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THE DEVELOPMENT OF HUMAN RIGHTS AFTER COLD WAR

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Abstract

The issue of human rights is an area that is experienced in practice and should have maximum knowledge by each individual. For this reason, the issue of 'Human Rights' remains one of the most important areas of social sciences that should be discussed and researched to increase social and individual awareness. This study aims to contribute to the studies on the development of 'Human Rights since the Cold War years. This article examines the principles and policies of 'Human Rights' along with historical background in the scope of International Relations and investigates how human rights policies have been influenced since the Cold War years. In the post-Cold War period, the study of Human Rights policies has been discussed with the chosen theory of normative theory and the historical background for the integrity of subject for the reader's holistic evaluation.

Keywords: human rights, cold war, normative theory, international relations, international organizations

SOĞUK SAVAŞ SONRASI İNSAN HAKLARININ GELİŞİMİ

Öz

İnsan hakları konusu, çeşitli yaşamsal alan ve koşullarda her bireyin pratikte deneyimlediği ve azami düzeyde bilgi birikimine sahip olması gerektiği bir alandır. Bu sebepledir ki, 'İnsan Hakları' konusu, toplumsal ve bireysel farkındalığı artırabilmek amacı ile üzerinde en çok konuşulması ve araştırılması gereken sosyal bilimler alanlarından biri olma özelliğini korumaktadır. Bu çalışma, Soğuk Savaş yıllarından itibaren 'İnsan Hakları' kapsamındaki gelişimi konusunda ki çalışmalara katkı sağlamayı amaçlamaktadır. Bu makale, Uluslararası İlişkiler zemininde, İnsan Hakları prensip ve politikalarının tarihsel veriler ile birlikte ele alıp, Soğuk Savaş yıllarından itibaren insan hakları politikalarının nasıl etkilendiğini irdelemektedir. Soğuk Savaş sonrasında, İnsan Hakları politikaları araştırması, okuyucunun bütünsel değerlendirebilmesi adına, tarihsel arka plan ve konu bütünlüğünde seçilmiş olan normatif teori ile ele alınmıştır. Son olarak, bu araştırma, öncellikle Soğuk Savaş sonrası insan haklarının nasıl ve neden değiştiğini, ve Soğuk Savaş sonrası

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dönemi uzatmanın Uluslararası İlişkilerde insan hakları politikasının nasıl etkinlendiği gibi sorulara cevap bulmayı hedeflemektedir.

Anahtar Sözcükler: insan hakları, soğuk savaş, normatif teori, uluslararası ilişkiler, uluslararası organizasyonlar

It is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law...

Universal Declaration of Human Rights.

Introduction

The article divided into four parts, the first part of article emphasizes the historical background of the politics of human rights. According to the first part of article, the origin of human rights has been introduced to provide general understanding about the formation era of the politics of human rights. In this content, the reader can find the relative sources on what was the basic aim to establish the scope of human rights in the International Relations, why the world states need to have human rights into world politics and the roles of the International Organizations based on the origins of human rights in IR politics.

The second part of the article focuses to explain the selected theory of IR that is the normative theory. In the context of the second part of paper, the reader can find general description of the meaning of the normative approaches in respect of the subjects of international relations. Moreover, the IR perspectives of the normative theory have been given at the second part for further understanding for the next part of the paper.

According to the third part of the article, the reader find the sources overall the changes of meaning of human rights since the Cold War. Furthermore, the states' responses tried to emphasize on behalf of the expansion of the human rights politics since the Cold War. The reason may assume that; the end of the Cold War influences the tendency of the governments from all around the world to esteem towards the politics of human rights. These changes in a particular government's willingness to respond the human rights of its citizens would connect upon the directions and relative extent of the changes in democratization, interstate conflict and domestic conflict it experienced in the post-Cold War era. (Cingranelli and Richards, 1999, p.511–512)

Consider as the conclusion part of the research, the reader can find the general summary of the normative approaches and its influences above the theoretical response of the International Relations in line with the recent changes of International Relations.

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Historical Background

First and foremost, the paper initiated to emphasize the issue of *Human Rights* since 1948 which is the date of the Universal Declaration of Human Rights (UDHR).

Article 1:

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. (The Universal Declaration of Human Rights, Dec. 10 1948, p.2)

As stated above, Article 1 has a significant importance to understand the meaning or the goals of the Universal Declaration of Human Rights.

On the other hand, the Universal Declaration of Human Rights is a non-binding declaration which is adapted by United Nations General Assembly. One of the main reason of this declaration may assume as; the violence of World War II. However, the questions of human rights were generally outside from the frame of the international concern or regulation, such as; the questions of human rights were simply defining like internal disputes, unlike either international or global. (Martin, Schnably, Wilson, Simon, Tushnet, 2006, p. 5) However, after the end of WW II three intergovernmental organizations were established; which are the UN (1945), the Council of Europe (1949) and the Organization of American States (1948), and those were circulated the meaning of human rights and humanitarian legal standards in all around the world, especially the UN initiated to the formation of the structure of international human rights law. (Martin et al., 2006, p. 5) According to the Universal Declaration of Human Rights; in case of it is a non-binding origin, it has been accepted as the central constituent of international human rights law. For example, whenever the governments, international organizations such as UN, non-governmental organizations or authorities have desired to enhance human rights or criticize the violations, it was the turn point of the Universal Declaration of Human Rights on the road to become an applicable rule for all states. Afterward, the content or structure of UDHR became the symbol 'meaning of human rights' through an international community to ensure the rights of the UDHR statements. (Buergental, 1997)

According to these, the Universal Declaration of Human Rights advocated member states to support human, civil, economic, and social rights; those are stated into the foundation of freedom, justice and peace in the world, as quoted below: 3

...recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world. (Universal Declaration of Human Rights, 1948, p.1)

On the other hand, following the years of the approval of The Universal Declaration of Human Rights, the new declarations or so called organizations has been formed deals with the human rights issue. In this respect, especially with the United Nations concern, subject of human rights has expanded radically. For instance, consistent with the Human Rights in the UN Charter (1941) Article 1, its goals stated as:

To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging, respect for human rights and fundamental freedoms goal for all without distinction as to race, sex, language, or religion."

The formation of European Convention (1950)-Twelve states (Belgium, Denmark, France, Germany, Iceland, Ireland, Italy, Luxembourg, Netherlands, Norway, Turkey and United Kingdom singed it in 4 November 1950) probably called as the one of the important progress deals with the improvement of human rights. For instance, when the first protocol of the European Convention held at The Hague, the President of Honor was Sir Winston Churchill, presented the message to Europeans as cited below:

We desire a United Europe, throughout whose area the free movement of persons, ideas and goods is restored... Charter of Human Rights guaranteeing liberty of thought, assembly and expression as well as the right to form a political opposition...(Merrills and Robertson, 2001, p.6)

The Convention composed of broad range of rights, those are mainly: (i) right to life, (ii) prohibition of torture, (iii) protection from slavery and forced labor, (iv) principles on personal liberty and security, (v) the right to fair trial in civil and criminal cases, (vi) protection of private and family life, (vii) freedom of thought, conscience and religion, (viii) freedom of expression, (ix) freedom of assembly and association, (x) protection of property, (xi) right to education, (xii) freedom of movement and (xiii) freedom from discrimination and so forth. (Ovey and White 2006, p.1-2)

Additionally, as indicated into the UN Charter, several human rights conventions and protocols have been implemented along with UN following as:

- (i) The Genocide Convention (1948)
- (ii) The Convention on the Political Rights of Women (1952)
- (iii) The Standard Minimum Rules for the Treatment of Prisoners (1957)

(iv) The Convention on the Elimination of All Forms of Racial Discrimination (1965)

(v) The International Covenant on Economic, Social, Cultural Rights (1966)

(vi) The Protocol relating to the Status of Refugees (1967)

(vii) The Convention on the Elimination of All Forms of Discrimination against Women(1979)

(viii) The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

(ix) The Convention on the Rights of Child (1989)

(x) The Convention on Migrant Workers (1990) (Hannum, 1992, p.5)

According to these conventions and treaties which is accepted by UN, generally, all of them have created concerning as: (i) against of any distinction-race, color, national, ethnic origin, sex (ii) for equal footing, protect of fundamental freedoms-political, economic, social, cultural, (iii) respect the wishes of child, (iv) equal respect towards, minorities, refugees, migrant workers and so forth. (Clapham, 2007, p.48-51)

Following the contemporary international or global human rights dispute settlements, individuals directly obtain advantages from the principles of international law compare the previous years. Because, compare to the traditional value of human rights, individuals could act with the virtue of national law to defend their rights. In terms of recent years, in lines with the improvement of the standards of human rights, IGOs have developed to monitor the cases of human rights. These IGOs may follow: (i) the United Nations, (ii) the Council of Europe, (iii) the Organization of American States (OAS), and (iv) The African Union. In short, these IGOs established to execute of the human rights standards towards dispute- settlement procedures based on the formation of treaties or use the other way of problem solve methods. (Butler, 2007, p.100)

In conclusion, the first part of paper presents the historical background of the Human Rights. In this context, the first section provide general sources of the 'how to define human rights' or 'what is the meaning of human rights' and 'how the human rights become an obligations towards international community' by statements of the Universal Declaration of Human Rights (1948). Moreover, the first section of paper underlined the developments of the human rights by specified the titles of conventions those are accepted by the United Nations.

The second part of paper follows to introduce the selected theories of international relations to provide more coherent sources and analysis of paper analysis.

Theoretical Background: Normative Theory in International Relations

Especially since end of the Cold War, several theories had created by IR scholars both to redefine and reanalyze the future arrangements of International Relations among states. The main reason may assume that; rearrangement of state relations based on the peaceful environment in all around the world by theoretical analysis of the reasons of the war. In this respect, the normative theory has become an important theoretical basis rather than previous period of the Cold War.

According to the main argument about the normative theory; it has been abandoned within the International Relations (IR) due to the dominance of positivism, dominance of realism, and the blocking the effects of Cold War period. (Brown, 1992, p.4.)

In this respect, this part of paper composes of the brief and general assumptions of the normative theory which would help to examine the next chapter of the paper.

Meaning of the Normative Theory

First and foremost, the normative theory ask the question of "what ought to be' rather than 'what is or will be". It means that, the normative theory stresses on the perfect competition not imperfect competition in a framework of cosmopolitan sense of International Relations. Secondly, the hypotheses or statements of the normative theory- It also called as the meaning of the Normative-ethics, concern as the following questions:

- •What is right of wrong?
- •What is desirable or undesirable?
- •What is just of unjust in a society?

As mentioned above, the normative theory seeks to explain moral values and problems of International Relations. According to the Frost-Mervyn (1994) who is one of the normative theory scholars, he emphasized that "there are no easy answers to these (ethnical) questions and that engaging in normative theory is complicated, difficult and of the great practical importance (p. 110). Therefore, since the Cold War, the normative principles become an inevitable theory to provide necessary theoretical ground for the recreating discipline of IR.

As Brown Chris claims (1992); "by normative international relations theory is meant that body of work which addresses the moral dimension of international relations and the wider question of meaning and interpretation generated by the discipline." (p.3). Additionally, the normative theory deals with the ethical nature of state relations in a global world order such as broad context of liberty, distributive justice, sovereignty, violence, just war, human rights and so on. Furthermore, the normative theory has a strong aim with how to relate the

core normative concept s which are; freedom, equality, justice, democracy, state autonomy, the meaning of war. (Brown, 1992, p.5).

On the other hand, there are two main approaches under the background sources of the foundation of normative theory. These two approaches tried to find out the ethical limitations of several subjects such as: (i) state sovereignty, (ii) the demands on human rights, (iii) the issue of distributive justice, (iv) the ethics of intervention, and (v) the environmental issues. (Hoffman, 1994, p.27-44)

The first approach called as the communitarian approach support a theory that; the highest authority is a state in a community and individuals obtain their status due to the their membership of a particular community. It means that, individuals must accept and live in a community under the limitations which are determined by state who has a unique or highest authority. (Bakan, 2008, p.12-14)

In contrast, the cosmopolitan approach ignores the statements of communitarian approach. According to the cosmopolitan approach; it purposes the autonomy of states is obtained their power from the nature of individuals as a member of human kind. It means that, all individuals are same human being and they born with certain natural right in an equal basis. This approach strongly suggests as following; the universal rights possessed by the individual that ignores the state autonomy and the autonomy of a state can be limited by the universal rights as well. (Bakan, 2008, p.12-14) According to these, the normative theory seeks to answer several field of complicated ethical questions especially deals with the state sovereignty, human rights, distributive justice and etc.

Briefly, Frost summarized the normative theory quoted as:

Normative theory always presupposes that actors in the practice of international relations do have alternatives and real choices and can change their conduct. ...Similarly, normative theory in international relations presupposes that the international order itself can be deliberately changed in specified ways. In short then, normative theory presupposes that there is an important sense in which people's normative ideas [norms, morals, and principles] can shape the order in which they live. (Frost, 1996, p.122)

On the other hand, the normative theory argues that; the issue of human rights should evaluate into the frame of moral values rather than legal rules. For instance, according to the Realist view of though; it strongly against beliefs of the normative theory on behalf of the human rights. The reason may summarize that, the Realist taught argues that; normative theory neither define the order of international relations nor the issue of human rights.

Additionally, realists assume as following; in a conflict society-which is the system of IR for them, there is no anything about illegal practice in a state. It means that if a society is legal, there is no any unjust and inequitable in a society. In sum, Realist theory absolutely against the argument that: the normative theory cannot relative for the system of IR because of the importance of power factor. (Dagi, et al.,1996, p.203-205.)

Correspondingly, the next chapter of paper attempt to analyze the issue of human rights under the theoretical background of the normative theory. Therefore, the paper continues with the ethical questions about the field of human rights by theoretical perspectives of the normative theory.

Expansion the meaning of Human Rights since Cold War

Since the end of the Cold War, the principles of human rights have been taking the attention of scholars especially based on the day to day political discussions. Therefore, since Cold War, the standards of human rights have been developed and so it becomes one of the main issues in today's international affairs. (Baehr and Castermans, 1994, p.23) Simultaneously, behind period of the war; discussions about the human rights achieved new composition deals with the new debated rights. For example:

a.Environmental Rights

b.Future Generations

c.Lesbian, Gay, Bisexual, Transgender (LGBT) Rights

d.Trade

e.Water

f.Crime and Punishment

g.Reproductive Rights

On the other hand, during the twentieth century, the transformation was observed regard as international regimes. In this respect, many regimes changes happened due to the internal political developments or international interventions. In this context, the following examples assist to understand the challenges of international relations system during the twentieth century. First of all, as a result of the reunification; new political structure established through Argentina, Chile, Guatemala, and Germany. Secondly, due to the fall of communist regime; new methods of political arrangements have applied over Czechoslovakia. Thirdly, at the end of the apartheid regime; new system of political principles takes place in the former Yugoslavia, South Africa. (Baehr and Castermans, 1994, p.36)

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According to these, in respect of the issue of human rights; the questions may arise in respect as follows:

What should happen to persons who are guilty of gross violations of human rights and international humanitarian law, committed under the responsibility of torture, genocide, inhuman act, wanton killing, rape, ethnic, cleansing and so forth. (Baehr and Castermans, 1994, p.36)

As briefly, in a global world order, the question emerged as; whether and how to punish those acts of crimes those are responsible of violations as cited in above, because an international legal system is almost completely different from the origin of domestic law. In this respect, in line with the related case; such persons have to apply internal or domestic courts but consider to other related case of crime; they must apply to international tribunals or courts. For example, the international tribunal in Yugoslavia and Rwanda (Yugoslavia Tribunal) would be the important case to evaluate the roles of international tribunals. However, it doesn't mean that the International Tribunal have been to be able to solved all of the international human rights problems such as in Rwanda; the tribunal's progress have proceeding slowly; therefore we have to wait and observe in which extent it (Yugoslavia Tribunal) will have concrete results. (Baehr and Castermans, 1994, p.36)

Under the normative theory, it asks; should human rights could be accepted or expand everywhere in all around the world? However, the theory doesn't pursue an argument about the same norms has to implemented in everywhere in the world but at least there should be an proposal to create an authority which have permanent pressure and it should have influence over states to implement internationally agreed standards.

Therefore, overall this content argument has shown as; the need for continuous development of global and regional instruments in all around the world such as in Europe, the Americas, and Africa, all parts of Asia, and in the Pacific region. In short, the normative theory argues that; regional mechanisms should accept as the first step in a direction of true global supervision. (Baehr and Castermans, 1994, p.38)

According to the origin of human rights, its dilemmas have to solve at the universal or global arena. Because, the state or government can act as the supporter or protector of human rights but in contrast, it could be potential enemy of the cases of human rights. Therefore, creation of the universal human rights platform may call as the best practical way to the projection of human rights equally to all world citizens.

In this sense, the cosmopolitan normative approach introduces as; the individuals and group of people would be the start point of the formation of universal human rights approaches in the International Relations. In this context, the sovereign state roles have declined since the global wave of the meaning of the universal human rights. For instance, states slowly lost their sovereign rights to judge its citizens into its domestic courts after the creation the idea of universal human rights. It means that, based on the universal perspective of the issues of human rights, states cannot act solely without the principles of universal human rights.

For instance, almost all states have been accepting the leading factor of the universal human rights organizations which had signed the related documents of: (i) The United Nations Commission on Human Rights, (ii) Universal Declaration of Human Rights, (iii) the Economic and Social Council (ECOSOC), (iv) Human Rights Institutions of the European Union and so forth. According to these examples of international organizations, J. Donnelly (1998) stated as; if the states adapted non-binding norms and rules once, then it lead to improvement of regimes. Moreover, if states accepted the importance of moral values- such as women rights, torture- of these kinds of approaches or understand conscious of the moral meanings, it leads to strong inter-state relationship between other states. To sum up, the global interdependence is the best approach for the creation of international political human rights awareness.

Conclusion

The paper tried to examine the development of the scope of human rights in the system of International Relations since the Cold War period. The paper seeks to explain the expansion of human rights policies through the normative theory. Therefore, first, the paper introduced the historical background of human rights, and secondly paper tried to examine the selected theory of international relations that is the normative theory. Moreover, the paper attempts to analyze the expansion of human rights since the Cold War period in the fourth part of the paper. For instance, the last part of paper generally composed of the global or universal perspectives of International Relations towards the changes in the content of the human rights policies. In short, the paper emphasized to put in a single frame of the developments of human rights until the current status of its effects on all world states.

Consider as the normative theory, the scholars of International Relations have not accepted that it as an important or necessary theoretical background for analyzing the subjects of IR until the end of the Cold War. But since the Cold War period, the changes have been

observed towards the system of International Relations. For instance, the basic theories of International Relations- such as Realism have become insufficient to analyze the meaning of these transformations of IR since the Cold War, scholars target to address more intensive theories. The normative theory has gained its importance in respect of the transformation period of International Relations since the post- Cold War. The normative approaches could introduce evidence of the transformation period of IR. For instance, Frost may identify as one of the best scholars of the normative approaches in the International Relations theory as follows: To understand the reasons underlying war and to find out the ways to achieve peace. In this respect, the normative theory provides a crucial account of how we should understand world politics and how the distinct claims in terms of main themes of international relations (sovereignty, freedom, human rights, humanitarian intervention, justice, etc.) might be reconciled. (Bakan, 2008, p.12-14)

During the Cold War may called as bipolar period, there were several discussions against the West-East that "democracies that enable human development, thus making societies productive and creative, will overcome totalitarian regimes, guaranteeing personal rights and freedoms." As a result, a major process of change began in the Soviet Union in the late 1980s and its reflections were felt throughout the world, especially in Europe. The new moral and ethical considerations emerged in the post-Cold War era, which leads the normative approaches have become an inevitable duty to offer a theoretical background of the changing politics of International Relations. (Bakan, 2008, p.12-14) For instance, the Warsaw Pact dissolved, the split in Europe ended, and Germany united. Some of the former Warsaw Pact member countries have become members of NATO and the EU. The West saw this change as a victory for human rights.

As a result of all these evaluations, it is undoubtedly that the regional organizations established in the European geography, besides the UN, have contributed to the development of human rights after the Second World War. Consider as the protection and promotion of human rights there has been various documents created and applied in many countries in the continents of Europe, America, and Africa. For example, Charter of Human and People's Rights (1981) among African states, created the Cairo Declaration on Human Rights in Islam (1990) in the Muslim States, and various positive practices and theories have been activated in Europe, and popular activist movements have been taken place in China, Korea, and other Asian nations for the protection and supporting the human rights.

NGOs are one of the most important application tools and the social base in the democratic system, to participate in the process of making polyphony and political decisions and to make the individual heard as organized. (Aliefendioğlu, 1999, p.6) In this context, the role of non-governmental organizations is incontrovertible which means the power of citizens is playing a more important role than government authorities. Because of this reason, the influences of NGOs played a key role in the states for the development of human rights since the cold war period. For example of the fundamental NGOs has been established such as Amnesty International, the Antislavery Society, PEN International, the International Commission of Jurists, the International Working Group on Indigenous Affairs, Human Rights Watch, Minnesota Advocates for Human Rights, Survivors International (Shiman, 1993 p. 6-7), Inter-American Program and Protection of the Human Rights of Migrants, Including Migrant Workers and their Families, ASEAN Intergovernmental Commission on Human Rights, The African Court on Human and Peoples' Rights, Réseaux Institutionnels de la Francophonie (Herz and Summa, 2014, p. 5-7) monitor the actions of governments and pressure them to act according to human rights principles.

In this context, the Council of Europe, which was founded on the core values of democracy, law and human rights in 1949, one year after the adoption of the United Nations Universal Declaration of Human Rights, and also Helsinki Accord, which was signed by 35 countries in Helsinki in 1975, aims to be taken within the framework of democracy. Subsequently, in 1990, the 'Paris Charter for New Europe' accepted and the Cold War ended symbolically. With the Pars Charter, it is possible to count the European Security and Cooperation Organization, which is based on a substantial human rights basis. As of 2015, there are 57 member states of the European Security and Cooperation Organization.

Besides, while the Council of Europe and the Organization for Security and Cooperation in Europe transformed the European Economic Community, which originated from the idea of the Western 'economic union' into the European Union, it aimed to base this formation on the fundamental values of human rights. The European Union has emerged with the idea of the positive and negative experiences Europe has gained over the centuries and the principles of common cooperation. It is one of the most important establishment aims to provide permanent peace with social welfare, solidarity, human rights and the rule of law, common ideals of European states.

In short summary, human rights have become increasingly important in determining international relations and order in the period following the Second World War, especially during the Cold War.

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