

An Evaluation on the Inadequacy of the United Nations to Protect Human Rights

Birleşmiş Milletlerin İnsan Haklarını Korumadaki Yetersizliği Üzerine Bir Değerlendirme

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Abstract

The United Nations was established on October 24, 1945, under the leadership of the United States. The United Nations' goal is to ensure the permanence of peace, justice, security, economic development and social equality in a global sense. The United Nations, three years after its establishment, declared the United Nations human rights declaration on December 10, 1948, at the 183th General Assembly session in Paris, France. Human rights are important for every individual. It is about how the individual will live as a human being. In this sense, international relations and international law have an extremely important place in protecting human rights. On the other hand, the United Nations' approach to human rights, one of the strongest organizations in the world, is important because the United Nations has the capacity to protect and improve human rights. Provision of world peace can be achieved by protecting human rights. It's insufficient to protect world peace and human rights because of the unfair and double standard of the World order. The aim of this study is the role of international relation and international law in protecting human rights, evaluate the failure of the United Nation in protecting human rights and, lastly, Islamic approach to human rights. However, it's important to mention the United Nation and Islamic approach to the mankind and human rights. For as much as, there is no a problem with designating terms of human rights in the basic sense, but there are problems in implementing it.

Keywords: Declaration, Human Rights, International Law, International Relations, United Nation

Öz

Birleşmiş Milletler, Amerika Birleşik Devletleri'nin önderliğinde 24 Ekim 1945'te kuruldu. Birleşmiş Milletlerin amacı barış, adalet, güvenlik, ekonomik kalkınma ve toplumsal eşitliğin küresel anlamda kalıcı olmasını sağlamaktır. Birleşmiş Milletler, kuruluşundan üç yıl sonra, 10 Aralık 1948'de Birleşmiş Milletler İnsan Hakları Bildirgesi'ni Fransa'nın Paris kentinde düzenlenen 183. Genel Kurul toplantısında ilan etti. İnsan hakları her birey için önemlidir. Bu, bireyin bir insan olarak nasıl yaşayacağı ile alakalıdır. Bu anlamda uluslararası ilişkiler ve uluslararası hukuk insan haklarını korumada son derece önemli bir yere sahiptir. Öte yandan, dünyanın en güçlü organizasyonlarından biri olan Birleşmiş Milletlerin insan haklarına yaklaşımı önemlidir, çünkü Birleşmiş Milletlerin insan haklarını koruma ve iyileştirme kapasitesi vardır. Dünya barışının sağlanması insan haklarını korumadan geçmektedir. Adaletsiz ve çifte standartlar üzerine kurulan düzen, dünya barışını ve insan haklarını korumakta yetersiz kalmaktadır. Bununla birlikte İslami yaklaşım ve Birleşmiş Milletler'in insan yaklaşımına değinmenin önemli olduğu düşünülmektedir. Zira, aslında temel anlamda insan haklarını belirtmekte bir sorunun olmadığı ama bunu uygulamakta sorunların olduğu görülmektedir. Bu çalışmanın amacı Birleşmiş Milletlerin insan haklarını korumadaki başarısızlığını değerlendirmek ve bu anlamda uluslararası ilişkiler ve uluslararası hukukun insan haklarını korumadaki yeri, Birleşmiş milletlerin neden başarısız olduğu bununla birlikte İslami perspektif ve Birleşmiş milletlerin insan haklarına yaklaşımını ortaya koymaktır.

Anahtar Kelimeler: Birleşmiş Milletler, Deklarasyon, İnsan Hakları, Uluslararası Hukuk, Uluslararası İlişkiler

Introduction

The human right issue becomes an important issue, especially after the World War II. International relations and international laws have an important role when it comes to protect and develop the human rights. With the other word, without international relation and international law, the protection and development of the human rights are unimaginable. At the same time, especially international organizations are playing an important role in the area

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of human rights. The United Nation is a one of the powerful organization in the World. This power also gives a significant responsibility to the United Nation towards mankind.

On the other hand, providing and protecting human rights by and international power is an important matter. The human rights give freedom of choices to the people. This is simply about how an individual wants to live and practice their life. Furthermore, protecting human rights ensure that human being will be able to fully develop and use human qualities such as intelligence, talent, conscience, and satisfy his or her spiritual and other. Researches about the Human Rights are continues by scholars. It is important to make researches and develop the Human Rights. Here, there are there important topics (1) what is the human rights (2) how to human rights can be preserved and developed (3) what is the role of organizations towards human rights.

Following the conference held in San Francisco on April 25, 1945, the United Nations convention of 26 June 1945 was signed. On October 24, 1945, the United Nations was established and thereby the agreement came into force. Among the purposes of the establishment of the United Nations are; ensuring the permanence of peace, providing justice, security, economic development and social equality in a global sense. But the United Nation's structural problems did not prevent the continuation of the problems in the world, it would be more accurate to mention a structure that interferes with the post-war events and only has a role in delivering humanitarian assistance. The Security Council, the most effective body of the United Nation, consists of a total of fifteen members, including the United States, Russia, China, Britain and France, which have permanent and veto rights. Having only five members to use veto is a major structural question that causes the problems to remain unresolved. The global interests of these five countries are preventing the peace of the World and its problems to be resolved actively. Donald Trump, one of the most controversial presidents of the United States, admitted in his speech at the United Nation General Assembly in September 2017 that the United Nations has not revealed its potential despite the increase in budget and employee numbers. It is not difficult to see why the United Nations is transforming into a bureaucratic structure in this way, because these global forces are rooted in the "my interests come first" concept. It would be appropriate to give examples of Palestine and Syria, which are the tragedies of the recent period. One of the biggest reasons why the human tragedies in Palestine and Syria cannot be resolved is due to the unstable and inadequate the United Nations.

The United Nations is a global power and its most common feature is the protection of peace. Being drowned in the bureaucracy and displaying this situation in the mechanisms of the institution upon the wishes of the five permanent nations the organization makes the fire of peace hopes extinguish. To make this global power work and keep alive, no doubt, structural changes must take place. It is one of the consequences of these structural problems of the United Nations that it is insufficient in the field of human rights protection.

The Role of International Relation in the Human Rights

The importance of human rights as a topic in international organization and international relations increased especially after World War II. According to Forsythe (2012), establishing human rights standards and the role of states are the most important actors in the international community, also Diez (2011) tried to address the role of human rights in international relations through covenants. However, when it comes to Dağlı (2004), he mentioned that does not seem possible to solve the human rights issue without the international mechanism and international actors. Here, he takes attention to the human rights issue in international relations and a key role in the international relation when it comes to solving problems. So, when it comes to human rights, the international relation is one of the

key actors in order for the protection of human rights. Dal (2011) also, argued that the international system is a regular and permanent organization between states and state-run organizations and, at the same time this is also a system that one affects the other.

As a result, starting in the late 1980s, the Soviet Union began a major process of change and its repercussions felt all over the world, especially in Europe. Warsaw Pact dispersed, it comes to an end the division in the Europe and Germany is united. The former member of the Warsaw Pact countries has become the members of the North Atlantic Treaty Organization (NATO) and European Union (EU). For the west, basically, this change was a victory for human rights. Indeed, after the World War II, as well as the United Nation, particularly the regional organization created in Europe geography undoubtedly contributes to the formation of the transmitter direction.

In this context, the basic values of the United Nation' Human Rights Declaration, specifically the superiority of law and human rights, became the framework for the European Council founded in Helsinki in 1975. Paris Charter on human rights in 1990 dramatically placed Organization of Security and Cooperation in Europe (OSCE) in the foreground. In addition, the European Council (EC) and OSCE see as the stages of this process. "Economic union" idea of the European Economic Community (EEC) arising from regulation of European Union (EU) when converting the formation of the larger targets must be based on human rights, fundamental values and, it was also recognized. The human rights have an important role in international relations and, after all that progress we can see that human rights are an important factor in international relations and also the role of international relation is important in order to protect and developing human rights.

The Role of International Law in the Human Rights

The role of international law in the protection of human rights have been discussed by many Scholars. According to Symonides (2000) international relation has two stages and each of them has its own developments. First stage begins from with entry into the force charter the United Nation until adoption in 1966 of international covenants on the human rights. On the other hand, according to the United Nation (1948) each member state has some obligation and duties for states the comply with international law in order to protect human right. Danchin (2003) makes a criticism about international law and mentioned, does not look at individual human being directly and it does not secure against governmental indifference and mistakes. According to Merry (2006) individuals, both as violators of international law and as bearers of rights defined by international law. Lastly, Evans (2005) mention about the role of international community assistance with international relations.

Establishment of the international humanitarian law of war civilians contains principles and rules governing the protection of sick and wounded combatants and prisoners of war. One of the basic humanitarian law regarding the protection of the 1949 Geneva Convention and, the victims of armed conflict under the auspices of the International Committee of the Red Cross (1992) in 1977 offers two protocols have attached.

The United Nations in recent years has been the leader in studies to improve human rights issue as for the role of international humanitarian law. The Security Council protects civilians in armed conflict, in the promotion of human rights and war is concerned about the protection of children. Also in East Timor with the International Criminal Tribunal for Yugoslavia and Rwanda, has resulted in the establishment of the court in Sierra Leone and Cambodia not only provide insights into the only responsibility humanitarian law at the same time strengthening and the growing acceptance. Kemp (2008). Genocide, war crimes and

crimes against humanity in relation to the International Criminal Court, the details offered by the preparatory committee is an effort in understanding from other international humanitarian law.

Political forum of the United Nations General Assembly has contributed to the preparation of some legal texts concerning human rights issues. Among them are the Convention of Prevention and Punishment of Genocide (1948), the Convention on the Limitation of Criminal War Crimes against Humanity (1968), the Contract of Restricting Use of Conventional Weapons (1980) and four other protocols which were adopted by the General Assembly in 1973. The Board also accepted the Rome International Criminal Court Act in 1998, which led to the convening of an international conference on the issues.

The Failure of the United Nation in Area of Human Rights

Three years after the founding of the United Nations, on December 10, 1948, at the 183rd session of the United Nation General Assembly in Paris, it adopted a declaration of human rights consisting of thirty articles. In terms of human history to post Declaration of Human Rights, no doubt, is an important step. It is also valued that such a declaration is accepted by the United Nations, one of the world's most powerful institutions. But after accepting this statement, it is also painful for the United Nations to fail in many respects to human rights. The failure of such a strong organization causes the question of the United Nations and its structure. No doubt, this structure of the today's world and the United Nations is incompatible. The failure of League of Nations (LN) had caused the outbreak of the World War II. Kiran (2008) also mentioned that the failure of the international system, which the League of Nations has tried to establish, has led to the greatest tragedy of human history. Which is the World War II. In order to prevent such a problem from happening again, especially the structure of the United Nations Security Council must be changed and more countries should be given the more rights. The protection and promotion of human rights is a vital task of the United Nations, after the World War II. Human Right term became one of the most important topic as well as very controversial. The United Nations decided to proclaim a the Universal Declaration of Human Rights, which is one of the major achievements of the organization; it consists of thirteen articles that indicate the importance of human rights in order to prevent such killing and massacre from ever happening again as happened during World War II. Because according to this declaration human rights are universal and indivisible which means human rights belong to all people and human rights cannot be treated in isolation.

Human rights, in the period following the World War II, especially during the cold war, has carried an increasing importance in the determination of the international relations and order. During this period the World was bipolar, the West against the East, the direction of the argument was putting forward as allowing human development hence making society productive and creative full of personal rights and freedoms and guaranteeing superior future of democracy over totalitarian regimes.

When it comes to human rights directly the United Nation comes into our minds, because as we know the promotion and protection of human right is one of the fundamental and even is a core pillar of the United Nations, which works actively in defining, helping implement, and monitoring human rights standards in order to ensure the protection and promotion of human rights. But the question is that does the United Nation succeed in their mission? When it comes to the United Nation success in the human rights many scholars mentioned the United Nation failed. M. Cranston (1973) and H. Lauterpacht (1951) arguing that the United Nation has been failed because he claims that the only nations which are located in the territories are safe. With the other words, the people which do not live in the territory is under the risk and their human rights are not under protection somehow. Here, the Bosnian war, Bosnian massacre, and fall of Srebrenica

could be good examples that which show the United Nation failed and this became a damaging symbol of the United Nations' failure at protection of human rights. In a new era of civil war, and the tragedy of Srebrenica will haunt our history forever. Rwanda genocide is another case which the United Nation failed to prevent a genocide of an ethnic population, something which it was specifically set up to do. When it comes to individual complaints also scholars said that the United Nation has failed. Robertson (2006) claims that the United Nation committee has been failed because of incapability of recording individual complaints. The United Nation had to provide awareness and educational program for individuals, so, it is another aspect of the United Nation failure in the promotion and protection of human rights.

Islamic Perspective of Human Rights

When it comes to speaking of human rights in Islam we mean those rights granted by God. The rights which granted by kings or legislative assemblies can be withdrawn as easily as they are conferred, but no individual and no institution has the authority to withdraw the rights conferred by God. In the Muslims holy book ‘Quran’ God has mentioned mankind as “We have certainly honored the children of Adam” Isra70. and also, Muslim people believe that God has create them as a free creature and gave them knowledge as well as gave them a responsible to do not violate each other’s right and to live with peace and brotherhood. As obvious in this text, that in the time before the existence of Islam religion there is restriction of the human right by the kings and ruler, but after the existence of Islam and its prophet “Muhammed” as a social reformer, to give a message of equality and brotherhood which granted by God, hereby this period considered as a revolutionary in human thinking.

Muslims believe that the rights which mentioned in the Holly Quran are workable and sufficient for human beings, that’s whys some Muslims don’t believe in the new modern human rights, because they think these rights which provided by God are more fair and useable as well reliable, which are not provided the by a king or any institutions. Many scholars have been working in the area of Islamic perspective of human rights and human rights before Islam. For example; Salma (2009) in her book has mentioned that Muslim believes tradition rights provided in Holy Quran and Prophetic traditions. Also Dacey and Koproske (2008) point out to on Islamic states constitutions on the human rights. Lastly Kim, Aasen and Ebadi (2003) in their text talked about human rights before the existence of the Islam.

Nowadays, the Islamic perspective of Human Rights could be different between different Islamic states but this is not meaning there are different Islamic perspectives. This perspective could be different because of the political matters. So, when it comes to political matter human rights also could be used by a state as a political tool. For an example in Saudi Arabia human right have a different perspective; human rights in Saudi Arabia are intended to be based on the Hanbali Islamic religious laws under absolute rule of the Saudi royal family. US department of state, Bureau of democracy (2008). Saudi Arabia has a "Counter-Radicalization Program" which they also published a report about. The title of report is Initiatives and Actions to Combat Terrorism (2015). The purpose of which is to "combat the spread and appeal of extremist ideologies among the general populous" and to "instill the true values of the Islamic faith, such as tolerance and moderation." This "tolerance and moderation" has been called into question by The Baltimore Sun (2015), based on the reports from Amnesty International regarding Raif Badawi. The very strict regime ruling the Kingdom of Saudi Arabia is consistently ranking among the "Worst of the Worst (2010) " in Freedom House's annual survey of political and civil rights.

Conclusion

As we observed, there is a long historical evaluation sketch of international law, but as understood, it has not been influential since it was implemented after World War I and World War II when many detained soldiers were killed. Because states were not following these laws at that time. Despite of tardiness of those covenants, it assisted the promotion of the human rights. It is true that international law has been developed through past five decades, and granted the life of many individuals after being recognized internationally, but a question is coming into our minds when it comes to implementation; has international law been implemented properly elsewhere, or does it globalize? Concentrating this law, it is not true about Iraq, Syria and Turkey, because obviously there is a violation of the international law. It proves that, the international laws are not working effectively everywhere.

Those states which are member of one of the human right treaties should make some changes in its domestic law in order to comply with the international law, in case of detainees not to be subjected to inhuman treatments or being tortured. But what is important to be available in the international law treaties is the existence of some restrict laws to prevent states not to violate or restrict the individual right.

International law in spite of protecting the individual rights, also it can be used as an excellent instrument in the creation of political relations among states. But states are careless about individual because of the diplomatic relations, e.g. when an individual of a state will be detained by another state, the states refrain to take any action against the second state just because of the diplomatic relations. Here, we could say the role of international organization are more proactive than a single state.

It is de-facto that sometimes international community together with international law will solve matters such as immigration crises, which NGOs could be help full in the term of humanitarian work, which will lead to promotion and protection of human rights. Moreover, when a state fails to respect human rights, international society has a responsibility to take whatever action is necessary to protect the rights of those threatened by tyrannical and illegitimate governments. The increasing number of instances in which human rights are cited as a justification for intervention is said to provide evidence of this new order.

As a final conclusion, we could mention that the United Nation has been failed when it comes to the protection of human rights in the World. There is a fact that the United Nation declared the United Nations human rights declaration and it was an important event in the World' history and it gives a hope to people about the human rights and the World peace. But, the United Nation has been failed when we look at the history of the World. Especially, Bosnian war, Bosnian massacre, fall of Srebrenica and Rwanda genocide are few examples of the failure of the United Nation in the area of human rights when it comes to history. If we look at today' World we can also see the tragedies ongoing in the Palestine and Syria. These current problems cannot be solved due to the structural problem of the United Nation. This is because of the "my interests come first" approach of five permanent countries which have veto rights. That is understandable that countries take their interest first but in a global organization, such the United Nation is blocking the solutions. That is why the United Nation has a structural problem when it comes to solutions. Lastly, if we look at the Islamic perspective of the human rights, we could say that the Islamic perspective and the United Nation perspective are different but when it comes to basic sense of the human rights, there is no problem with designating terms of human rights in the basic sense, but there are problems in implementing it. So, the problem is in the implementing part. For the World peace and the human rights, the implementing of the human rights should be regulated.

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