



Yazar/Author
M. Burak ATALAY*

Makale Adı/Article Name

Capitalism's Rise, Witch Hunts, and the Strategic Use of Law in the Liberal State

Kapitalizmin Yükselişi, Cadı Avları ve Liberal Devlette Hukukun Stratejik Kullanımı

ABSTRACT

This study aims to determine the interventionist character of the liberal state and how law is used as an instrument of social transformation. To this end, the institutionalized "witch hunt" process in 15th-century Europe is analyzed as a manifestation of capitalism's efforts to consolidate itself and rebuild social consent according to production relations. The study first examines the foundations on which liberalism, the theoretical and intellectual reflection of capitalism, constructed concepts of human nature, state authority, and law alongside modernity. It then examines in detail the relationship between the phenomenon of witch hunts and the fundamental principles of capitalism. It has been determined that the witch hunts that intensified in Europe in the 15th century were not only a religious or cultural phenomenon, as traditional narratives suggest, but also a structural result of the economic transformation that occurred during the transition from feudal production to capitalism. In this context, the suppression of early rebellions against capitalist discipline by criminalizing them through legal mechanisms is important for understanding the legacy transferred to the modern legal structure of the liberal state. Ultimately, these practices constitute a fundamental historical precedent demonstrating that the liberal state is not merely a libertarian passive actor but an interventionist structure that uses law as a disciplinary tool to protect capital accumulation.

Keywords: Liberal State, Capitalism, Witch Hunt, Modern Law, Instrumentalisation of Law

ÖZ

Bu çalışma, liberal devletin müdahaleci karakterini ve hukukun sosyal dönüşüm aracı olarak nasıl kullanıldığını belirlemeyi amaçlamaktadır. Bu amaçla, 15. yüzyıl Avrupa'sında kurumsallaşan "cadı avı" süreci, kapitalizmin kendini sağlamlaştırma ve üretim ilişkilerine göre toplumsal rızayı yeniden inşa etme çabalarının bir tezahürü olarak analiz edilmektedir. Çalışma, ilk olarak kapitalizmin teorik ve entelektüel yansıması olan liberalizmin, modernite ile birlikte insan doğası, devlet otoritesi ve hukuk kavramlarını inşa ettiği temelleri incelemektedir. Ardından, cadı avı olgusu ile kapitalizmin temel ilkeleri arasındaki ilişkiyi ayrıntılı olarak ele almaktadır. 15. yüzyılda Avrupa'da yoğunlaşan cadı avlarının, geleneksel anlatıların aksine, yalnızca dini veya kültürel bir fenomen değil, aynı zamanda feodal üretimden kapitalizme geçiş sırasında yaşanan ekonomik dönüşümün yapısal bir sonucu olduğu belirlenmiştir. Bu bağlamda, kapitalist disipline karşı erken dönem isyanların yasal mekanizma yoluyla suç sayılarak bastırılması, liberal devletin modern hukuk yapısına aktarılan mirası anlamak açısından önemlidir. Sonuçta, bu uygulamalar, liberal devletin sadece özgürlükçü pasif bir aktör değil, sermaye birikimini korumak için hukuku disiplin aracı olarak kullanan müdahaleci bir yapı olduğunu gösteren temel bir tarihsel emsal teşkil etmektedir.

Anahtar Kelimeler: Liberal Devlet, Kapitalizm, Cadı Avı, Modern Hukuk, Hukukun Araçsallaştırılması

Introduction

Some concepts that determine our lives in detail, such as law, money, working hours, tax, state, and media, are so pervasive in our daily lives that they are often not considered or ignored as historical and social concepts. It is thought that these concepts have existed since humanity has existed or have always preserved their structure when they first emerged. However, ‘slavery’, which today seems to people as if it never existed in history or as a fictional story, existed in all periods of history until about 150-200 years ago. For another example, ‘human rights’, which today people cling to as if they have always existed in history, is an achievement of the last 150-200 years. These examples can be increased by examining the use of money, the emergence of banks, nation states, passports, country flags, national anthems, and many other things. Law is a concept like that, has been applied in different ways at different times in history, transformed as societies transform, existed under the social, economic, and political conditions of its own period, and determined the social, economic, and political conditions of its own period.

The aim of this study is to analyse the relationship between witch hunts, which gained legal basis in Europe in the 15th century, and the development of capitalism through the liberal modern state’s use of law as an instrument of power. Witch hunts are an early example of the interventionist aspect of the liberal state and its use of law as a instrument in this intervention. Although criticisms of the liberal state as an interventionist, active, and controlling state against the negative, passive, abstaining state, which is frequently emphasised against the liberal state, have mostly come to the agenda with the authoritarian states of the 20th century, it is possible to see this interventionist aspect of the liberal state in the experience of witch hunts even in the 15th-16th centuries when the liberal state was newly formed.

Feudalism, defined by the German political scientist Georg Fülberth (2023: 86) as “the period of confiscation of part of what landless peasants produce, the surplus they do not use, by those who own land and lands through non-economic measures”, roughly refers to the network of economic, social, political, and legal relations in Europe between the 5th and 15th centuries. As the feudal order began to fail to respond to the needs of European society, a great transformation took place roughly from the 12th century onwards. Historical processes such as the Crusades, Renaissance and Reformation, which were both the cause and the result of this transformation, emerged. The bourgeois class, which was the main actor in these processes, led the radical transformation known as the Bourgeois Revolution and the process of taking power away from feudal lords and creating structures that would build the modern world, thus replacing feudalism with capitalism. Capitalism, which would influence the whole world starting from Europe, developed together as the new economic model, liberalism as the new social model, the nation-state structure as the new political model, and liberal modern law as the new legal model.

1. The Understanding of Nature, Human, State And Law In The Early Capitalist Age

While the intellectual paradigm of the European feudal period centered its analysis on nature and divine commands—viewing humanity as an extension of the natural world and as servants of God—the thought traditions of the 15th and 16th centuries shifted the focus toward anthropocentrism, positioning humans in a transcendent or supernatural role above nature. In short, a new understanding of humans emerged during this period. This process, which Fritjof Capra (1992: 54) calls the “scientific revolution”, became established with the works of Copernicus, Kepler, Galileo and Newton on the functioning of the universe, and Bacon and Descartes on the positioning of the human being [in opposition to Church doctrines].

Just before this new understanding of human beings emerged, a new understanding of the state, the absolute sovereign state, emerged, especially with the political philosophies of John Bodin and Thomas Hobbes. These two new ideas worked with each other in great harmony. The survival of this new state led to the abandonment of the feudal divine legal order and emergence of a modern secular legal order. This transformation is immanent in the transition from feudalism to capitalism. Just as the ruling class in feudalism used the concept of religion as an instrument to subdue opposition, capitalism used the concept of law as an instrument for the same reason

(Fülberth, 2023: 97). Thus, witch hunts, which were a common method of torture and murder in Europe in the 15th century, are a good example of this instrumentalisation, and the working system of the liberal state order emerged by the capitalist economy.

Like Capra, John Desmond Bernal (1978, as cited in Fülberth, 2023: 119-120) described this intellectual transformation as a “scientific revolution” and analysed it in three waves. Accordingly, in the first wave between 1440-1540, technological developments in mining, the discovery of new elements, and developments in astronomy paved the way for the Copernican Revolution. In the second wave between 1540-1650, the use of hard coal as the main source of energy, the invention of the telescope, Galilei’s transformation of astronomy from a science of observation to a science of experimentation and mathematics, and the calculation and prediction of the motion of planets were important turning points. In the last wave, between 1650 and 1690, science became a field that had expanded beyond universities, and the positivist understanding of science became a catalyst for the development of capitalism.

The Age of Enlightenment is the name given to the process in which the nature-human relationship evolved in favour of humanity and human-centred approaches were openly accepted. Therefore, the main argument of this process is the idea that everything is created for humans and that humans are superior to all other beings. Michel Serres (1994: 41-45) also states that with the increasing knowledge and skills gained through industrialisation and urbanisation, man has transformed nature, which he had previously perceived as independent from him, into a mechanical tool that is completely dependent on him, which he can manage and manipulate. However, this process started long before the Age of Enlightenment, which was initiated by the English Glorious Revolution of 1688 and is considered to have reached its climax with the French Revolution of 1789. The idea that nature operates like a machine and that the being who runs that machine is the ‘rational human being’ is an idea that emerged during the transition from feudalism to capitalism.

Beginning with Francis Bacon (1561-1626), the intense desire to ‘dominate nature’ was the source of the idea of exploiting nature during and after the Industrial Revolution. According to Bacon, as quoted by Capra (1992: 56-57), nature, as a female being, had to be hunted by those who travelled over it, forced to serve, restrained, if necessary, tortured to reveal its secrets, and enslaved. Thus, the understanding of organic nature, which had been regarded as a nurturing mother until that period, began to change radically with Bacon, and the mechanical understanding of nature peaked with Descartes and Newton, who followed him.

René Descartes (1596-1650) is considered the founder of modern philosophy with his proposed soul-body dualism. According to this dualist view, which recognises humans as the only living beings with a soul, they are the only intelligent beings who think of and act purposefully thanks to this soul. On the other hand, the main characteristic of nature is the lack of reason (Plumwood, 2004: 143). The qualities of the creature that Descartes calls rational human beings parallel Bacon’s understanding. Like Bacon, Descartes also recognises human reason as a structure that is above everything and determines everything, which is the main point that distinguishes human beings from nature but Descartes’ human with reason/spirit is a male belonging to the ruling class. According to Plumwood (2004: 146), this understanding developed along with “the ideology of colonial conquest and expansion and technological conquest and progress.” With the doctrine of Descartes, a mechanistic understanding of nature and human beings, who shape and manage the world with their intellect, who are male, masters of the world, has developed instead of the human beings of ancient times, who tried to understand nature and had a cosmological or religious understanding of nature. According to this understanding, the reason for the existence of nature is to serve human beings (i.e. authoritative men).

What Descartes expresses in the realm of individuality is the inherent essence of the soul as a single soul whose thoughts are indivisible and inseparable from it. The only way in which unity and indivisibility could be attributed to a body, to the existence of a soul and consequently to the existence of a complete individual, summarised in his famous proposition “cogito, ergo sum” (I

think, therefore I am), was in relation to the substance of thought. According to the mechanistic view of nature, in which nature is a machine, a tool that serves man and his purposes, Plumwood (2004: 149-150) describes the characteristics of this machine as follows: “[This machine] is constructed for the benefit of its maker, and its virtues reflect the benefits of its user. If it is well made, it rarely causes the unexpected and has few superfluous features; it is not out of our control, and we can think that we can have all the knowledge about it. The machine is made to be controlled, knowing how to operate it is the way to have power over it.” This emphasis on being against the unexpected, or predictability, is also important as a fundamental principle of capitalism.

Against the views of Descartes, philosophers such as Baruch Spinoza (1632-1677), whose philosophy centred on the equivalence of nature and God, argued that there is only one entity (nature/God) and that there cannot be different dual entities, such as soul-body or mind-body (Collingwood, 2020: 120). However, the capitalist economy of the period worked more in line with the first view, turning to the precise mathematical formulation that Descartes brought to the paradigm of mechanistic nature, and attempted to use its principles to understand human nature (Capra, 1992: 187).

Descartes' thought was quite compatible with another rising thought of his time. Almost a century ago, Jean Bodin conceptualised “sovereignty” and proposed an absolute centralised power instead of a feudal decentralised government. Thomas Hobbes' political philosophy strongly asserted similar views. Therefore, in the process of transitioning from feudalism to capitalism, not only the philosophy of ontology metamorphosed, but also the philosophy of politics. As Fülberth (2023: 122-124) points out, what made this change in the individual possible was the modern state structure characterised by absolutism. The main characteristic of the absolute-central state was that the executive was centralised and had a monopoly on arms, and its finance was based on taxes and the confiscated properties of the church. In addition, the state, desiring to revitalise the domestic market economically, implemented a policy of conquest to collect more taxes. Therefore, it is possible to say that the modern state, with its policies of mercantilism, taxation, and conquest, is a state model emerging from capitalism. Jean Bodin's invention of the concept of sovereignty and Thomas Hobbes' conception of a state with absolute power cannot be considered independently of this.

Jean Bodin (1530-1596), who birth 30 years ago before Bacon and died the year when Descartes born, in *Les Six livres de la République* (1576), defines the state as “a just governance of households with sovereign power over their shared affairs” (Bodin, 1992: 1). Through this definition, he contributed the modern concept of sovereignty into Western political thought. Bodin's central ideas revolve around the family, government, law, and sovereignty. He drew a parallel between paternal authority in the household and monarchical rule in the state, suggesting that the family is a microcosm of the state. He argues that a father's authority over his family, though not equivalent to enslavement, is absolute and divinely granted, just as a ruler's sovereignty is absolute, indivisible, and perpetual. He famously asserted that sovereignty is unlimited in terms of power, function, and duration (Bodin, 1992: 3). However, according to Bodin, the absoluteness of sovereignty does not make the sovereign irresponsible; the sovereign maintains his power within the framework of the obligations imposed by the law of nature and natural law and his responsibilities towards God. The sovereign cannot be limited by any laws other than the divine laws and the laws of nature to which he must be subject, for what is called law is itself the sovereign's command (Bodin, 1992:11). According to Bodin (1992: 89), the nature of government varies depending on who holds sovereignty. When sovereignty is concentrated on a single ruler, it forms a monarchy. If it is shared among all citizens, the system is a democracy, while sovereignty in the hands of a select few constitutes aristocracy. Bodin ultimately favoring monarchy of these three government types. In his view, a monarchy is a system that best upholds the principles of sovereignty, namely absoluteness, indivisibility, and perpetuality.

Bodin's concept of sovereignty had a significant impact on the transition from feudalism to capitalism. Interestingly, Bodin did not consider feudalism or mixed governments as legitimate forms of government because they lacked a clearly defined sovereign. Following feudalism, the concept of sovereignty, first within monarchies and later in liberal democracies, consistently upheld principles of absoluteness, indivisibility, and perpetuity. Capitalism and the liberal state, which owes its existence to capitalism and simultaneously gives its breath, also maintained adherence to these three principles of sovereignty. Consequently, the liberal state has consistently been interventionist when it comes to matters of its own sovereignty, a characteristic inherited from the foundations of capitalism. This shows that the liberal state is not a weak, passive, or *laissez-faire* entity that some theorists have described.

Thomas Hobbes was the one who integrated Bodin's idea of absolute sovereignty with religious motives into the secular theory of the state, in his masterpiece *Leviathan* (1651). Hobbes begins by painting a grim picture of the "state of nature", a condition without government where individuals are driven by self-preservation and engaged in a "war of all against all." In this state, there are no moral or legal constraints, and life is "solitary, poor, nasty, brutish, and short." To escape this chaotic state, individuals enter into an imagined social contract, surrendering their individual rights to an absolute sovereign. This sovereign, whether a single person or an assembly, is not a party to the contract but its beneficiary (Hobbes, 2021: 137).

Hobbes adopts Bodin's idea of absolute sovereignty. The absolute rights of the sovereign arise, which must be permanent, indivisible and cannot be destroyed unless the sovereign renounces them (Hobbes, 2021: 134, 143-144). The sovereign is the ultimate law-maker, judge, and enforcer, and is not bound by any laws or obligations. Unlike Bodin, who grounded sovereignty in divine right or tradition, Hobbes provides a secular justification for absolute sovereignty. He argues that it is necessary for the preservation of individual lives and the prevention of anarchy. The sovereign's authority comes not from God but from the consent of the governed, albeit given out of necessity. So Hobbes' state appears as an unnatural personality created by humans (Hobbes, 2021: 164).

In summary, Hobbes takes Bodin's concept of absolute sovereignty and grounds it in a secular theory of the state based on individual self-preservation and the need for order. He argues that absolute sovereignty is not only justified but necessary to escape the horrors of the state of nature and ensure the security of individuals within a commonwealth. Again, like Bodin, he makes a classification of government. According to Hobbes (2021: 145-146), if it is a single person who represents sovereignty, this state will be a monarchy, if it is a committee formed by everyone, it will be a democracy or a people's state, and if it is a committee formed by a certain segment, this state will be an aristocracy. Hobbes uses the metaphor of the *Leviathan*, a biblical sea monster, to represent the absolute sovereign. The *Leviathan* symbolizes the immense power of the state, which is necessary to subdue the natural chaos of human existence.

Because of the transition from feudalism to early capitalism, the understanding of human nature moved towards a more individualistic, rational, and potentially self-interested view; the role of the state under feudalism also changed in the emerging capitalist order. The function of the state has changed from preserving order and traditions to actively promoting and protecting economic benefits. During this transition, the concept and function of law also changed. The law changed from being primarily based on customs and traditions to being more codified, instrumental, and focused on regulating economic activities and property rights.

Liberal bourgeois law, which emerged with the aforementioned understanding of man and state, claims to have developed a system based on individual freedom, property ownership, and legal equality in the capitalist order. This legal order, which has shaped the legal infrastructure of modern nation-states and laid the foundations of today's legal systems, expresses a legal structure that emerged in parallel with the development of capitalism and is in line with the requirements of the market economy.

In this direction, liberal bourgeois law is based on the freedom of the individual in a way that establishes and protects capitalist relations of production and blesses the right to own property; private property ownership is the main source of motivation for economic activities. Another fundamental element of bourgeois law is the freedom of contract between parties. Individuals are considered legally equal and can enter into contracts of free will. This ensures the functioning of the market and continuation of commercial activities. This legal order of capitalism, which adopts Hobbes' isolated individual, can only survive within a political system based on the nation-state (Tigar, 2023: 188).

Although the emergence of the Public Law-Private Law distinction as a result of separating the state from society goes back to Roman law, one of the distinctive aspects of the transition to capitalism was the change in the content of this distinction while preserving its form (Fülberth, 2023: 129). The emergence of the legal order originating in England, which we call the Anglo-Saxon legal system, and the legal order originating in France, which we call the Continental European legal system, was the result of the bourgeoisie creating its own legal order from the 1500s onwards (Tigar, 2023: 189). The concept of the 'merchant', who before the 1400s was a craftsman in his own country or an adventurer travelling to other countries with curiosity, also changed with the change in the mode of production. Merchants who did business under the guild of the line of business in which they were active became stronger with the accumulation of capital, became free from guilds, and turned into individuals who invested in production. Thus, trade gained not only economic, but also political meaning (Tigar, 2023: 190).

Modern-liberal law envisages limited state intervention in economic activity. This understanding is based on the assumption that the market will self-regulate and that the most efficient results will be obtained in a free competitive environment. It envisages a legal order in which everyone is equal before the law and the rules of law are binding on the state and individuals. This system is vital for capital owners to protect their property and ensure economic stability. The constitutional guarantee of the fundamental rights and freedoms of the individual is one of the most important achievements of bourgeois law. This contributes to limiting the arbitrary exercise of power and establishing the rule of law.

The assumption that individuals act rationally to maximise their own benefits, that free market competition will increase economic growth and social welfare, that the law is impartial and that individuals have equal rights has created constitutional structures that ensure the protection of fundamental rights and freedoms, which constitute the backbone of bourgeois law. Contract law regulating trade and economic relations strengthened the economic foundations of bourgeois society, and criminal law rules protecting the rights of the individual and property ownership ensured social order. Civil law regulating family, inheritance and property relations ensured the continuity of the social structure. Thus, modern branches of law emerged to protect the bourgeois society and economy.

The emergence of the bourgeoisie was based on the rationalisation of the production system (Tigar, 2023: 196). The legal order created by this system was also based on rationality. Weber argues that the highest level of rationality in legal thought can be observed in European legal systems. This legal order is characterised by abstract legal principles that form a coherent system without gaps and result in the regulation of all social behaviour. According to Weberian thought, a legal order is formally rational in the sociological rather than the legal sense when it is based on formal justice. Such a system is abstract and adheres to strict procedures and guarantees the legal certainty necessary for accountability in economic transactions, all of which apply to both civil law and common law systems (Ewing, 1987: 489). The Weberian liberal legal system operates principles of substantive content, such as the generality of legal rules, the non-retroactivity of law, with procedural principles, such as the independence of the judiciary. It is said that the totality of principles such as these establishes freedom and protects bourgeois society against state intervention. In this framework, the law of liberalism is also static and mechanical, serving only private benefits.

In principle, liberalism rarely views state intervention favorably, treating the state as a minimalist entity or as the commonly used 'night-watchman state'. According to this ideology, the state should function imperceptibly and be truly 'negative'. However, it would be a mistake to equate 'negativity' with 'weakness'. The liberal state has always been as strong as the political and social situation and the benefits of society required. It has waged wars and suppressed strikes; with the help of strong armies it has protected its investments, defended and expanded its borders. The great contradictions of liberalism are also revealed when one compares the narrative with reality. For the reality is very different from this rosy narrative of liberalism. At no stage of the development of competitive capitalism has the rule of law been fully realised. Liberal society is not a rational society as it is supposed to be and its economy is not organised in a planned way as it is claimed to be.

Another important aspect of Weberian analysis is that the modern state is a monopoly on violence. The emphasis on the coercive power of the state is not a phenomenon that emerged suddenly. The violence and torture used by the ruling class in Europe increased in the 13th and 14th centuries, just before the Witch hunts (Fülberth, 2023: 97). Coercion has been utilised as an indispensable instrument of the state since the emergence of the modern state, and the destructive effect of coercion has carried this legacy over centuries in the memory of the state (Fülberth, 2023: 122).

2. Witch Hunts, Capitalism And The Instrumentalization of the Law

The transition from feudalism to capitalism was not smooth. There were hundreds of uprisings, for example, peasant uprisings as a manifestation of the demand for individual rights or workers' uprisings against the early capitalist labour system (Fülberth, 2023: 129-130) The peak of European witch-hunting coincided with escalating systemic poverty, driven primarily by a demographic explosion between the 16th and 17th centuries. This population pressure led to an oversupply of labor and a subsequent collapse in real wages, while simultaneous unprecedented inflation disproportionately burdened the poor over the wealthy (Levack, 2006: 158-159). Witchcraft can be considered as one of the first examples of opposition to capitalism. Thus, the witch hunts that the liberal state resorted to in order to eliminate this "problem" is one of the first examples of the instrumentalisation of law to consolidate the power of the state. The witch hunts, ostensibly a religiously motivated phenomenon, can be understood as an early example of the liberal state's tendency to intervene in social and economic life to protect its own benefits and those of capitalism, that is, overturning the idea that the liberal state is not inherently passive or interventionist.

The archetypal "witch" was generally a woman of limited means, between 41 and 60 years old, who might be married but was frequently a widow. The majority of males accused of practising witchcraft were related to women labelled as witches, either as their offspring or spouses (Berktaç, 2018: 59). Individuals who are believed to possess innate supernatural abilities are often referred to as witches, and these powers are thought to be inherited, particularly through the maternal line. The concept of witchcraft and its legalisation dates back to the early times of Christianity. Some rulers characterised such beliefs as superstitious, harmful, and imposed harsh penalties. During this period, the line between magic and witchcraft blurred, and an important class-based distinction emerged. The practices of well-educated, high-status men were labelled "occultism" or "magic", while those of uneducated, poor women were labelled "witchcraft". Although witchcraft had existed since earlier, the attitude towards the execution or massacre of witches emerged in the 15th century. When feudalism was in crisis, epidemics and popular uprisings threatened the ruling class and the view of witchcraft changed. Witchcraft were perceived as a kind of heretical tendency and sin (Berktaç, 2018: 57). From the 15th century, witchcraft evolved from an individual practice to being perceived as a heretical cult founded on a pact with Satan. The Church utilised heresy accusations to quell social and political dissent, while strengthening its alliance with the state. Witches came to symbolise witchcraft, as well as various forms of rebellion and threats to societal order, with witchcraft accusations becoming a means of political oppression across Europe (Federici, 2024: 240-242).

The phenomenon of violence and torture, which increased in Europe in the 13th and 14th centuries, was a favourable means of maintaining order for the State, which held the 'monopoly of legitimate violence' in the Weberian sense. After the mid-16th century, the number of witch trials increased to the point of the massacre. The power to punish was taken away from the Inquisition and given to secular courts. Between 1580-1630, when feudalism gave way to the political institutions of mercantilist capitalism, witch hunts peaked. The State, not the Church, took over witch trials. In 1532, a penalty for witchcraft was imposed. Legal arrangements were rapidly made against witchcraft; for example, various laws were adopted in England in 1542, 1563, and 1604. The last one even penalised witchcraft with capital punishment, even if it did not harm people or property. This increased social conflict and spread slander and slanderous behaviour throughout Europe (Federici, 2024: 243,253).

In 1486, the publication of *The Witches' Hammer* (*Malleus Maleficarum*) written by Kramer and Sprenger (2018) marked the official recognition of witches as a threat to the Church. This tome not only defined witchcraft and how it should be understood but also outlined the judicial procedures to be employed in witch trials (Federici, 2024: 242; Kramer and Sprenger, 2018: 459-634). Heinrich Kramer and James Sprenger, the two Dominican priests who wrote the tome, were commissioned by the order of the pope. The tome, a result of the Pope's edict "summis desiderantes affectibus" (1484), which systematised the witch massacre and gave it a legal dimension, has gone through dozens of editions in short time (Berkta, 2018: 59).

The tome (in second chapter) describes witches' methods for witchcraft. For example, how they fly from one place to another (Kramer and Sprenger, 2018: 253-263), how they transform a person into an animal (Kramer and Sprenger, 2018: 296-300), or how they cast spells, especially sexual spells (Kramer and Sprenger, 2018: 278-295). The authors emphasised all of these spells as sexual and hidden relationships between the witches and Satan (Kramer and Sprenger, 2018: 264-277; Berkta, 2018: 59). For the purpose of this study, however, the third chapter, which describes how the Church and civil courts operate in the fight against witchcraft, is more important than the second chapter. This chapter is an important primary source of the relationship between the development of capitalism and witch hunts and the instrumentalisation of law in this process.

Against capitalism's principles of calculability and predictability, the glorification and sanctification of work, witches, and witchcraft practices have the characteristics of subverting these principles and opposing capitalism. In the capitalist order of work, which is based on the Protestant ethic devoted to work, witchcraft is a rejection of the realisation of what is desired through labour and is based entirely on disrupting calculability. While this new world was being built, in which the mind was glorified and the body was degraded, witchcraft and spells revolted against this new state and its law by society, which carried the intellectual heritage of the Middle Ages, which preserved the sanctity of the body in the face of this new world and did not degrade the body to the second plan in the face of reason (Federici, 2024: 210). Since superstition was an obstacle to obedience to the state's rational and calculable labour system, 'witchcraft' was targeted in order to protect capitalist principles (Federici, 2024: 214). In this sense, the witch hunt served to break European peasants' resistance in the process of expanding the state's sphere of dominance. It re-established the elements of social reproduction and became a fundamental aspect of primitive accumulation and transition to capitalism (Federici, 2024: 240).

As Berkta (2018: 61) points out, in times of social crises, upheavals, and periods of intolerance, the state and society look for a scapegoat. For example, in Spain, Jews were a more convenient scapegoat than witches. There were witches here too, but they were not the main foe. However, in Germany, from the 16th century onwards, witches replaced Jews as scapegoats.

The witch hunt and fight against witchcraft was not only a matter of faith. It had a political and legal infrastructure that emerged from the change in Europe's new mode of production, based on accumulation and private property. As Berkta (2018: 64) observes, witch hunts occurred in societies where private property existed, whilst this widespread persecution of witches was absent in regions where the notion of private ownership had not been established. Especially in Germany,

the main result expected from the witch hunt was the execution of women, most of whom were poor, and the confiscation of their property (Federici, 2024: 247-249; Berkday, 2018: 63). Some rulers appointed special "witch-commissioners" who bypassed standard district courts and local jurisdictions altogether. These officials operated with almost unlimited, arbitrary legal power, generating mass convictions that terrorized regions while consolidating wealth and central authority (Behringer, 2004: 116) In addition, funding for these judgement processes has even become a source of income for some people (Federici, 2024: 243).

In sum, Federici (2024: 250) finds that these witch hunts, which emerged in the process of centralisation of state power, were not only a means of establishing patriarchal order, but also aimed at breaking the power of the ruling class "to break down women's resistance to the expansion of capitalist relations, their sexuality, their control over reproduction, and the power they gained through their healing skills." This relationship can also be observed in those who were these subjects. Unlike the bulk of those accused were impoverished rural women—farmers or wage earners—their accusers were affluent and esteemed community figures, often employers or landowners. Furthermore, these accusers held positions within the local power structure and maintained strong connections with the central government. Therefore, the growth of rural capitalism, with its associated effects (e.g. land confiscation, widening social gaps, and the dissolution of cooperative relationships), played a crucial role in setting the stage for witch hunts (Federici, 2024: 252-253).

Capitalism had to discipline society to protect its principles (Federici, 2024: 205). As Michel Foucault describes in his book *The Birth of the Prison* (1992, as cited in Federici, 2024: 199-200), when it was realised by the modern state that imprisonment was a more economical way than execution, law began to be used as an instrument in this direction. As Levack (2006: 74-75) coined that "First, the secular and ecclesiastical courts of continental Europe adopted a new, inquisitorial system of criminal procedure that made it far easier for witch-craft cases to be initiated and prosecuted. Secondly, these courts acquired the right to torture individuals accused of witchcraft, thus making it relatively easy to obtain confessions and the names of the witches' alleged accomplices. Thirdly, the secular courts of Europe acquired jurisdiction over witchcraft, thereby supplementing and in many cases replacing the ecclesiastical courts as the judicial engines of the witch-hunt." Suspects who were prosecuted for witchcraft were subjected to propaganda in which they were criminalised in society. During this period, when modern science based on philosophical and scientific rationalism was developing, witch hunts were unanimously supported by almost all scientists. It was not only the printed media that carried out this propaganda; jurists were also commissioned for this work, and these jurists ensured the instrumentalisation of the law (Federici, 2024: 246-247).

The *Witch Hammer* was almost a reference book, a procedural doctrine for instrumentalisation. It specified various procedures, from the characteristics of the judges to be assigned in witch trials to the investigation and prosecution phases, from the number and qualifications of witnesses to how witnesses would be questioned (Kramer and Sprenger, 2018: 459-499). It explained in detail how the court would make a judgement based on the confession of the accused, his bad reputation, the evidence presented, and witness testimony. It specified the methods by which the witch was to be convicted, whether she was to be tried under remand, and whether she was to be subject to bail, and legally determined how attorney was to be appointed and what defences were permitted (Kramer and Sprenger, 2018: 500-522). It specified the methods of interrogation, the tortures to be applied, how and when the second interrogation would take place, what kind of tortures would be used to extract a confession, and the procedures for finalising the verdict (Kramer and Sprenger, 2018: 522-560). Thus, all tortures, massacres and atrocities were justified and legitimised by the legal procedures stated in the tome. It should be noted that the existence of these legal processes was insufficient on its own. A large administrative organisation and bureaucracy network were required to implement the law. The development of the absolute-centralised state structures of the capitalist period, instead of the feudal state structure, responded to this requirement.

Berktaf (2018: 62-63) points out that in the same period, the persecution of Jews in places where there was no witch hunt was similar to the persecution of witches, and argued that the root causes of these persecutions were deeper than their apparent justifications, as explained upper pages. However, the significant point of this phenomenon in this article is that the liberal state has learned (and has not forgotten so far) from this early experience in the practice of suppressing opponents using legal justification. However, learning something from this experience was reciprocal: the burning, hanging, and torture of hundreds of thousands of women in less than two centuries made witchcraft a symbol of women's struggles. For example, when feminist movements emerged in the 19th century, feminists identified themselves with symbols of witches and witchcraft (Federici, 2024: 236-237).

One of the clearest examples of the interventionist aspect of the liberal state, the political order that emerged in the development process of capitalism, and its use of modern law as an instrument for this purpose are the witch hunts that emerged in the 15th century. When the origins of these massacres, which were carried out with great dark propaganda against women, were examined through the lens of capitalism and the development of the modern state and law, it can be seen that there are practices, procedures, and understandings quite similar to the massacres of recent history by instrumentalising the law.

Witch hunts are not isolated events that have emerged and ended within a certain period of history. When considered within the context of the struggle against power, it can be seen that the practices of that period were repeated in recent history to preserve the power of the ruling class. For example, some legal practices, such as the obligation to wear markings on the clothes of those on trial in order to keep away from suspects accused of witchcraft and to ostracise them in society, are quite similar to the legal practice of the Nazis, where the Jews were obliged to wear a yellow star in order to discriminate against them. Similarly, informing and denouncing was used frequently during the Nazi period, just as it was during the witch hunt (Federici, 2024: 245).

Conclusion

The economic and social changes that occurred in Europe from the 12th century onwards, such as the expansion of trade, the emergence of merchant classes, and the changing structure of land ownership, laid the foundation for capitalism and established the basic principles of early capitalism (e.g. private property, free markets, capital accumulation). Thus, a new legal framework is required to protect and promote these principles. This process facilitated the rise of the bourgeois class and emergence of liberal modern laws. The phenomenon of witch hunts is closely linked to these economic, political, and social transformations in Europe from the 15th century onwards. During this period of increased centralised state power, witchcraft provided a convenient target for criminalisation and diverted attention from state-involved crises, such as inflation, epidemics, and peasant revolts.

This study looks at witch hunts as a major crisis during the change from feudalism to capitalism. It also focuses on how centralized states started to appear, providing a place where the capitalist economy could actually function. It is not analyzing witch hunts as just some random historical event that happened long ago. Instead, it sees them as a phenomenon that showed the basic sides of the liberal state and capitalism even at an early stage. This is still important today because of the intellectual legacy it left behind and how it affected the relationship between capitalism, law, and the state.

As you can see in this study, the new ways of thinking that came up during this time—especially regarding witch hunts—show how the mindset was shifting from feudalism to capitalism. New structures of thought were developed to make human nature, the state, and the law work for capitalism. When we look at the whole picture, things like the male-dominated and individualist view of humans, or the idea that the state is just a voluntary and artificial thing, all serve the capitalist economy. For this reason, witch hunts actually helped strengthen the new capitalist

property relations. People used witchcraft accusations to consolidate their ownership, get rid of competitors, and control resources.

Basically, the witch hunts created a precedent for how the state would intervene in the future to help the economy. They also worked as a way of social control, keeping people from protesting, making social hierarchies stronger, and disciplining the population so the new capitalist order could benefit. This persecution became official through the law, which was very important for making witch hunts seem okay and legal. Law wasn't used as a "neutral arbiter" like liberal theory always says. Instead, it was an active tool used to protect the interests of the new capitalist class. The legal system just made it easier to go after anyone who looked like a threat to the new economic way of doing things.

Even though witch hunts looked like they were about religion, they were actually early examples of how the liberal state likes to interfere in social and economic life to protect itself and capitalism. This examples challenges the idea that the liberal state is naturally passive or stays out of things (basically the 'laissez faire' myth). The witch hunts show that the state has always been willing to use its power, including the courts and the law, to shape society in a way that helps capitalism.

In the 20th century, if we look at the Nazi persecution, many of the things they did were actually similar to what happened during the witch hunts centuries before. This shows a kind of continuity in how the liberal state reacts or takes measures. It reveals a side of the state that hasn't changed over a long time. The liberal state is always ready to intervene to protect capitalist principles.

References

- Behringer, W. (2004). *Witches and Witch-Hunts: A Global History*. Polity.
- Berktaş, F. (2018). Avrupa'da Cadılık ve Cadı Avı: Çok Katmanlı Bir Karanlık Tarihsel Olgu. *Doğu Batı Dergisi*, 84, 57-84.
- Bernal, J. D. (1978). *Sozialgeschichte der Wissenschaften: Science in History*. Rowohlt Verlag.
- Bodin, J. (1992). *On Sovereignty: Four chapters from The Six Books of the Commonwealth*. (J. H. Franklin, Ed. ve Çev.). Cambridge University Press.
- Capra, F. (1992). *Batı Düşüncesinde Dönüm Noktası*. (M. Armağan, Çev.). İnsan Yayınları.
- Collingwood, R. G. (2020). *Doğa Tasarımı*. (K. Dinçer, Çev.). Ayrıntı Yayınları.
- Ewing, S. (1987), Formal Justice and the Spirit of Capitalism: Max Weber's Sociology of Law. *Law & Society Review*, 21(3), 487-512. <https://www.jstor.org/stable/3053379?seq=1>
- Federici, S. (2024). *Caliban ve Cadı: Kadınlar, Beden, İlksel Birikim*. (Ö. Karakaş, Çev.). Fol Yayınları.
- Foucault, M. (1992). *Hapishanenin Doğuşu*. (M. A. Kılıçbay, Çev.). İmge Kitabevi.
- Fülberth, G. (2023). *Kapitalizmin Kısa Tarihi*. (S. Usta, Çev.). Yordam Kitap.
- Gurvitch, G. (2021). *Hukuk Sosyolojisi*. (M. Koçakgöl, Çev.). Pinhan Yayıncılık.
- Hobbes, T. (2021). *Leviathan*. (S. Lim, Çev.). Yapı Kredi Yayınları.
- Kramer, H. ve Sprenger, J. (2018). *Cadı Çekici: Malleus Malificarum*. (A. Polat, Çev.). Artes Yayınları.
- Levack, Brian P. (2006). *The Witch-Hunt in Early Modern Europe*. Pearson Education Limited.
- Plumwood, V. (2004). *Feminizm ve Doğaya Hükmetmek*. (B. Ertür, Çev.). Metis Yayınları.
- Serres, M. (1994). *Doğayla Sözleşme*. (T. Ilgaz, Çev.). Yapı Kredi Yayınları.
- Tigar, M. E. (2023). *Kapitalizmin Yükselişi ve Hukuk*. (O. Karahanoğulları, Çev.). Epos Yayınları.

Financial disclosures

The author declared that this study did not receive any financial support.

Acknowledgements

The author have nothing to acknowledge of any persons, grants, funds, institutions.