights were also an important issue on the agenda. After the slaughter and atrocities of the war, “Never again!” was adopted by Jews and human rights activists as a slogan (Ishay, 2004). Human rights became widespread in the international arena because it served as “a unifying moral imperative” for the states that opposed Nazi Germany (Hoffmann, 2010, p.14). Preventing such a great massacre from happening again required international cooperation. In 1945, fifty-one states came together to form the United Nations. In the Preamble of the Charter, the founding members of the UN, who want to protect future generations from the suffering of war and maintain peace, expressed that:

We the peoples of the United Nations Determined ... to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained ... (U.N. Charter Preamble, para. 1)

The main purposes of the UN are:

To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace (U.N. Charter Art. 1, para. 1).

Established for these purposes, the UN has maintained its importance in the institutionalization and internationalization of human rights since then.

One of the first acts of the UN was the Convention on the Prevention and Punishment of the Crime of Genocide, which was opened for signature at the General Assembly on December 9, 1948, one day before the Universal Declaration. In the Convention, genocide was defined as “acts committed

with intent to destroy, in whole or in part, a national, ethnical, racial or religious group” (UN General Assembly, 1948a). With this document, genocide was declared a crime under international law, and the state parties are held responsible for the prevention and punishment of genocide.

On December 10, 1948, the UN General Assembly signed one of the most referenced human rights documents, the Universal Declaration of Human Rights (UDHR). The Declaration has set standards for human rights for the first time. Although there was no vote against the Declaration, eight member states abstained. Saudi Arabia abstained because of the provisions allowing Muslims to convert, South Africa abstained because of the racial equality provisions, and six Soviet Bloc countries abstained because the individual's duty to their state was unclear (Donnelly & Whelan, 2018).

This fundamental document states in the first article that “All human beings are born free and equal in dignity and rights” (UN General Assembly, 1948b). The second article underlines that all human beings have the equal right to exercise human rights “... without distinction of any kind, such as race, color, sex, language, religion, political or other opinions, national or social origin, property, birth or other status” (UN General Assembly, 1948). The first ten articles put forward fundamental human rights such as life, liberty, security from torture, slavery, arbitrary arrest, and equality before the law (UN General Assembly, 1948b). The Office of the United Nations High Commissioner for Human Rights (OHCHR) has defined by comprehensively bringing together the articles specified in the Declaration. According to OHCHR definition:

Human rights are rights we have because we exist as human beings - any state does not grant them. These universal rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or another status. They range from the most fundamental - the right to life - to those that make life worth living, such as the rights to food, education, work, health, and liberty (What Are Human Rights, n.d., para. 1).

As in the economic field, the establishment of international human rights norms and standards was an area of power struggle where superpowers conflicted with each other, and one tried to dominate the other. Although they agreed on the primary intent and content, the two sides of the pole supported different human rights and subjects. One of the most noticeable effects of the Cold War controversies on human rights came in the 1960s, when a binding treaty was written.

3.3. The Two Covenants

Since the Universal Declaration is not legally binding, an agreement is needed to make human rights norms binding in international law (Donnelly & Whelan, 2018). However, this happened neither easily nor quickly. The US and the USSR, the main actors of the Cold War, used human rights as a propaganda tool to prevail over the other side and were involved in many large-scale direct or indirect human rights abuses (Freeman, 2017). In such an atmosphere of contention, efforts to make the protection of human rights legally-binding lingered until the mid-1960s. In addition, the decolonization process presented new challenges.

During the 1950s and 1960s, the worldwide decolonization movement shaped the era of institutionalization and internationalization of human rights. Many newly independent states joined the UN, and new issues were included in the human rights agenda. Some new priorities were “decolonization, the right to self-determination and anti-racism” (Freeman, 2017, p. 73). Following the new activism of post-colonial states, the General Assembly adopted the Convention on the Elimination of Racial Discrimination (ICERD) in 1965. The Convention emphasizes the equality of all human beings and condemns any form of racial discrimination, including the propaganda of racial superiority or hatred towards a group (UN General Assembly, 1965, Art. 4).

With the decolonization, the colonizers and the colonized began participating in the same organization. The two sides entered a power struggle over human rights. This contestation highlighted various conflicts and hypocritical actions, which can be summarized by Freeman (2017) as:

Leaders of former colonies sometimes appealed to human rights in advancing their cause, but on attaining independence, they emphasized the principles of state sovereignty and non-interference in the affairs of other states, often to defend themselves against criticisms of their human-rights violations, which included some of the worst in the world, such as the mass killings under Idi Amin in Uganda or Macias Nguema in Equatorial Guinea (p. 73).

While the Cold War conflicts and the participation of newly independent states in the UN continued, the General Assembly opened two agreements for signature in 1966. These were the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). The twin covenants emerged due to negotiations between liberal and socialist poles. For example, treaties included the right to self-determination while omitting the right to property (Freeman, 2017). Both covenants entered into force in 1976, and the Human Rights Committee was established in the same year. The International Bill of Human Rights is the combination of documents formed by the Declaration, two covenants, and two optional protocols.

Both covenants acknowledge the right to self-determination and emphasize that people are equal, as in the UDHR (UN General Assembly, 1966a; 1966b). The Covenant on Civil and Political Rights consists of:

the right to a fair trial, to a nationality, to leave and return to one's country, to freedom of speech, to freedom of thought and religion, to associate, and to the prohibition against torture, cruel or degrading treatment or punishment (Langley, 1999, p. xiv-xv).

The Covenant on Economic, Social and Cultural Rights, on the other hand, includes “the right to work, to medical care, to education, to food, housing,

clothing, social security, and to participate in the cultural life of the community” (Langley, 1999, p. xiv).

3.4. Further Globalization and Institutionalization of Rights

The norm and standard-setting process in human rights, which started right after the Second World War and was shaped by the power struggles of the two poles of the Cold War and the demands of the states that gained their independence in decolonization, bore fruit in the 1960s with agreements that would make these norms binding on the states. It was not enough to set standards and make binding agreements on states for the international protection and enforcement of human rights. It also needed to be monitored to see how well states complied with the standards they had promised to follow. Starting from the 1970s, the UN has moved from the mere role of setting standards to examining how states apply those standards, albeit through largely symbolic means (Donnelly & Whelan, 2017).

The development that made international human rights standards binding on states was the ratification of the Two Covenants in 1976. With these two documents, states have agreed to be subject to reporting processes on international human rights standards. States that ratify these Covenants cannot claim that the protection and enforcement of human rights are within their local jurisdiction (Ishay, 2004). In 1976, the Human Rights Committee, consisting of independent experts, was established to monitor whether states comply with the Covenant on Civil and Political Rights (Donnelly & Whelan, 2017). In addition, the Committee receives complaints from states or individuals.

Differences in the preparation of the two Covenants also emerged when the states ratified the treaty. Russia favoring economic and social rights, has signed and ratified both covenants at close intervals. On the other hand, the United States signed and ratified the Covenant on Civil and Political rights that it advocated. However, it is only a signatory of the Covenant on

Economic, Social and Cultural rights, and it has not ratified this covenant to date.⁵

The fact that states are subject to scrutiny and reporting in the field of human rights creates tension in terms of the sovereign rights of states. Like in other intergovernmental organizations, the members of the UN are sovereign states, which may potentially violate human rights. States give authority and power to the UN to the extent they determine. While it is not comforting in terms of promotion and protection of human rights, the limits imposed by state sovereignty cannot be ignored when evaluating the UN's human rights achievements (Donnelly & Whelan, 2017). Some states are reluctant to adopt UN human rights treaties and binding agreements and do not direct sufficient attention and resources to this issue (Crawford, 2000). Although sovereign states have voluntarily adopted human rights standards and procedures, they have designed them to be weak and extremely limited (Donnelly & Whelan, 2017).

States' reluctance in monitoring and reporting has been compensated by the efforts of nongovernmental organizations (NGOs), whose numbers were increasing rapidly at that time. Many human rights NGOs have taken an active role in assessing whether states comply with norms and have contributed to country reports. Amnesty International (AI) can be given as an example of an NGO operating in this field. Founded in 1961, the organization adopts a vision of "a world in which every person enjoys all of the human rights enshrined in the Universal Declaration of Human Rights and other international human rights instruments" (Amnesty International, n.d.). For this purpose, the AI assumes the task of research and action. With the increasing involvement of global civil society, organizations have emerged emphasizing that the source of authority in the international protection of

⁵ OHCHR Status of Ratification Interactive Dashboard <https://indicators.ohchr.org/>

human rights should be the “global community”, not national governments (Hoffmann, 2010, p. 20). However, as discussed in the previous chapters, “although human rights norms have been largely internationalized, their implementation remains almost exclusively national” (Donnelly, 2013, p. 32). While the UN and its bodies focused on international norm-setting efforts, regional agreements were also emphasized. Examples of such regional attempts were

the European Convention for the Protection of Human Rights and Fundamental Freedoms (called the European Convention on Human Rights), the 1969 American Convention on Human Rights, the 1975 Helsinki Accords for Eastern Europe, and the 1981 African Charter on Human and Peoples' Rights (Langley, 1999, p. xv).

The UN has also put emphasis on unique instruments to protect vulnerable groups of people since their position in society has been marginalized. Some of such instruments are

the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the 1989 Convention on the Rights of the Child (CRC), the 1990 International Convention on the Protection of the Rights of All Migrant Workers, and Members of Their Families, and the 2006 Convention on the Rights of Persons with Disabilities (CRPD) (The Core International Human Rights Instruments and Their Monitoring Bodies, n.d.).

The efforts of the UN and human rights NGOs have caused human rights to have a solid place both in international and local politics. However, something is missing from this picture: the struggle for the rights of the masses.

3.5. Rights Movements During the Cold War

Human rights continued to be internationalized and institutionalized within the Cold War policy. In the decades following the end of the Second World War, states played a decisive role in human rights policy as the main actors of international politics. States used to be implementing human rights

standards through diplomacy, cooperation, and negotiations. This situation began to change by the end of the 1960s. The Cold War had entered a period of *détente*, and social opposition made room for itself through struggles to proclaim various political, economic, social, and cultural demands. This social mobility, which Charles Tilly (2004) called "the social movement surge of 1968", played an essential role in the human rights policies of the following decades (p. 68). During this period, when different subjects and issues began to find a place in human rights, the leading role of states in the human rights agenda was put into the background. Mobility of the masses and the efforts of NGOs, whose numbers have been increasing, began to come to the fore in determining the human rights agenda.

The mass mobilizations that started in Europe and spread to many parts of the world included the protests "particularly of students, opponents to the Vietnam war, and American civil rights activists" (Eckel, 2014, p. 247). The student protest that began in Paris in May 1968 sparked the social mobilization of this period. With the participation of the working class, the protest movement turned into a European-wide movement and put many economies in trouble (Ishay, 2004). The movement formed by the students who came together with the idea that they could change the world could not lead to a radical change like the French Revolution or the October Revolution, which were examined in this thesis, because the ruling classes of the Western states braced themselves to hinder a large-scale change (Ishay, 2004).

Despite the working class's support, it was incorrect to classify these protests as labor movements. These social movements, which differed in content, subject, and method, led to new discussions in the social movements literature. The term 'new social movements' came to the fore to demonstrate that the social movements that took place in the 1960s differed from 'old' movements (Tilly, 2004). 'New social movements' stands for "a

diverse array of collective actions that have presumably displaced the old social movement of proletarian revolution associated with classical Marxism" (Buechler, 1995, p. 442). Issues such as "expressive feminism, homosexual rights, psychedelic drugs, indigenous peoples, the environment, and a variety of other causes" were the driving motives of the activists of 'new social movements' (Tilly, 2004, p. 71).

Considering the issues highlighted by the new social movements, it is seen that it differs from the movements of the early 20th century. At the beginning of the 20th century, the working class, which emerged with the increase of industrialization, expressed its demands with class-centered protests. The recognition of economic and social rights, which will be described in the next section, is one of the achievements of labor movements. However, the efforts of self-identifying activists through values such as gender, nationality, and culture to announce their demands are different from labor-centered movements. In new social movements, "class becomes much less important in determining the base, interests or ideology of the movement than in the older economic reading" (Buechler, 1995, p. 453), which led to "a new era of identity politics . . . in which blacks, feminists, Latinos, and gays focused on promoting their particular agendas" (Ishay, 2004, 251).

The 1970s is an important date for human rights activism (Eckel, 2014). In this period, new social movements emerged with new subjects and issues. It was also the period of *détente* when the tension between the two superpowers was decreasing. In 1973, Conference on Security and Cooperation in Europe (CSCE) was held as "the first multilateral negotiations between the two Cold War camps since the immediate aftermath of World War II" (Eckel, 2014, p. 230). As a result of these negotiations, the Helsinki Final Act was signed in 1975. With the signing of this document, the Soviet Union accepted various human rights provisions, and in return, the West acknowledged the Soviets' influence in the Eastern European region (Donnelly & Whelan, 2017).

After the Helsinki Final Act, the tension between the superpowers diminished, and this relaxation of the relations between East and West "set activists free to concern themselves with issues reaching beyond the clash between Western democracy and Eastern European socialism and helped to foreground problems that had long been overshadowed" (Eckel, 2014, p. 243). Having seen their states' acceptance of human rights commitments and that Cold War tensions were easing, the activists in the Eastern bloc more insistently demanded political change (Ishay, 2004).

In the decades that followed, social movements demanding political change increased, and many Eastern bloc countries came out of Soviet Russia's sphere of influence. Daniel Thomas, who associates the increase in social opposition based on human rights in communist countries with the signing of the Helsinki Final Act and calls this the "Helsinki effect", asserts that "the Helsinki Final Act's formal commitment to respect human rights contributed significantly to the demise of Communism and the end of the Cold War" (Thomas, 2001, p. 4). By the end of the 1980s, the separation of the Eastern bloc from the Soviets resulted from popular movements and revolutions, and finally the fall of the Berlin Wall in 1989 shows that Thomas's argument has some truth.

3.6. Three Generations of Human Rights

Human rights, which are indivisible, were submitted for signature under two categories: civil, political, and economic, social, and cultural. The preparation of two different covenants inflamed discussions of the negative and positive rights and three generations of rights in the literature. In 1977, French jurist Karel Vasak argued for dividing rights into generations. According to his distinction, first-generation rights correspond to civil and political rights. Second-generation rights are economic, social, and cultural rights. Third-generation rights, on the other hand, can be briefly described as solidarity rights (Vasak, 1977). Although it is a matter of debate that this

classification from the 1970s is still valid for human rights today,⁶ this categorization is understandable in the political context of the Cold War.

Each generation of rights matches the slogans of the French Revolution: liberty, equality, and fraternity (Donnelly & Whelan, 2017). The first generation of rights is associated with liberty. It has its origins in the Magna Carta (1215), and the ideas were reflected in several human rights documents such as the United States Bill of Rights (1791) and the Declaration of Rights of Man and the Citizen (1789) (Domaradzki et al., 2019). As previously examined, in the 18th century, civil and political rights emerged due to the effort of the newly formed bourgeois class, which could not find a place in politics despite its increasing wealth, to equalize itself with the ruling aristocracy (Uygun, 2020). The bourgeoisie's demands for freedom and equality received the support of the poor peasant and working class, which were exhausted by the feudal system (Demir, 2006). The function of civil and political rights, also known as classical rights, is "to protect the liberty of the individual against the tyranny and abuse of the state" (Wellman, 2000, p. 640). The rights that emerged as the interests of the bourgeoisie went beyond the borders of France with the French Declaration and became the demands of equality and freedom of the lower classes in all states. According to Vasak (1977), first-generation rights are negative rights because to realize these rights it is sufficient that states do not interfere in the sphere of the individual. The first generation, which gives negative obligations to the state and puts the individual in the center, is identified with liberalism.

Second-generation rights are economic, social, and cultural rights. These rights are associated with the French Revolution's ideal of 'equality' as

⁶ For an article examining the validity of Vasak's classification 40 years later, see Domaradzki, S., Khvostova, M., & Pupovac, D. (2019). Karel Vasak's generations of rights and the contemporary human rights discourse. *Human Rights Review* 20, 423-443.

indeed hoped by the masses (Domaradzki et al., 2019). With the Industrial Revolution that started in England in the 18th century and spread to continental Europe, a new class emerged: the working class. This class had different characteristics and started demanding from the bourgeoisie rights such as “a minimum wage to meet their needs, shortening of working hours, weekend breaks, retirement” (Demir, 2006, p. 15). By the 20th century, the members of the working class multiplied with the spread of industrialization. The political context where economic, social, and cultural rights are commonly discussed can be seen in “the background of the Mexican and Russian Revolutions opposing the capitalist exploitation of workers and, more generally, unjust social inequalities (Wellman, 2000, p. 640). Second-generation rights are positive rights because the state must take action for their realization (Vasak, 1977). The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) mainly correspond to the first two generations of human rights.

Third-generation rights are “rights of solidarity” (Vasak, 1977, p. 29). They are associated with the French Revolution’s slogan of ‘fraternity’ (Domaradzki et al., 2019). These rights have emerged more recently and often include group rights. Proponents of solidarity rights drew attention to the urgency of the following global problems:

securing peace after the First and Second World Wars, achieving freedom for colonial peoples, reducing the gross economic inequalities between developed and underdeveloped countries, and preserving a healthy environment when the technologies in one nation seriously damage an environment shared by all nations (Wellman, 2000, p. 641).

Rights such as the right to self-determination, the right to peace, the right to the environment, the right to development, and the right to benefit from the common heritage of humanity are counted among the third-generation rights. Unlike the two generations, third generation rights require “combined

efforts of everyone: individuals, states and other bodies, as well as public and private institutions” (Vasak, 1977, p. 29).

What does the generational debate of rights mean in the context of the Cold War? In the agreements prepared to make the rights binding, the parties of the Cold War emphasized the rights in different categories. While the United States prioritized civil and political rights linked to the liberal tradition, the Soviet side supported economic, social, and cultural rights (Ishay, 2004). Group and self-determination rights, represented by the third generation, gained popularity as more states decolonized and declared their independence. The newly independent states, known as the Third World Countries, emphasized the importance of economic and social rights in addition to their emphasis on third-generation rights. After leaving the colonial order, economic development, working conditions, and the demands of the working classes came to the fore in these states.

Commenting on Vasak’s categorization of rights into three generations, Donnelly and Whelan (2017) identified the “target of claims” of each generation (p. 66). Accordingly, the supporters of first-generation rights are the First World, and the target of their demands is the state. The Second World gives second-generation rights priority, and the target of their demands is the market. Finally, third-generation solidarity rights are favored by the Third World, and their claims are ‘anticolonial’. While their interpretation indicates the goal of the rights, it does not specify whose task it is to ensure these rights.

In short, during the Cold War conflicts, different categories of human rights were favored by parties with different ideological views, which was reflected in international human rights documents. The best example is the language used while obligations are set to realize rights in two covenants. While the language used in the Convention on Civil and Political Rights was more assertive and demanded immediate action, a more passive language was used in the Covenant on Social, Economic, and Cultural Rights, allowing

gradual implementation (Ishay, 2004). In practice, although the importance that states attach to different categories of rights and the resources they allocate varies, international human rights instruments continue to emphasize that rights are indivisible and interdependent.

There is an alternative approach to examining human rights through the concept of generations in which different categories of rights are favored. Von Senger (1993) suggests that the notion of human rights consists of two parts: human and rights. According to him, the generational view has a rights-based approach to human rights and ignores the historical development of the other component, human beings, who are the subject of rights. Von Senger (1993) asserts that:

The history of human rights is not only a history of the extension of the categories of rights which were proclaimed, but also a history of the gradual universalization of the subject who is entitled to enjoy these rights (p. 90).

Instead of three generations, he adopts a human-centered approach to the history of rights and asserts “two periods of human rights” (Von Senger, 1993, p. 50). The first period is called “non-universal human rights” and lasted until 1948. With the Universal Declaration in 1948, the second period started, and human rights became universal, at least in theory. For him, human rights before 1948 were not universal because the subject of rights was limited to white European males. Other groups such as women, enslaved people, and colored people were not considered human. Not all groups suddenly became subjects of rights with the Universal Declaration. On the contrary, there were gaps between theory and practice. However, the history of universal human rights is still new and has not come to an end (Von Senger, 1993).

Von Senger’s contribution is important in showing that people as subjects of rights have not always been the same in the historical context and that some groups have been excluded from the category of humanity. However, one point he misses is the struggle of people. Von Senger (1993) argues that the

subject of rights “gradually” expands and becomes universal. As with the enlargement process of rights, the expansion of the subjects cannot be explained without considering the struggle of the people. People, mainly belonging to the lower classes, insistently demand equal rights from the upper and ruling classes in accordance with the political context of the period. Although the power of the people to cause change may be blocked by the resistance of the ruling classes who try to protect the existing order following their interests, the progress in the post-1945 period is undeniable. As Von Senger mentioned, the process of universalizing the subject of rights is not over yet, nor is the people's struggle.

Vasak's three-generations approach to rights and Von Senger's emphasis on expanding not only the contents but also the subjects of rights raise two potential puzzles that future work can address. Firstly, Vasak (1977) 's approach to rights indicates a kind of progress in the history of rights. The rights of man, which emerged in the 18th century, were based on first-generation rights. With the rapid industrialization and the emergence of the working class, social and economic rights began to draw attention. Finally, the right to peace and self-determination gained popularity with the independence of various colonial states. What does this progressive approach mean when considered in the context of today's crises evaluated in the Introduction chapter? Considering the human rights crises we are experiencing today, the question of whether we have come to the end of a process that Vasak defines progressively is reasonable. This issue is not covered in this thesis but should be explored in detail in another study.

A second puzzle is what happens to the subjects, who are the bearers of rights, while human rights have been fought around the political struggles that are overly state centered in the post-1945 world. The social struggles that shaped the politics of the 18th century and the concept of human rights left their place for interstate struggle and conflict in the post-1945 period. During this period, necessary steps were taken to protect human rights, but

there were setbacks at other levels. While social and economic rights developed with the rise of the welfare state, the effort of the nation state to establish uniform citizenship excluded some groups. In the Cold War tension, states became authoritarian in response to the threat of 'internal enemies'. Could the states' policies aimed at destroying the alternative have prevented some social segments from being the subjects of human rights? In a context where human rights have become the subject of interstate conflicts, the question of what happens to the subjectivation processes and struggles of people who will defend human rights at very different levels is also a subject of investigation.

3.7. Rethinking the Universal Human Rights

As described in chapter two, Arendt criticizes the rights of man. With her book written in 1951, Arendt included the Universal Declaration published in 1948 in her criticism of human rights. For Arendt, who personally experienced the Nazi regime and remained stateless until 1951, nation-states had an important place in her understanding of politics. Especially in the post-war period, world politics was shaped around nation-states and Arendt's emphasis on the state in protecting human rights became more meaningful.

Undoubtedly, the stateless are not the only group experiencing human rights violations. However, the source of stateless people's plight is not that their rights have been violated, but that they find themselves in "rightlessness" (Schaap, 2011, p. 25). Rightless people suffer a double loss. First, they lose their home and social environment where they were born and raised. Second, they lose state protection, which means losing legal status in all states because in the "family of nations" everyone is a member of some kind of political community (Arendt, 1973, p. 294). Arendt gives a striking example from history to emphasize that being stateless means rightlessness. The Nazis began the process of exterminating the Jews by divesting them of their legal status, severing all ties with society and filling them into ghettos and

camps. Jews without legal status and membership in society were pushed into a completely rightless situation and were subsequently stripped of their right to live (Arendt, 1973).

Arendt criticizes the universal conception of human rights over stateless people but does not suggest a total abandonment of rights (Gündoğdu, 2014). Rather, she proposes a reconsideration of rights and introduces the concept of "right to have rights". According to her, the plight of the stateless indicates that enjoying human rights requires being a member of a political community. This means that there is only one real human right and that is the right to have rights (Kesby, 2012). She asserts that:

We became aware of the existence of a right to have rights (and that means to live in a framework where one is judged by one's actions and opinions) and a right to belong to some kind of organized community, only when millions of people emerged who had lost and could not regain these rights because of the new global political situation (Arendt, 1973, 296-297).

According to Arendt, being human requires living in society and relating to others (Kesby, 2012). The stateless people who lose their right to action and opinion are stuck in the private sphere, which is the field of inequalities, and they cannot enter the public sphere, which is the field of equality. The public sphere is the sphere of equality since "we are not born equal; we become equal as members of a group on the strength of our decision to guarantee ourselves mutually equal rights" (Arendt, 1973, p. 301). The stateless, who are deprived of "tremendous equalizing of differences which come from being citizens of some commonwealth", simply become part of the human race (Arendt, 1973, p. 302). Arendt (1973) summarizes the paradox of the stateless people losing their inalienable, universal human rights which they have simply by being human:

The paradox involved in the loss of human rights is that such loss coincides with the instant when a person becomes a human being in general--without a profession, without a citizenship, without an opinion, without a deed by which to identify and specify himself--and different in general, representing nothing but his own absolutely

unique individuality which, deprived of expression within and action upon a common world, loses all significance (p. 302).

Arendt (1973) argues that the rights that a person has just because he is a human are useless when he is detached from all his titles, that is, when he is only human. Arendt associates humans, the subject of rights, with a mere life deprived of politics (Schaap, 2011). However, Ranciere (2004) opposes this idea because the definition of the subject of rights is open to change, and with 'the process of political subjectivation', individuals become subjects of politics and, therefore, rights. According to Schaap (2011), "Ranciere's approach enables us to recognize contests over human rights, such as that of the *sans papiers*⁷, as part and parcel of social struggles that are the core of political life" (p. 22).

Another criticism of Arendt's views is her ignorance of the state's dual role. The idea of the rights of man that she criticizes is actually formed around civil and political rights that aim to protect the individual from the excesses of sovereign power. The modern states were established during revolutions and declarations based on human rights and equal citizenship. The institutions and mechanisms of the modern state were shaped in response to its role as both a protector and a potential violator of human rights. While Arendt states that people who are not under state protection remain rightless, she ignores those who are citizens of a state and experience rights violations. To emphasize the importance of citizenship, she recalls that the Nazi regime, while eradicating the Jews, first lowered their citizenship status. This situation is not unique to totalitarian regimes. Every state has the potential to violate human rights.

Moreover, the stateless people are not the only group that suffers significant rights violations. Many components of society suffer from the violating acts

⁷ Meaning "illegal immigrant", Cambridge French-English Dictionary.

of states even though they are citizens. In this case, based on Ranciere's political philosophy, it should be remembered that dominant classes rule the state and its institutions, and the state can violate the rights of its citizens by identifying some groups as hostile or dangerous in accordance with the interests of these dominant classes. Although the state is an important institution in the protection of human rights, the possibility of violating rights should not be ignored, and human rights should not be removed from politics.

When considered in the context of the power struggle between the two blocs during the Cold War, it can be said that the states created the human rights agenda. States, the main actors, have started determining human rights norms and standards through diplomacy, cooperation, and negotiations. However, considering the protest movements that emerged in 1968 and spread worldwide, the social opposition also tried to be included in the decision-making process. Especially during the detente period, when the Cold War tensions decreased, activists came together in protest movements called 'new social movements' and proclaimed their demands. Referring to Ranciere's political thought, activists participating in social movements demanded equality based on the equality presupposition in politics and sought to change hierarchies and roles in the police order.

The period of social mobility in the 1960s and 1970s was a crucial moment for new subjects to come to the fore in politics. People in states that gained independence through the decolonization process struggled for their identity to be recognized. Through political actions such as public speaking, raising awareness, and disseminating information, they initiated the process of political subjectivation. Emphasizing the right to development at the same time, newly independent third world countries introduced new issues into the human rights agenda. New social movements based on identities and cultures rather than class have brought identity politics to the fore. At the same time, the first steps of discussing the universality of human rights were

put forward. Collective subjects advocating for their equality, such as activists in the Eastern bloc, demanded their fundamental rights and freedoms and opposed oppressive regimes through non-violent protests and demonstrations. Referring to Ranciere's political thought, the people initiated the transformation process of Eastern Europe with the end of the Cold War, so this process was bottom-up. Expanding their subjects and issues, the new social movements continued their legacy after the Cold War, which will be examined in the next chapter.

3.8. Chapter Conclusion

The idea that every human has certain rights by virtue of his/her humanity has been widely accepted at a nearly universal level after the devastating consequences of the Second World War. After the publication of the Universal Declaration of Human Rights by the United Nations in 1948, international and regional conventions have increased tremendously. Since then, many state and non-state actors have come together to produce numerous documents expressing the need to respect human rights (Vincent, 1987). The United Nations took steps and kept human rights on the agenda of states in global politics. Countless human rights advocacy non-governmental organizations have monitored whether states keep their promises in international agreements and identified the human rights crimes committed by countries against their citizens. In sum, during this period, human rights became internationalized and institutionalized.

The period after the Second World War was marked by the re-establishment of the political and economic governance structures of the two leading states. With two different ideologies, the United States and the Soviet Union directed the Cold War as the two superpowers of bipolar world politics until 1991. In this period, the Cold War conflicts shaped human rights developments. In addition, with decolonization, many newly independent countries appeared on the political scene and demanded new rights such as self-determination, development, and the right to peace.

With the softening period of the Cold War in the 1970s, new steps were taken in East-West relations, and the Helsinki Final Act was signed in 1975. With this agreement, the Soviet Union accepted the human rights provisions, which positively impacted the work of human rights defenders and NGOs. It is reasonable to say that in addition to economic reasons, the opposition, which adopted the language of human rights, contributed to the collapse of the Soviet Union. These protests, which are called new social movements and put class-based approaches into the background, unlike the old ones, brought identity politics to the forefront and became an important issue in the process of European integration. New collective subjects involved in politics began to participate in decision-making mechanisms and demanded change from states by adopting human rights discourse in the rapidly globalizing world. It can be said that after 1945, while states dominated human rights politics, the number of collective subjects and NGOs in the social opposition increased as of the 1960s. The next chapter will show that human rights in the post-Cold War context are another story.

CHAPTER 4

HUMAN RIGHTS IN THE POST-COLD WAR ERA

Introduction

This chapter covers human rights developments in the post-Cold War era. With the collapse of the Soviet Union, the bipolar world order came to an end. This development has led to fundamental changes in the history of human rights besides affecting various political, economic, and social developments. This chapter, after drawing the general framework of human rights in this period, will discuss the rights of non-citizens, environmental rights, and COVID-19 rights, which are three current human rights crises in detail. In addition, human rights developments in this period are reconsidered in the context of Arendt and Ranciere's thoughts on human rights.

4.1. General Framework of Human Rights in the Post-Cold War Era

When Gorbachev took office in 1985 and started making reforms in various fields in the Soviet Union. Eastern European countries' breaking away from the communist bloc also started. With the collapse of the Berlin wall in 1989, Germany's unification process began, which meant the destruction of the iron curtain, one of the symbols of the Cold War. Gorbachev did not oppose the reunification of Germany, and at the end of 1991, the Soviet Union was officially dissolved, leading to the establishment of 14 new states in addition to Russia (Brummett et al., 2005). With the collapse of the Soviet Union, the world has passed into a unipolar order. The advances in technology, production, communication, and market economy have accelerated

globalization, and the West emerged as the victorious side of the Cold War (Ishay, 2004).

The process of institutionalizing human rights continued in the post-Cold War era. Human rights are a cross-cutting matter that almost all UN agencies and bodies promote and protect globally. Especially some areas such as economic and social development, peace, and security prioritize strong support for promoting and protecting human rights. (Global Issues-Human Rights, n.d.). Due to this necessity, several bodies within the United Nations have been established to deal directly with promoting and protecting human rights.

The Office of the High Commissioner for Human Rights (OHCHR) is an entity of the United Nations, which was established to show the joint effort of the states that have dedicated themselves to the promotion and protection of the human rights articles outlined in the 1948 Universal Declaration of Human Rights (Who We Are-An Overview, n.d.). Since its establishment in the 1990s, the OHCHR has played a leading role in human rights (So, 1995). The main tasks undertaken by the office are assistance to states, other entities, and individuals, standard-setting and monitoring, implementation on the ground, and prioritizing human rights in all UN operations (What We Do-An Overview, n.d.).

Another significant actor in protecting of human rights is the United Nations Human Rights Council (HRC). On 15 March 2006, the UN General Assembly created the Council, which replaced the UN Commission of Human Rights.

The Council:

[I]s an inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and making recommendations on them (Welcome to the Human Rights Council, n.d., para. 1).

The UN General Assembly elects 47 members. Universal Periodic Review (UPR) is a unique mechanism the Council applies. With this mechanism, the Council evaluates the human rights situation of all 193 member countries every four years. This review gives every state the right to be treated equally because, in this report, each state can show what they are doing to advance human rights and respond to the challenges they face. In addition, thanks to the report, good practices of countries are shared with the whole world (Basic Facts About the UPR, n.d.).

The developments in the post-Cold War period have deeply affected human rights in two senses. First of all, with the end of the Cold War competition, the issue of human rights has ceased to be the subject of interstate competition. As shown in the third chapter, bipolar world order was established after the Second World War. The economic, political, and ideological rivalry between the Western bloc based on free markets and democracy on the one hand and the communist Eastern bloc on the other has steered world politics. The issue of human rights has also been one of the main issues of this interstate competition. States that wanted to prevent the repetition of major human rights violations during the war and to perpetuate world peace came together and established the United Nations. The UN, which puts human rights at the center of its agenda, was naturally affected by the conflicts of the Cold War shaped by interstate competition. The two blocs exercised their influence over the content and instruments of human rights in accordance with their interests and ideology. In this sense, human rights have become an area where the interstate power struggle is fiercely experienced.

With the collapse of the Soviet Union, and the end of the Cold War, which lasted more than 40 years, the unipolar world order has emerged. With the dissolution of the Soviet Union, the economic, political, and social integration efforts of the ex-communist states with Western Europe began. In this context, human rights have been adopted as a founding value while creating

the new world order. The European Union is an example of taking human rights as a founding norm. The EU, which was established with the signing of the Maastricht Treaty in 1992, did not only aim to facilitate the integration of ex-communist countries into the market economy. It also aimed to build a Europe in which member states are “confirming their attachment to the principles of liberty, democracy and respect for human rights and fundamental freedoms and of the rule of law” (European Union, 1992, para. 3). To put it briefly, although interstate struggles and conflicts continue in the post-Cold War era, the issue of human rights has ceased to be the arena of this competition.

The second impact of the end of the Cold War on human rights developments was related to social movements. Considering human rights developments in the post-Cold War era, states were not the only actors that had the power to determine the issues in global politics. The people also wanted to set the political agenda through popular movements. Social movements and opposition in the 1960s and 1970s aimed “to develop a movement dissociated from both American capitalism and Soviet oppression in communist regimes” (Ishay, 2004, p.250). In a competitive environment where two different ideologies and economic orders are in constant conflict and trying to gain supporters, opposition groups in the Western bloc and third world countries that have just gained their independence due to decolonization were emphasizing economic, social, and cultural rights. Since the 1960s, social movements and opposition groups in various geographies have embraced the human rights language. In this context, the issue of human rights, dominated by interstate competition, has also been adopted by society. It has become a shared value that they can implement for change demands.

In the 1990s, when the Cold War ended, and a single ideology became dominant in the world, the content of social movements changed. In the post-cold war era, when military and ideological conflicts were put in the

background, issues such as culture, identity, gender, and the environment began to come to the fore. These issues, whose origins were laid during the social struggles in the 1960s, have spread worldwide since the 1990s, with the common usage of mass media and globalization.

Economic development is always on the agenda of developing countries, but this is not the only issue. In addition to economic development, issues such as local peoples' identities, languages, and cultures are also on the agenda. The prominence of identity and culture in human rights politics is important in incorporating new subjects and issues into human rights. However, at the same time, it has brought back an issue that has been discussed since the early history of human rights. This debate is about the universality of human rights and cultural relativism.

The process of universalization of human rights started with the French Declaration in the 18th century, with the rights of man announced as the rights that belong to not only the French but also all people. With the 1948 Universal Declaration, states have committed to implementing and protecting human rights, and this document has been adopted almost universally today. As the rethinking of the history of human rights shows, human rights have been accepted as a common value all over the world after the outstanding human rights violations in the Second World War, and the international community has tried to guarantee the protection of human rights through various binding mechanisms. Even though almost all states have signed the UDHR, and human rights have become a universal moral norm, cultural relativists question the universality of human rights. In the post-Cold War era, debates on universality have flared with the prominence of culture and identity in social movements.

Vincent (1986) lists the principles of cultural relativism as follows:

In the first place, it asserts that rules about morality vary from place to place. Secondly, it asserts that the way to understand this variety is to place it in its cultural context. And, in the third place, it asserts

that moral claims derive from, and are enmeshed in, a cultural context which is itself the source of their validity (p. 37).

Cultural relativists argue that documents such as the Universal Declaration are valid only in the Western societies where they originated and that rights are not universal because they do not conform to the moral values of their societies. The discussion of universality and cultural relativism is not within the scope of this thesis⁸. However, questioning the universality of human rights and arguing that it is not suitable for every culture emerges as an obstacle for the masses fighting for equal rights and freedoms.

Ertuğrul (2010), who discusses in his article how the particularist approach to European identity invalidates the principle of universality of human rights within the European Union, argues that “the culturalist or particularist specifications imposed on human rights lead to the exclusion and oppression of ‘disenfranchised individuals’ and ‘non-dominant groups’ not only in ‘non—Western’ but also in the Western societies” (p. 121). Considering the ongoing oppression and persecution in different cultures and traditions, “the principle of the universality of human rights turns into a political and moral standpoint in the endless struggle for political equality and social and economic rights” (Ertuğrul, 2010, p. 121). Although cultural relativists question the universality of human rights, all peoples of the world use the language of human rights while demanding their rights and freedoms and hold both states and the international community responsible for preventing human rights violations.

Attributing human rights to a particular civilization or arguing that some cultures are incompatible with some human rights means putting a barrier in front of the subjects who struggle for equality. As this thesis rethinks

⁸ For the discussion of the universality of human rights, see Demir, E. (2006). İnsan hakları bağlamında evrensellik ve kültürel rölativizm çatışması (Publication No. 217930) [Master’s thesis, İstanbul Üniversitesi]. YÖK Tez Merkezi, and Vincent, R. J. (1986). Human rights and international relations. Cambridge University Press.

historically, the concept of human rights has survived to this day not only to ensure global justice but also because it has become an important common value in international politics and has been adopted by people and provided a solid basis for their struggles.

After drawing a general framework of human rights struggles in the post-Cold War period, now three current human rights crises will be examined in the continuation of the chapter. These are the rights of non-citizens, environmental rights, and COVID-19-related rights. These three issues have been chosen to reveal the actors, content, and situation of today's human rights developments.

4.2. Current Human Rights Crises

Despite international cooperation and solidarity, human rights violations continue. The last decades have been marked by human rights problems such as ethnic massacres, acts of terrorism, poverty, civil wars, and discrimination based on race, gender, religion, and identity. All over the world, people took to the streets against despotic governments, multinational corporations that harm the environment, and far-right populist leaders, demanding justice. This section will problematize contemporary human rights regressions. Three issues are selected from numerous human rights crises currently faced: rights of non-citizens, environmental degradation, and rights violations due to COVID-19. As will be discussed below, these problems are considered human rights crises as they ultimately deprive people of fundamental human rights such as life, movement, and health. Understanding the structure, international standards, and subjects of the current crises will help us rethink how universal norms, state power, and social struggles work out for the universality and protection of human rights.

4.2.1. Rights of non-citizens

People have always been on the move. Even with today's technology, tracking full human mobility is impossible. Due to globalization,

improvements in transportation facilities, as well as wars and conflicts, millions of people live outside the country of their citizenship for various reasons. Examining the rights of non-citizens is an appropriate field to test the limits of the universalist claims of human rights. Although human rights norms are universal, as stated in core international documents, their implementation is almost entirely national (Donnelly, 2013). This duality forms the basis of human rights violations experienced by non-citizens today.

A non-citizen is basically a person who is not a citizen of the state where she lives. The term non-citizen consists of several different groups, such as “permanent residents, migrants, refugees, asylum-seekers, victims of trafficking, foreign students, temporary visitors, other kinds of non-immigrants and stateless people” (OHCHR, 2006, p. 5). The term non-citizen is used in this section as an inclusive term without going into legal distinctions because the human rights problems faced by most groups, as mentioned earlier, are similar (OHCHR, 2006).

The rights of non-citizens were proclaimed by the UN General Assembly in 1985 in the UN Declaration on the Human Rights of Individuals who are not Nationals of the Country in which They Live. Also known as the Alien Declaration, the document states that non-citizens shall enjoy rights under the national law of the state where they live and their international obligations (UN General Assembly, 1985). The rights of non-citizens are almost the same as the rights and freedoms in the Universal Declaration. These rights include the right to life, freedom of thought, the right to work, and the right to use their own culture and language. Unique to the non-citizen category, it is forbidden to expel the person living in the country on the grounds of race, color, religion, culture, descent, or national or ethnic origin; only if national security is in question, then is deportation possible (UN General Assembly, 1985).

The concept of national security is an excuse mechanism states use to prevent immigrants from entering their lands on the basis of their sovereign rights. In line with political and economic interests, states can again prevent the right to seek asylum. In addition, due to the principle of non-interference in the internal affairs of states, the states are the main actors in the management of aliens in their territories. As a result of intrastate or interstate conflicts, non-citizens may be subject to rights violations. Today, with the increasing number of people living in a state where they are not citizens, xenophobic movements have increased, and this can cause violations of the rights of non-citizens. In summary, when viewed from the perspectives of non-citizens, there is a regression in their ability to enjoy basic human rights.

4.2.2. Environmental rights

With the spread and acceleration of industrialization, the level and speed of environmental degradation have increased. Intensive water, soil, and air pollution and the unplanned exploitation of natural resources in recent decades have caused irreversible damage to our planet and its living creatures. A current human rights crisis has emerged as environmental disasters threaten and violate basic human rights such as the right to life, health, and development.

Young activist Greta Thunberg staged protests addressing climate change in front of the Swedish Parliament before the 2018 general elections. Greta inspired her peers, and thousands of young activists joined the movement started by her. Attracting the attention of politicians, the press, and non-governmental organizations, the school strike for climate change movement gained popularity around the world. It evolved into the global student action known today as Fridays for Future. Many such movements point out that the environment is an element in policy-making that cannot be ignored and spread the discourse of universal environmental/planetary rights in the literature and daily life.

The debate on environmental rights entered the agenda of international politics in the 1970s. The environment was addressed directly for the first time at the United Nations Conference on the Human Environment held in 1972 (Thorne, 1991). When the Declaration on the Human Environment, also known as the Stockholm Declaration, was published, its first principle stated that:

Man has the fundamental right to freedom, equality, and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations (UN General Assembly, 1972, p. 4).

Moreover, the United Nations Environment Program (UNEP) was established. UNEP has become the global authority with the role of agenda-setting on environmental issues and emphasizing the environmental dimension of sustainable development within the UN system (UNEP, n.d.). Today, the environment continues to be one of the most important issue areas of international politics.⁹

In the human rights literature, the environmental issue has started to be discussed as the right to have a safe environment (RSE). Environmentalists argue that environmental rights should be recognized as human rights since environmental rights, like all human rights, are based on the protection and promotion of human life and well-being (Nickel, 1993). In addition, universally accepted rights such as the right to life, security, health, and development are directly related to the RSE (Thorne, 1991) since a healthy and decent life cannot be sustained in a degraded and toxic environment.

Since human rights are receptive to new values and threats to humanity, change in the meaning, and the content is possible (Thorne, 1991). As the

⁹ All UN's conferences and reports on the environment can be accessed here. <https://www.un.org/en/conferences/environment>. See also UNEP publications and data on environment <https://www.unep.org/publications-data>

most prominent danger people face today is the degradation of the. The report of the UN Conference on the Human Environment (UN General Assembly, 1972) proclaims that:

The protection and improvement of the human environment is a major issue which affects the well-being of peoples and economic development throughout the world; it is the urgent desire of the peoples of the whole world and the duty of all Governments (p. 3).

States also have positive obligations, such as preventing individuals and institutions from degrading the environment, setting a standard for a safe environment, and ensuring that this standard is complied with (Nickel, 1993).

Another recent example of state duties on the environment was proclaimed by the Paris Agreement, a binding treaty under the UN Framework Convention on Climate Change (UNFCCC). It was acknowledged that “climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights” (UNFCCC, 2015, p. 1). States do not have to act alone on environmental issues. Since environmental degradation is a global issue affecting the entire planet, international environmental documents and agreements have underlined that the global cooperation of states is necessary for protecting the environment and related human rights (Knox, 2016).

The need for a global response to global environmental degradation has created new challenges for the states. The first challenge concerns national sovereignty over natural resources. In the Stockholm Declaration, Principle 21 states that:

States have. . . the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction (UN General Assembly, 1972).

Combining the rights of states over their territories with the responsibility of not polluting and protecting the environment outside their borders, the Declaration, according to many, weakened the sovereignty of states (Thorne, 1991). However, as there is no authorized global institution for using and protecting natural resources, states still exercise their right to use the natural resources on their land. This shows once again that we are limited to the jurisdiction of states in the protection and implementation of universally stated human rights.

Another debate on environmental rights is to identify and prosecute the perpetrator. Unlike other human rights, environmental rights violations often take the form of "rights violations without a direct actor" because they result from millions of people's combined actions (Nickel, 1993, p. 293). In addition, a time-related problem is encountered in identifying the perpetrators. As stated above, the Industrial Revolution intensified environmental degradation and overconsumption of natural resources. Blaming the generations that lived a few centuries ago is a controversial issue in the literature. Similarly, today's generation also causes environmental problems that future generations are likely to encounter. This situation is problematic in terms of intergenerational justice. The fact that it is difficult to identify the perpetrators of today's environmental disasters does not mean that the identification of the perpetrator should be abandoned altogether. However, the transboundary nature of environmental damage and the fact that a direct cause-effect relationship cannot be established make it challenging to identify the perpetrators.

In sum, the following problems regarding environmental rights have been identified. First, the protection and promotion of environmental rights are left to the states without problematizing the state's inability to identify the perpetrators. Second, the possibility of violations of environmental rights by states due to their sovereign rights over their territories and resources has been ignored. The environment is closely related to the development issue.

Today, countries with developed industries have industrialized from the 18th century, and in a sense, they have begun destroying the environment much earlier than the others. However, today, developing countries are required to develop without destroying the environment. It is argued that this creates inequality and puts an unequal burden on developing countries.

The environmental issue is an important example of the state of order of human rights today. Many local or international institutions, organizations, and NGOs conduct environmental studies and undertake a standard-setting tasks in this area. From this point of view, the environment is a field in which international and national power relations are very determinant, and powerful states as well as try to infiltrate institutions and norms in line with their interests. Thus, it is hard to assess whether environmental politics contribute to the universal protection of human rights.

4.2.3. COVID-19 and human rights

Since the coronavirus was first detected in the last days of 2019, it has caused millions of people to die or suffer permanent damage, the economies of many countries to go into crisis, and many people to stay in isolation at home. The health crisis took a global turn when the World Health Organization (WHO) declared the disease as a “public health emergency of international concern” on January 30, 2020 (WHO, 2020). Since then, WHO has acted as a global authority providing governments with information and resources on COVID-19 treatment and transmission control¹⁰. COVID-19, which affected the whole world, touched all political, economic, and social aspects of human life, and its effect continues. The fact that it cost many

¹⁰ Interactive timeline of WHO’s COVID-19 response can be seen here <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/interactive-timeline/#!>

lives is enough to call COVID-19 a human rights crisis. However, there are other human rights issues linked to the pandemic.

As stated in Article 3 of the Universal Declaration of Human Rights, "everyone has the right to life, liberty and security of person" (UN General Assembly, 1948b, Art. 3). The right to health is emphasized in Article 25 of the same document and the elements included in a healthy life are listed as follows:

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control (UN General Assembly, 1948b, Art. 25).

The Committee on Economic, Social, and Cultural Rights interpreted Article 12 of the Covenant and specified the states' duty to protect not only health but also the determining factors. The determinants of health are "access to safe and potable water and adequate sanitation, an adequate supply of safe food, nutrition, and housing, healthy occupational and environmental conditions, and access to health-related education and information, including on sexual and reproductive health" (CESCR, 2000, Para. 11). The limits of the rights to life and health have been challenged by the COVID-19 pandemic.

COVID-19 has become a global human rights crisis due to its rapid spread to many geographies and posing a great threat to human life. While millions lost their lives, people were deprived of their economic and social rights due to unemployment and inflation caused by the economic crisis. Quarantines have been implemented around the world to reduce and prevent transmission of the disease. While countless countries closed their borders, the movement of people within countries was also restricted.

The pandemic has also deepened the already existing problems. For example, it has affected ethnic minorities more deeply because these groups

have low-paid jobs in the community and have less access to health care. As a result, it is more difficult for them to isolate themselves when they are infected, which accelerates the spread of the disease among ethnic minorities and worsens their current plight (Statement by Michele Bachelet, 2020). After having examined the COVID-19 public health policy interventions implemented between January 1 and June 30, 2020, and their impact on marginalized groups on a global scale, Zweig et al. (2021) found that over 70% of the implemented policies negatively affect human rights in at least one category out of twenty-one or for at least one marginalized population.

The policies implemented to control the adverse effects of the pandemic and protect public health have brought new dimensions to the relationship between the state and human rights. With the pandemic, the question of whether individual rights and freedoms can be limited for public health come to the fore. According to COVID-19 Civic Freedom Tracker, there are 112 countries with emergency declarations, 62 countries with measures that affect expression, 156 countries with measures that affect assembly, and 61 countries with measures that affect privacy.¹¹ UNAIDS (2020) commented that “while restrictions on freedom of movement are permissible to achieve a legitimate aim, such as protecting public health, states still have a responsibility to ensure that such restrictions are proportionate, evidence-based, and time-limited” (p. 16).

In conclusion, with the pandemic outbreak, public health policies have come to the fore, and the duty of states to ensure that their citizens have access to health services, clean water, adequate food, and sanitation has gained urgency. The WHO has provided national and international policymakers with information and resources for the global fight against the pandemic.

¹¹ For more details of COVID-19 Civic Freedom Tracker
<https://www.icnl.org/covid19tracker/>

However, the management of the pandemic is under the control of sovereign states. Even after two-and-a-half years, the COVID-19 pandemic continues to cause major human rights violations due to the states' inability to make sustainable public health policies, reluctance to secure their citizens' economic rights, and late access to the vaccine due to the lack of sufficient resources. This issue again shows us that states fail to implement and protect universally defined rights to life, health, and economic and social rights. Sometimes, they commit violations through the executive power gained by emergency declarations. Considering the violations related to COVID-19, a decline in human rights is observed.

4.3. Rethinking the Human Rights in the Post-Cold War Era

As mentioned in the previous chapters, Arendt argues that the only universal human right is 'the right to have rights' (Arendt, 1973). According to her, only people who have citizenship status can enjoy human rights. Arendt emphasizes the preeminent role of the state in promoting and protecting human rights (Arendt, 1973). Her persistent emphasis on the role of state and citizenship is a great contribution to the literature on human rights because it reminds us to think critically about the agency in human rights.

Arendt's critique of human rights can be justified given that the state was a crucial actor in human rights in the 18th century and post-1945 period. In fact, it is possible to justify Arendt when the current human rights violations experienced by non-citizens are evaluated. In this sense, she is a thinker whose influence on contemporary political thought and human rights policy continues.

With the globalization process that started in the 1970s, subjects and issues in global politics have diversified. This period, where the importance of national borders has decreased, and all issues have the potential to have a global impact, has become encompassing all areas of life with the end of the Cold War and the spread of mass media and the internet. Human rights have

also been affected by this process, and rights violations in a small part of the world can be heard by the whole world. During the Cold War, the states stuck between the tensions of the two poles brought national security to the fore, and the issue of human rights became an area where there was an interstate power struggle.

The student movements in Europe and the civil rights movement that emerged in the United States at the end of the 1960s, unlike the movements at the end of the 20th century, moved away from the class ground and came together more on identity and culture. At the same time, these more autonomous and non-hierarchical new social movements became concrete examples of people's demands for change against oppressive regimes towards the end of the Cold War. Activists have also set up various NGOs to scrutinize state actions and pressure states regarding the enforcement and protection of human rights. By the 1990s, the Eastern bloc countries abandoned the communist regime and entered the process of structural change. With the end of the Cold War, the transformation of Europe, in particular, could not have taken place without the influence of social opposition and people's struggles.

From an Arendtian perspective, it can be argued that the sphere of influence of states has narrowed with the globalization process. This shrinkage is also reflected in human rights policy, as activists and NGOs have become subjects of politics. Although it is mentioned that the importance of states and borders has decreased today, the main actors are still the states in the protection and implementation of human rights. However, as this thesis' rethinking of human rights history has shown, the impact of social struggles for equality and rights on states' behaviors cannot be ignored.

Ranciere's understanding of democratic politics is based on the 'presupposition of equality' (Ranciere, 1999). According to him, the police system determines who can and cannot be seen in politics and who cannot be heard or not. There is hierarchy and inequality in the police system.

Individuals come together to form the collective political subject and engage in non-violent political action to justify the presupposition of equality. Individuals who get rid of the roles dispersed by the police order come together around a new identity, the process of political subjectivation (Ranciere, 1999).

Looking at the human rights policy of the post-Cold War era from the perspective of Ranciere, it is seen that many different groups have constructed new identities and struggled for equality as a collective action. Activists embracing identities such as women, blacks, LGBTQ+, and ethnic minorities demand the equality they lack in the police order non-violently, although there have been some violent protests. Activists, who transform their demands into political action, aim for a change in the political order. With the pressure created by the social opposition, states have to listen to and evaluate the demands of the collective subjects.

Examining three recent human rights issues has shown a setback in human rights politics, although different subjects and issues are more visible. As an actor that monitors the behavior of the state and limits its power, the sphere of influence of social struggles remains weak compared to the transformative power of the protests that took place during the Cold War. From Ranciere's political thought, the first possible reason for this weakening may be that contemporary human rights movements have shifted from a collective subject formation process to identity politics. Ranciere called it the political process of subjectivation, where people disidentify themselves from roles in the police order and demand equality by creating a new collective identity (Gündoğdu, 2017).

The aim here is not to unite people around existing identities but to create an identity with a new meaning by detaching themselves from definitions and roles. In this context, it can be said that doing identity politics means adopting implicitly the existing roles and hierarchies in the police system as they are. This prevents the presupposition of equality in democratic politics from being

realized because existing roles contain inequality. Instead, collective subjects must struggle for a change in the definitions and distributions imposed by the police order.

From Ranciere's perspective of political thought, another reason for the weakening of today's human rights movements may be that these demonstrations resort to violence. Violent activists ignore the equality of the other side while asserting the precondition of equality for themselves. According to May's evaluation of Ranciere's view on non-violence in democratic politics, "we must extend the presupposition of equality not only to those who struggle but also to the elites who, willingly or unwillingly, wittingly or unwittingly, oppress them" (May, 2010, p. 23). Struggles that use only violence and cannot put their demands into political action cannot lead to changes in existing political and social structures.

Based on Ranciere's political thinking, possible reasons for the diminishing impact of contemporary human rights struggles have been questioned briefly. However, the content of social movements and whether the strategies they adopt cause a narrowing of their sphere of influence may be the subject of another study.

4.4. Chapter Conclusion

With the end of the Cold War, bipolar world politics came to an end. Interstate tensions have decreased, and competition has decreased. The integration process of the Eastern bloc with Europe has begun, and ex-communist states have undergone several structural changes. In this political context, human rights have been a founding element in adapting ex-communist states to the Western world. The new social movements that emerged in the 1960s and 1970s have proliferated since the 1990s. With these social movements in which issues such as identity, culture, and gender came to the fore, people became involved in democratic politics through the process of political subjectivation.

Three of the numerous human rights crises, namely the rights of non-citizens, environmental rights, and rights related to COVID-19, have been analyzed to illustrate the current state of human rights in the context of a historical rereading of this thesis. Despite many provisions adopted under the umbrella of the United Nations, people continue to be deprived of their fundamental rights and freedoms related to these issues.

With the spread of international migration, the issues of statelessness and the rights of non-citizens have been popular. Xenophobic and populist regimes have opposed the rights of non-citizens. Although environmental rights have been discussed since the 1970s, efforts to set international standards have recently intensified. At the same time, environmental rights, frequently demanded by the social opposition, cannot be fully implemented and protected because the perpetrator of environmental degradation cannot be determined, and the issue is intergenerational. The most recent review of human rights violations due to COVID-19 has shown that the right to health is hardly achieved primarily by the underdeveloped and developing countries. Due to COVID-19, societal, political, and economic inequalities have deepened even more. In addition, due to COVID-19, some governments have declared a state of emergency and used pandemic measures to restrict their citizens' individual rights and freedoms. In short, these three issues have shown a regression in contemporary human rights.

CHAPTER 5

CONCLUSION

In this thesis, human rights developments in the 18th century, the Cold War, and post-Cold War periods were examined in the context of international norms, state power, and social struggles, with a conceptual framework formed from the thoughts of Arendt and Ranciere. While focusing on human rights developments in each historical period, the political and social contexts were also analyzed.

The political and social events in the 18th century meant a break not only for Europe but the whole world. In the period, man became the center of politics and philosophy, a historical development that can be seen as the culmination of Renaissance humanism. Social contract theory emerged under natural law, and natural rights theory and thinkers such as Hobbes, Locke, and Rousseau contributed to the theory with different approaches. Hobbes paints a darker and more chaotic picture of the state of nature and argues that individuals transfer all their natural rights to the sovereign. According to his approach, the sovereign has absolute powers, and in fact, the social contract is a tool for him to establish authority.

On the other hand, Locke points out a less chaotic state of nature. People give up their natural rights to enter social life, but not all their natural rights. The sovereign's power is limited because, in the realm where the sovereign cannot interfere, people have fundamental rights that they do not waive. Also, people have the right to revolt if the sovereign power does not protect their rights. In addition to the rights to life and security, Locke emphasized

the right to property. He considered inequalities in the private sphere, such as slavery and servanthood, normal.

Unlike the other two social contract theorists, Rousseau drew attention to societal inequalities. According to him, the two most dangerous evils are private property and division of labor. Because of these two demons, people think only of their interests, and self-love becomes egoistic. In his understanding, the interests and well-being of society, not the individual, should be favored. Since sovereign power is the embodiment of the general will, limiting it is impossible. While Rousseau draws attention to the inequalities in society, he limits the groups that can show their will. For example, women are not suitable for citizenship, i.e., for political life. For this reason, there is no reflection of their will. However, one of Rousseau's most important contributions is his defense that the common man as a citizen can be a part of the general will so that a republican regime is possible in which the masses can govern themselves.

Enlightenment ideas became widespread and accepted by the ordinary people and were addressed in the struggle against the ruling classes. The well-known motto of 'liberty, equality, and fraternity' of the French Revolution are examples of concepts adopted by the people's struggles. The age of absolutism ended, and the concept of the modern state based on human rights and the principle of equal citizenship, representing the people's general will, first emerged in Europe in the late 18th century.

The ruling classes, afraid of these shocking effects on the lower classes, tried to control the masses by force to not make room for new subjects and issues to be included in politics. Human rights, strengthened by the revolutions and movements in the 18th century, could not hence show the same progress in the 19th century. Western ruling classes resisted accepting the principles of equality, freedom, and fraternity brought by the revolutions. They tried to use these ideals as a basis for establishing a new order after pacifying and purifying their harmful elements in a way that would

not shake their own power. In the first half of the 20th century, however, the firm inclusion of Real Socialism into the international agenda and the increasingly stronger workers' movements across the world under the influence of the Bolshevik Revolution transformed Western politics fundamentally. The Western ruling classes started endorsing the ideals of the 18th-century revolutions they had tried to pacify earlier and developing the liberal democratic Western state model against the Bolsheviks in its contemporary republican form, the substance of which has been identified by the universal human rights (Bedirhanoğlu and Saraçoğlu, forthcoming). During the Cold War, the conflict between the West, which identified with liberal democracy, and socialist Russia continued. In a world order also shaped by the Soviet alternative, the Western bloc had to take the demands coming from the lower classes more seriously. This concern was translated into the international arena as the competition of two different conceptualizations of human rights, thus the question of whether civil liberties or the social and economic well-being of the people should be accepted as the fundamental basis for universal human rights. Both sides favored rights in different categories during the Cold War according to their ideologies. This process eventually fixed equal citizenship, defined by universal liberal human rights, as the norm of the Western modern state form.

The Cold War ended officially in 1991, and the tension between the two superpowers has come to an end. With the establishment of a unipolar world order, human rights, which were the subject of interstate competition, were released from this tension. The new social movements that emerged in the late 1960s increased in number in the post-Cold War era, and the new movements have focused on identity and culture rather than a class-based approach. Three current human rights crises, the rights of non-citizens, environmental rights, and COVID-19-related rights violations, are briefly examined. Despite efforts to prevent violations of rights in these matters, these three human rights crises prevent people from enjoying their

fundamental rights and freedoms. The reason for this is that today's human rights struggles cannot exert the pressure and effect that will pull the states from the violator to the role of protector. Given the power of social movements in previous decades to transform the political order, today's human rights movements have weakened. This is a possible explanation for the continuing violations of human rights despite their universal acceptance.

The first conclusion derived from this critical historical overview is that the history of human rights is also the period in which the modern state and its institutions were built. With the social contract theory that developed in the 17th and 18th centuries, the foundations of politics, society, and the individual were questioned. The source of sovereignty was secularized, in other words, descended to the earth. The concepts of freedom, equality, and fraternity, which were the principles of the French Revolution, were reflected in the political order and institutions re-established by the pressure of the demanding masses.

The establishment of nation states accelerated with the Great War at the beginning of the 20th century. Multinational empires were destroyed and replaced by nation states, a concept that became the dominant political institution and has influenced world politics ever since. Unsurprisingly, the modern nation-state is based on human rights, equal citizenship, and popular sovereignty. The idea of human rights and the modern state emerged together within an intertwined and nourishing process. For this reason, excluding the state, while discussing human rights is impossible. At this point, we can say that Arendt's view of the state as a fundamental actor as the protector and provider of rights has been confirmed.

Another conclusion from the critical historical reading of the protection of human rights in this thesis is that the modern state has always had a dual role in human rights: it is both a protector and a potential violator. Civil and political rights formulated during the French Revolution, that is, the first generation of human rights, have aimed to protect the individual from the

despotism of the state. The sovereign state does not have the right to do whatever it wants to its citizens. The reason for this is the human rights that individuals naturally have, which are autonomous from the sovereign's intervention area. It is no coincidence that the first goal of the rights that emerged as the Rights of Man was to limit sovereign power. Undoubtedly, the most striking example of the violating role of the state is the Nazi administration, which led to the disaster of the Jews in the Second World War. Hence, what Arendt overlooks is that in addition to the crucial role of the state in protecting human rights, it itself can pose a threat to the human rights of its citizens.

The final conclusion reached is that the ideal of human rights is a field of struggle and a subject of politics. In mainstream literature, human rights are discussed as a supra-state, supra-political phenomenon. However, this thesis shows the opposite. In every period examined, the political, economic, and social conditions have impacted the idea and practice of human rights. The emergence of the Right of Man cannot be understood without examining the revolutions that emerged in the 17th and 18th centuries when the newly established middle classes of the period demanded new rights, and the peasants and the poor supported and endorsed it. Similarly, the establishment of the United Nations and the publication of the Universal Declaration cannot be understood in isolation from the context of the ideological, economic, and military Cold War conflicts of the time and the new claims of the Third World.

These conclusions drawn from the thesis' re-examining the historical basis of human rights protection are essential to understanding contemporary human rights crises. Moreover, today's human rights crises cannot be understood independently of the current political, economic, and social context. When the three of today's human rights crises, namely the crises faced in environmental rights, non-citizens rights, and COVID-19-related rights, are rethought. The first thing to highlight is that although universal

human rights are at the center of the political debates, the states are indeed the main actors questioned regarding the implementation of these rights. Even though all these three crises are global crises that transcend state borders, and the international community is working to find solutions to them, the implementation of these efforts depends ultimately on the willingness of the states. The environmental issue presents a more complex picture as the subject, and the violator cannot be identified directly. These three issues show that states act according to their jurisdictions' wishes, interests, and capacities in many different ways.

For this reason, Arendt's emphasis on the importance of being a state citizen is important but not enough; under the current conjuncture, it requires an addition. Besides being the citizen of a state, it is more important to be the citizen of this or that state of being able to have access to rights. The universality of human rights norms and mechanisms cannot prevent the arbitrary practices of states and their violating roles.

Having said this, what defines individual states' attitude toward the protection of human rights is, as the thesis has underlined, the pressures coming from society, pressures peoples' political and social struggles exert over them. Today, while human rights norms have been universally accepted by states and have become the mainstay of people's demands for rights and equality, human rights violations continue, as demonstrated by the three current human rights crises analyzed in the previous chapter. This happens in a context that the social opposition that emerged in the 1960s and 1970s have arguably had the power to influence the decision-making processes of the states, a social opposition, which according to some, ending the Cold War and bringing the end to oppressive communist regimes (Thomas, 2001). In this case, considering the social opposition that revived human rights and destroyed oppressive regimes in world politics a few decades ago, the possible explanation of human rights violations today is the weakening of the effects of social struggles for rights.

Today, the working classes, whose power has been weakened by neoliberal policies, non-governmental organizations that have become a part of the established order, and the masses who have been engulfed by authoritarianism, have all withdrawn from the forefront of the struggle for rights. At the same time, racism, xenophobia, and reduced tolerance have become widespread in all societies and have been used as dangerous weapons by populist leaders. Applying Bedirhanoğlu and Saraçoğlu's (forthcoming) argument on the current crisis of republican democracy to the crisis of human rights, it can be argued that this crisis is experienced in a period in which human rights is accepted as the common value of humanity, and this is mainly because this norm is no more powerfully backed by the struggles of the working masses and international political controversies. Whether social struggles such as the women's movement and the anti-racist actions point to alternative subjectivation processes that can reverse this trend will be the crucial question to make sense of the future of human rights.

The issue of how the social opposition, which affects states' decisions in human rights policy, has entered a period of weakening and how it will emerge raises new questions. For example, questions such as what would be the framework, discourses, and strategies that activists would use in social movements for a robust social opposition. These questions were not within the scope of this thesis but should be answered in another study.

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APPENDICES

A. TURKISH SUMMARY / TÜRKE ÖZET

BÖLÜM 1: GİRİŞ

Her insanın insanlığı nedeniyle belirli haklara sahip olduđu fikri, İkinci Dünya Savaşı'nın yıkıcı sonuçlarının ardından uluslararası politikada popülerlik kazanmıştır. İnsan haklarının uluslararası hukuk tarafından sıkı bir şekilde korunduđu, devletlere onları korumak için açık görevler verildiđi ve bu nedenle insan haklarının neredeyse evrensel olarak kabul edildiđi böyle bir bağlamda, dünyada hiçbir insan hakları ihlali, en azından ağır ihlaller beklenemez. Ancak gerçek bunun tam tersi olmuştur. Son on yıllara etnik katliamlar, terör eylemleri, yoksulluk, iç savaşlar ve ırk, cinsiyet, din ve kimliğe dayalı ayrımcılık gibi ağır insan hakları ihlalleri damgasını vurdu.

Bu çelişkili tablo, eleştirel bir inceleme gerektirir. Evrensel Beyanname'nin kabul edilmesinin üzerinden 70 yılı aşkın bir süre geçmiş ve 21. yüzyılda insan haklarının korunması ihtiyacı evrensel bir norm haline gelmişken, ağır insan hakları ihlallerinin tüm dünyada yaygınlığını nasıl açıklayabiliriz? İnsan haklarının hem uluslararası hem de yerel siyasette ortak bir değer haline geldiđi bir dönemde insan hakları krizlerinin devam etmesi sorgulanması gereken bir bilmecedir. Bu tez, insan hakları tarihini, başka bir deyişle evrensel insan hakları fikrinin ve pratiğinin içinde geliştiđi tarihsel bağlamı eleştirel olarak gözden geçirerek bu soruya bir cevap arayacaktır. Bu tezde, insan haklarının korunmasının tarihsel temeli, tüm bu üç dinamik, yani evrensel normlar, devlet iktidarı ve toplumsal mücadeleler dikkate alınarak eleştirel bir şekilde yeniden incelenecektir.

Bu yeniden inceleme sırasında Hannah Arendt ve Jacques Ranciere'den türetilen kavramsal çerçeve kullanılacaktır. Arendt'in insan hakları ve vatandaşlık anayasasında temel bir rol üstlendiği modern devletin varlığı üzerinden 'haklara sahip olma hakkı' kavramı, Ranciere'in Arendt eleştirisi ışığında yeniden düşünülecektir. İnsan haklarının korunmasında modern devletlerin merkeziliğini tanımaya ihtiyaç varken, insan hakları siyasetinde siyasi aktörlere sınırlar çizmede sosyal mücadelelerin kurucu rolünü vurgulamanın da önemli olduğu savunulacaktır. Başka bir deyişle, Ranciere'in altını çizdiği gibi, insan hakları tarihi incelenirken, yeni konu ve öznelerin insan hakları kategorisine dahil edilmesi için verilen mücadeleler, incelenen dönemin siyasal ve toplumsal bağlamı içinde sorunsallaştırılmalıdır.

İnsan haklarının öznesinin kim olduğu tartışmalarında Hannah Arendt'in katkısı önemlidir. Arendt, insan haklarının evrenselliğini kökten eleştirir. Arendt'in insan haklarına yönelik eleştirisi, ağırlıklı olarak kendisinin de deneyimlediği ve 20. yüzyılın ortalarında ulus-devletlerin inşası ile birlikte üyeleri hızla artan vatansızlığa odaklanmaktadır. Arendt'in insan hakları eleştirisi, hakların tamamen ortadan kaldırılmasını önermez, ancak bu haklardan yararlanabilmek için vatandaşlığın ve siyasi bir topluluğa üye olmanın önemini altını çizer. Vurguladığı tek gerçek insan hakkı olan haklara sahip olma hakkı, aslında vatandaş olma veya siyasi bir topluluğa üye olma hakkı olarak anlaşılabilir.

Fransız filozof Jacques Ranciere (1940-) ise insan hakları konusunda farklı bir anlayışa sahiptir. Ranciere, Arendt'in insan haklarına yaklaşımını eleştirir. Ona göre Arendtçi yaklaşım, insan haklarının öznesini ya insan (salt yaşam, özel alana ait) ya da yurttaş (kamusal alana ait) olarak görerek bir "ontolojik tuzak" yaratır (Schaap, 2011, s. 29). İnsan haklarının öznesi vatandaşlar ise, yani insan hakları vatandaşlık haklarına indirgenebilirse, insan hakları gereksizdir çünkü "hak sahiplerinin haklarıdır", bu da totolojiye yol açar (Ranciere, 2004, s. 302). Aksine, herhangi bir siyasi topluluğa üye olma şartı

olmaksızın insan haklarının öznesi insan ise bu hiçbir şeye yol açmaz çünkü Arendt bu durumdaki insanların devlet korumasına sahip olmadıkları için haklardan mahrum bir durumda olduklarını söyler. Dolayısıyla, bu durumda insan hakları, “hakları olmayanların hakları” anlamına gelir (Ranciere, 2004, s. 302). Arendt’in ikilemi “en iyi ihtimalle siyasetten arındırılmış bir insan hakları ve en kötü ihtimalle siyaset karşıtı bir insani politikanın meşrulaştırılması” olarak değerlendirilebilir. (Schaap, 2011, s. 29).

Ranciere'ye göre demokratik siyaset, “haklarından mahrum bırakılmış veya marjinalleştirilmiş grupların, tam da yoksun oldukları varsayılan kapasiteleri kullanarak ve hak etmedikleri hakları yasalaştırarak eşitliklerini ortaya koyan mücadeleleridir” (Gündoğdu, 2017, s. 189). Öznelerin mücadelesinin işleyişi, “herkesin herkese eşitliği varsayımına” dayanmaktadır (Ranciere, 1999, s. 17). Özneler, eşitlik ön koşuluyla, polis düzeni tarafından dağıtılan ve eşit olmalarını engelleyen rolleri ve hiyerarşileri reddederler. Diğer bir deyişle demokratik siyaset, mevcut tanımların, kurumların ve düzenlerin siyasi özneler tarafından değiştirilmeye çalışıldığı bir mücadele alanıdır. Evrensel insan haklarının tarihi, yukarıda bahsedilen kavramsal çerçeve ile yeniden ele alınacaktır.

Bu tez beş ana bölümden oluşmaktadır. Takip eden ikinci bölümde, 18. yüzyılda hem modern siyasette hem de insan haklarında bir kırılmaya işaret eden gelişmeler incelenmektedir. Üçüncü bölüm hem dünya tarihinde hem de insan hakları tarihinde bir başka kırılma anı olan II. Dünya Savaşı sonrası dönemdeki insan hakları gelişmelerine odaklanmaktadır. Dördüncü bölümde Soğuk Savaş sonrasındaki insan hakları gelişmeleri üzerinde durulmuştur. Son bölümde ise evrensel insan haklarının korunmasının tarihi uluslararası normlar, devlet gücü ve toplumsal mücadeleler bağlamında yeniden düşünülerek ve Arendt ve Ranciere'in görüşleriyle oluşturulan kavramsal çerçeve üzerinden ulaşılan sonuçlar özetlenmektedir.

BÖLÜM 2: 18. YÜZYIL: AYDINLANMA FİKİRLERİ VE DEVRİMLER

İnsan hakları düşüncesinin ortaya çıktığı ve yaygınlaştığı Aydınlanma döneminde doğal hukuk teorisi önemli bir yere sahipti. İnsan aklının yetenekleri ön plana çıkmış, düşünürler insan doğasını, toplumun oluşumunu, siyasi otoriteyi ve geçmişten miras kalan eşitsizlikleri sorgulamaya başlamışlardır. Hobbes, Locke ve Rousseau gibi filozoflar, siyaset felsefesini ve insan hakları tartışmasını derinden etkileyen toplumsal sözleşme teorisini geliştiren ilk kişilerdi. Toplumsal sözleşme, doğa durumunda yaşayan bireylerin mutlak özgürlüklerini terk ederek sözleşme ile toplum ve devlet kurmaları olarak özetlenebilir.

Toplumsal sözleşme teorisi genellikle bireysel özgürlükleri devlete karşı korumak için uygulanmıştır. Locke'un yaklaşımına göre, bireyler sahip oldukları tüm hakları değil, yalnızca güvenlik ve adaletin sağlanması için gerekli olan belirli hakları bir egemene devrederler. Bu nedenle, "bu hakların devlet gücünün açık ve kesin sınırlarını belirlediği bireyler" hala devredilemez doğal haklara sahiptir (Uygun, 2020, s. 234). Hobbes ise çoğunluğun görüşünden uzaklaşmış ve mutlak otorite için bir temel bulmak için toplum sözleşmesini kullanmıştır. Dolayısıyla toplum sözleşmesi tezinin onun düşünce sisteminde bir temel değil, "otorite kurma aracı" olduğunu söylemek mümkündür (Güriz, 2003, s. 199).

Hobbes'un can alıcı katkısı, insanın güvenlik ve yaşam hakkıydı ve bu hak olmaksızın onun için toplumsal sözleşme geçersiz olurdu (Ishay, 2004). Locke'un ise insan hakları söylemine en büyük katkısı mülkiyet haklarıdır. Locke'un evrensel eşitlik ilkesini toplumun tüm katmanlarına yaymadaki başarısızlığı soru işaretleri yaratsa da onun liberal siyaset felsefesine ve popüler hareketlere yaptığı entelektüel katkı yadsınamaz (Tannenbaum, 2012). Locke'un görüşleri mutlakiyetçi hükümetlerin altını oymuş ve Amerikan ve Fransız Devrimlerinin entelektüel temellerinden birini oluşturmuştur (Uygun, 2020). Locke'un görüşlerinin ileri götürülerek

radikalleştiđi ve devrim sonrası Fransa'da 'terör dönemi' olarak bilinen kanlı yıllara yol açtıđı söylenebilir.

Jean-Jacques Rousseau (1712-1778), akıldan çok tutku ve duyguları vurgulayarak ve medeniyetin insanlığı geliştiren bir şey olmadığını savunarak Aydınlanma düşünürlerinden ayrılan bir siyaset felsefecisidir (Tannenbaum, 2012). Rousseau, toplumda egemen bir otorite oluşturmanın tek meşru yolunun anlaşma olduđu konusunda Hobbes ve Locke ile hemfikirdir. Onun sosyal sözleşme anlayışında insanlar, toplumun 'genel iradesini' temsil eden yeni bir egemen siyasi otorite yaratmak için doğal haklarını devrederler. Rousseau'nun betimlediđi devlet teorisi, Hobbes ve Locke'un aksine, bireyin deđil toplumun çıkarlarına öncelik verir ve doğrudan demokrasiyi ideal hükümet biçimi olarak görür ve bu fikir Fransız devrimci hükümetinin kuruluşunu etkilemiştir (Hayden, 2001). Rousseau'nun toplumsal sözleşmesi, egemenin gücünü sınırlamaz.

Rousseau'nun görüşlerinin bireysel hak ve özgürlüklere katkısına gelince, genel iradeyi oluşturan vatandaşlar listesini sadece erkeklerle sınırlandırır ve cinsiyetlerin eşit olmadığını vurgular. Ancak mülk sahibi olmayan sıradan insana vatandaş olma ve genel iradeyi oluşturma potansiyelini sunarak yeni bir saygınlık kazandırır (Tannenbaum, 2012). Rousseau'nun tüm toplum adına kararlar alan bir grup elit yerine, tüm insanların ortak yarar için birlikte karar vereceđi genel bir irade oluşturma önerisi, önümüzdeki yüzyıllarda yeni kurulan devletler için 'kim yönetmeli' sorusuna olası bir cevap ortaya koymuştur.

Aydınlanma döneminin toplumsal sözleşme teorileri gibi bu fikirler ve siyasi düşünceler, 'devrimler çağında' siyasi alanda özneleşme süreçleri aracılığıyla Avrupa'da yanıt buldu ve siyaseti dönüştürdü. Artan borçlarla ve toplumdaki artan ekonomik ve sosyal eşitsizliklerle baş edemeyen Louis XVI, 1614'ten beri bir araya gelmeyen temsili meclis olan Estates-General'i toplamaya karar verdi (Brummett vd, 2005). Bu meclis, her biri eşit oy ağırlığına sahip üç gruptan oluşuyordu. Nüfusun yaklaşık yüzde beşini

oluşturan din adamları (Birinci Zümre), soylular, köklü aileler (İkinci Zümre) ve halktan, 25 yaşın üzerindeki vergi ödeyen erkekler (Üçüncü Zümre) (Brummett vd., 2005). Toplumun daha geniş bir kesimini temsil etmelerine rağmen halk, din adamları ve soylularla aynı oy hakkına sahipti ve bu nedenle sayıca oylama sisteminde ısrar etti. Din adamlarından bazı delegeler sıradan insanları destekledi ve onlara katıldı. Delegeler nihayetinde kendilerini Fransa'nın Ulusal Kurucu Meclisi olarak ilan ettiler ve Fransız Devrimi'ne yol açan kıvılcımı ateşlediler.

Etkilerinin Fransa'dan tüm dünyaya yayıldığı radikal bir siyasi ve sosyal değişim dönemi başladı. Fransa'da yankılanan 'özgürlük, eşitlik ve kardeşlik' sloganları, Ulusal Meclis tarafından hazırlanan İnsan ve Yurttaş Hakları Bildirgesi'nde yer aldı. Birey olarak kendilerine değer verildiğini ve haklara sahip olduğunu anlamaya başlayan sıradan insanların toplumdaki eşitsizlikleri durdurma ve adaleti sağlama talebi, doğal kavramının hem konularının hem de içeriğinin genişlemesini beraberinde getirmişti (Donnelly, 2013).

18. yüzyılda mevcut düzeni sarsan ve dönüştürmeye başlayan olaylar sonucunda insan haklarına ve eşit vatandaşlığa dayalı cumhuriyetçi modern bir devlet oluşmaya başlamıştır. Bu noktada modern devlet ve insan haklarının iç içe olan ilişkisi ve gelişimi netlik kazanmıştır. Arendt'e göre, kitlelere eşitlik ve özgürlük umudu veren Fransız Devrimi'nin ilkeleri, vatandaşlık olmadan hiçbir anlamı olmayan soyut bir insan fikri yarattı. Arendt'in uyarısı, devletin insan haklarının korunmasındaki önemini vurgularken mantıklı olmakla birlikte, yeni bir modern alanın kurulmasını mümkün kılan yeni bir devlet biçiminin kurulmasına yol açan bu soyut hakların nasıl olduğunu görmezden geliyor gibi görünmektedir.

18. yüzyılın sonunda, öncelikli görevi bireyin haklarını korumak olan modern bir devlet kurumu ortaya çıkmış ve devlet ile halk arasında olduğu kadar insanlar arasında da eşit vatandaşlık ilişkileri kurulmuştur. Fransız Bildirgesi'nde de belirtildiği gibi, bu haklar sadece Fransız halkı için değil,

herkes için ilan edildi. Beyannameler, insan hakları normlarının kurumsallaşmasının ilk adımıydı. Bundan sonra birçok devlet anayasalarını hazırlarken bu insan hakları belgelerinden yararlanmak durumunda kaldı. Bu süreçte önemli bir faktör de halk hareketleriydi. Aristokrasi ile eşit olmak isteyen burjuva sınıfının talepleri, toplumun tüm kesimlerinin taleplerini belirlemeye başladı. Böylece sıradan insanların insan hakları öznesi olarak siyaset sahnesinde geri dönülmez varlığı başlamış oldu.

BÖLÜM 3: 1945 SONRASI İNSAN HAKLARI

Her insanın insanlığı nedeniyle belirli haklara sahip olduğu fikri, İkinci Dünya Savaşı'nın yıkıcı sonuçlarından sonra neredeyse evrensel düzeyde yaygın olarak kabul görmüştür. 1948 yılında Birleşmiş Milletler tarafından İnsan Hakları Evrensel Beyannamesi'nin yayımlanmasından sonra uluslararası ve bölgesel sözleşmeler muazzam bir artış göstermiştir. O zamandan beri, birçok devlet ve devlet dışı aktör bir araya gelerek insan haklarına saygı gösterilmesi gerektiğini ifade eden çok sayıda belge üretmiştir (Vincent, 1987). Birleşmiş Milletler'in attığı adımlar sayesinde insan hakları konusu dünya siyasetinde devletlerin gündeminde kaldı. Sayısız insan hakları savunucusu sivil toplum kuruluşu, devletlerin uluslararası anlaşmalarda verdikleri sözleri tutup tutmadığını izlemiş ve ülkelerin vatandaşlarına karşı işledikleri insan hakları suçlarını tespit etmiştir. Özetle, bu dönemde insan hakları uluslararasılaşmış ve kurumsallaşmıştır.

İkinci Dünya Savaşı sonrası döneme, önde gelen iki devletin siyasi ve ekonomik yönetim yapılarının yeniden kurulması damgasını vurdu. ABD ve Sovyetler Birliği iki farklı ideolojiyle 1991 yılına kadar iki kutuplu dünya siyasetinin iki süper gücü olarak Soğuk Savaş'ı yönettiler. İnsan hakları gelişmeleri Soğuk Savaş çatışmaları tarafından şekillendirildi. Ayrıca dekolonizasyonla birlikte, siyaset sahnesine birçok yeni bağımsız ülke çıktı ve kendi kaderini tayin, ekonomik kalkınma ve barış hakkı gibi yeni haklar talep etti.

Arendt, 1951 yılında yazdığı kitabıyla insan haklarına yönelik eleştirilerine 1948 yılında yayınlanan Evrensel Bildirgeyi de dahil etmiştir. Nazi rejimini bizzat deneyimleyen ve 1951 yılına kadar vatansız kalan Arendt için siyaset anlayışında ulus-devletlerin önemli bir yeri vardı. Özellikle savaş sonrası dönemde dünya siyaseti ulus-devletler etrafında şekillenmiş ve Arendt'in insan haklarının korunmasında devlete yaptığı vurgu daha anlamlı hale gelmiştir.

Kuşkusuz insan hakları ihlallerine maruz kalan tek grup vatansızlar değildir. Ancak, vatansız insanların içinde buldukları kötü durumun kaynağı, haklarının ihlal edilmiş olması değil, kendilerini "haksızlık" içinde bulmalarındır (Schaap, 2011, s. 25). Haksız insanlar çifte kayba uğrarlar. Önce doğup büyüdükleri evlerini ve sosyal çevrelerini kaybederler. İkincisi, bu insanlar devlet korumasını kaybederler, bu da "uluslar ailesinde" herkes bir tür siyasi topluluğun üyesi olduğu için tüm devletlerde yasal statülerini kaybetmek anlamına gelir (Arendt, 1973, s. 294).

Arendt, kişinin sırf insan olduğu için sahip olduğu hakların, tüm unvanlarından koptuğunda, yani yalnızca insan olduğu zaman yararsız olduğunu savunur. Arendt, hakların öznesi olan insanı siyasetten yoksun bir yaşamla ilişkilendirir (Schaap, 2011). Ancak Ranciere (2004) haklar konusunun tanımının değişime açık olduğu ve 'siyasal özneleşme süreci' ile bireylerin siyasetin ve dolayısıyla hakların öznesi haline geldiği gerekçesiyle bu fikre karşı çıkmaktadır. Ranciere'in siyaset felsefesinden hareketle, devletin ve kurumlarının egemen sınıflar tarafından yönetildiği ve devletin bazı grupları düşmanca veya tehlikeli olarak tanımlayarak kendi vatandaşlarının haklarını ihlal etmesinin mümkün olduğu unutulmamalıdır. Devlet, insan haklarının korunmasında önemli bir kurum olmasına rağmen, hakların ihlal edilme olasılığı göz ardı edilmemeli ve insan hakları siyasetten çıkarılmamalıdır.

1970'lerde Soğuk Savaş'ın yumuşama dönemiyle birlikte Doğu-Batı ilişkilerine yönelik adımlar atıldı ve 1975'te Helsinki Nihai Senedi imzalandı.

Bu anlaşma ile Sovyetler Birliği insan hakları hükümlerini kabul etti ve bu durum insan hakları savunucularının ve STK'ların çalışmalarına olumlu yansıdı. Ekonomik nedenlerin yanı sıra insan hakları dilini benimseyen muhalefetin Sovyetler Birliği'nin çöküşüne katkıda bulunduğunu söylemek mümkündür. Yeni toplumsal hareketler olarak adlandırılan ve eskilerden farklı olarak sınıf temelli yaklaşımları arka plana atan bu protestolar, kimlik siyasetini ön plana çıkarmış ve Avrupa bütünleşme sürecinde önemli bir konu haline gelmiştir. Siyasete dahil olan yeni kolektif özneler, hızla küreselleşen dünyada insan hakları söylemini benimseyerek karar alma mekanizmalarında yer almaya başlamış ve devletlerden değişim talep etmiştir. 1945 sonrasında insan hakları politikalarına devletler hakim olurken, 1960'lı yılların sonundan itibaren toplumsal muhalefetteki kolektif öznelerin ve sivil toplum kuruluşlarının sayısının arttığı söylenebilir.

BÖLÜM 4: SOĞUK SAVAŞ SONRASI DÖNEMDE İNSAN HAKLARI

Bu bölüm, Soğuk Savaş sonrası dönemdeki insan hakları gelişmelerini kapsamaktadır. Sovyetler Birliği'nin dağılmasıyla iki kutuplu dünya düzeni sona ermiştir. Bu gelişme, siyasi, ekonomik ve sosyal gelişmeler üzerindeki etkisinin yanı sıra insan hakları tarihinde de değişikliklere yol açmıştır. Bu dönemde insan haklarının genel çerçevesi çizildikten sonra, güncel üç insan hakları krizi olan vatandaş olmayanların hakları, çevre hakları ve COVID-19 hakları ele alınmıştır. Ayrıca bu dönemdeki insan hakları gelişmeleri, Arendt ve Ranciere'in insan haklarına ilişkin düşünceleri bağlamında yeniden ele alınmaktadır.

Soğuk Savaş sonrası dönemde yaşanan gelişmeler insan haklarını iki anlamda derinden etkilemiştir. Öncelikle Soğuk Savaş rekabetinin sona ermesiyle birlikte insan hakları konusu devletlerarası rekabetin konusu olmaktan çıkmıştır. Sovyetler Birliği'nin dağılmasıyla birlikte yeni ülkelerin Batı Avrupa ile ekonomik, siyasi ve sosyal bütünleşme ve bütünleşme çabaları başlamıştır. Bu bağlamda yeni dünya düzeni oluşturulurken insan hakları kurucu bir değer olarak benimsenmiştir.

Soğuk Savaş'ın sona ermesinin insan hakları gelişmeleri üzerindeki ikinci etkisi, toplumsal hareketlerle ilgilidir. 1990'larda Soğuk Savaş'ın sona erdiği ve tek bir ideolojinin dünyaya egemen olduğu yıllarda toplumsal hareketlerin içeriği değişmiştir. Soğuk Savaş sonrası dönemde askeri ve ideolojik çatışmaların arka plana atılmış ve kültür, kimlik, cinsiyet, çevre gibi konular ön plana çıkmaya başlamıştır. 1960'lı yıllardaki toplumsal mücadeleler sırasında ortaya çıkan bu meseleler, 1990'lardan itibaren kitle iletişim araçlarının yaygınlaşması ve küreselleşme süreci ile birlikte tüm dünyaya yayılmıştır. Ekonomik kalkınma, gelişmekte olan ülkelerin her zaman gündeminde bir konuydu fakat gündemlerindeki tek konu bu değildi.

Ekonomik kalkınmanın yanı sıra yerel halkların kimlikleri, dilleri ve kültürleri gibi konular da gündemdedi. İnsan hakları siyasetinde kimlik ve kültürün öne çıkması, yeni konuların ve konuların insan haklarına dahil edilmesi açısından önemlidir. Ama aynı zamanda insan hakları tarihinde tartışılan bir konuyu da geri getirdi. Bu tartışma, insan haklarının evrenselliği ve kültürel görelilik hakkındadır. İnsan haklarını belirli bir medeniyete atfetmek veya bazı kültürlerin bazı insan haklarına uymadığını savunmak, eşitlikleri için mücadele eden öznelerin önüne engel koymak demektir. İnsan hakları kavramı sadece küresel adaleti sağlamak için değil, aynı zamanda uluslararası siyasette önemli bir ortak değer haline gelmesi ve insanlar tarafından benimsenmesi ve mücadelelerine güçlü bir temel oluşturması nedeniyle günümüze kadar gelmiştir.

Uluslararası göçün yaygınlaşmasıyla birlikte vatansızlık ve vatandaş olmayanların hakları konuları gündeme gelmiştir. Yabancı düşmanı ve popülist rejimler, vatandaş olmayanların haklarına karşı çıktılar. Çevre hakları 1970'lerden beri tartışılrsa da uluslararası standartlar belirleme çabaları son zamanlarda yoğunlaşmıştır. Aynı zamanda toplumsal muhalefet tarafından sıklıkla talep edilen çevre hakları, çevresel bozulmanın failinin tespit edilememesi ve konunun nesiller arası olması nedeniyle tam olarak uygulanamamakta ve korunamamaktadır. COVID-19'a bağlı insan

hakları ihlallerine ilişkin inceleme, sađlık hakkının özellikle az gelişmiş ve gelişmekte olan ülkeler tarafından neredeyse hiç elde edilmediğini göstermiştir. COVID-19 nedeniyle toplumdaki siyasi ve ekonomik eşitsizlikler daha da derinleşmiştir. Ayrıca COVID-19 nedeniyle bazı hükümetler olađanüstü hal ilan etmiş ve pandemi tedbirlerini vatandaşlarının bireysel hak ve özgürlüklerini kısıtlamak için kullanmıştır. Kısacası bu üç konu çağdaş insan haklarında bir gerileme olduğunu göstermiştir.

BÖLÜM 5: SONUÇ

Bu tezde 18. yüzyıl, Sođuk Savaş ve Sođuk Savaş sonrası dönemlerdeki insan hakları gelişmeleri uluslararası normlar, devlet iktidarı ve toplumsal mücadeleler bağlamında Arendt ve Ranciere'in düşüncelerinden oluşturulmuş kavramsal bir çerçeve ile incelenmiştir. Her tarihsel dönemdeki insan hakları gelişmelerine odaklanılırken, siyasi ve sosyal bağlam da analiz edilmiştir.

Bu eleştirel tarihsel gözden geçirmeden çıkarılacak ilk sonuç, insan hakları tarihinin aynı zamanda modern devletin ve kurumlarının inşa edildiđi dönem olduğudur. 17. ve 18. yüzyıllarda gelişen toplum sözleşmesi teorisi ile siyasetin, toplumun ve bireyin temelleri sorgulanmış, egemenliđin kaynađı sekülerleşmiş, bir başka deyişle yeryüzüne inmiştir. Fransız Devrimi'nin ilkelerinden olan özgürlük, eşitlik ve kardeşlik kavramları, talep eden kitlelerin baskısıyla yeniden kurulan siyasal düzen ve kurumlarda yansımalarını bulmuştur.

Bu tezde insan haklarının korunmasına ilişkin eleştirel bir tarihsel okumanın sonucunda ulaşılan bir diđer sonuç, modern devletin insan haklarında her zaman ikili bir role sahip olduğudur: hem koruyucu hem de potansiyel bir ihlalcidir. Fransız Devrimi sırasında formüle edilen medeni ve siyasi haklar, yani birinci nesil insan hakları, bireyi devletin despotizminden korumayı amaçlamıştır. Egemen devlet, vatandaşlarına istediđini yapma hakkına sahip deđildir. Bunun nedeni, bireyin dođal olarak sahip olduğuy, egemenin

müdahale alanından özerk olan insan haklarıdır. İnsan Hakları olarak ortaya çıkan hakların ilk amacının egemen gücü sınırlamak olması tesadüf değildir. Kuşkusuz devletin ihlal edici rolünün en çarpıcı örneği, İkinci Dünya Savaşı'nda Yahudilerin felaketine yol açan Nazi yönetimidir. Dolayısıyla, Arendt'in gözden kaçırdığı şey, devletin insan haklarını korumadaki hayati rolüne ek olarak, kendisinin de vatandaşlarının insan hakları için bir tehdit oluşturabileceğidir.

Varılan nihai sonuç, insan hakları idealinin bir mücadele alanı ve siyasetin konusu olduğudur. Ana akım literatürde insan hakları devletler üstü, siyaset üstü bir olgu olarak tartışılmaktadır. Ancak bu tez bunun aksini göstermektedir. İncelenen her dönemde siyasi, ekonomik ve toplumsal koşullar insan hakları düşüncesini ve uygulamasını etkilemiştir. 17. ve 18. yüzyıllarda dönemin yeni kurulan orta sınıflarının yeni haklar talep etmesi ve köylülerin, yoksulların onu destekleyip onaylamasıyla ortaya çıkan devrimler incelenmeden insan hakkının ortaya çıkışı anlaşılabilir. Benzer şekilde, Birleşmiş Milletler'in kuruluşu ve Evrensel Bildiri'nin yayınlanması, dönemin ideolojik, ekonomik ve askeri Soğuk Savaş çatışmaları ve Üçüncü Dünya'nın yeni iddiaları bağlamından ayrı olarak anlaşılabilir.

Tek tek devletlerin insan haklarının korunmasına yönelik tutumunu belirleyen şey, tezin de altını çizdiği gibi, toplumdaki baskılar, halkların siyasi ve sosyal mücadelelerinin devletler üzerindeki etkisidir. Mevcut insan hakları krizleri, bu nedenle, kitlelerin insan haklarına dayalı mücadelelerini her zamankinden daha önemli kılan şey olsa da bu tür baskıların zayıflamasını yansıtmaktadır. Günümüzde neoliberal politikalarla gücü zayıflatılan işçi sınıfları, kurulu düzenin bir parçası haline gelen sivil toplum örgütleri ve otoriterleşmeye kapılan kitleler, hak mücadelesinin ön saflarından çekilmişlerdir. Aynı zamanda ırkçılık, yabancı düşmanlığı ve hoşgörünün azalması tüm toplumlarda yaygınlaşmış ve popülist liderler tarafından tehlikeli silahlar olarak kullanılmaktadır. Bedirhanoglu ve Saraçoğlu'nun (yayınlanacak) makalelerindeki cumhuriyet demokrasisinin

mevcut krizine ilişkin argümanlarını insan hakları krizine uygularsak, bu krizin insan haklarının insanlığın ortak değeri olarak kabul edildiği bir dönemde yaşandığı görülmektedir. Bu krizin temel sebebi, insan hakları normlarının çalışan kitlelerin mücadeleleri ve uluslararası siyasi tartışmalar tarafından artık güçlü bir şekilde desteklenmemesidir. Kadın hareketi ve ırkçılık karşıtı eylemler gibi toplumsal mücadelelerin bu eğilimi tersine çevirebilecek alternatif özneleştirme süreçlerine işaret edip etmediği, insan haklarının geleceğini anlamlandırmak için yanıtlanması gereken en önemli soru olacaktır.

Devletlerin insan hakları politikasındaki kararlarını etkileyen toplumsal muhalefetin nasıl bir zayıflama dönemine girdiği ve nasıl ortaya çıkacağı konusu yeni soruları gündeme getirmektedir. Örneğin, güçlü bir toplumsal muhalefet için aktivistlerin toplumsal hareketlerde kullanacakları çerçeve, söylemler ve stratejiler ne olabilir gibi sorular örnek olarak verilebilir. Bu sorular bu tez kapsamında değildir ve başka bir çalışmada cevaplanmalıdır.

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YAZARIN / AUTHOR

Soyadı / Surname : ZEYREK
Adı / Name : Bilge Ece
Bölümü / Department : Uluslararası İlişkiler / International Relations

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