

COMPARATIVE EVALUATION OF THE SUBJECT OF HUMAN RIGHTS IN TERMS OF LIBERAL AND FASCIST IDEOLOGIES

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Abstract - Human rights; it is the right of all people to live equal, free and honorable because of being human only without any discrimination. Everyone is equal to the law without any difference, such as gender, race, color, religion, language, age, nationality, difference of opinion, national or social origin, wealth. Humanity who prefers living as a community have discussed some ideas such as the social contract and have made some practices to have equal rights with each other and to remain free without harming each other since ancient times. During time, the accumulations from social life have revealed some ideologies. Liberalism and fascism are included to these ideologies. These ideologies were developed and raised from the formation of the society by individuals. In this article, firstly the necessity of protecting and equalizing the rights and freedoms of individuals who were living as a social entity in the society will be discussed by addressing the “the social contract” notion and by mentioning the arguments of the important thinkers, and then the human rights will be discussed in terms of fascism and liberalism, which are two opposing ideologies.

Keywords - Human Rights, The Social Contract, Liberalism, Fascism.

I. INTRODUCTION

Human rights are the basic moral guarantees that protect people in every culture and in every country against the exploitation of the state and institutions and enable them to live a life worthy of human dignity. Human rights come from birth and cannot be terminated for every human without exception. The authorities of the country or the legal system of the country have no authority about to decide to recognize and apply or not to recognize and not to apply these human rights. Human rights are the basic rights and freedoms that all people have.¹ Human rights are rights that all people can benefit from without regardless of race, nation, ethnicity, religion, language and gender discrimination. Because of its moral basis, human rights are different from the basic legal rights. However, these rights are regulated and brought together within the framework of human rights and are protected by law. The appreciation of the rights of the individual has been realized in 1945 in accordance with the requirements of the United Nations. With the United Nations Treaty signed by 50 states in 1945, human rights and fundamental freedoms were officially enacted for the first time in international law. The United Nations Organization foresees a three-phase program of activities. First, a declaration will be prepared and announced to determine the universal dimensions of human rights; then, mechanisms shall be established to ensure that States Parties shall be subject to legally binding conventions at international level and finally to protect the rights and freedoms prescribed in these

international instruments on the international level.² United Nations has provided the human rights to become a universal concept. At the same time, it played an important role in developing this concept and filling its content and putting into practice of the protection provided by these rights. A human rights commission has been established by the Economic and Social Council established based on the United Nations. The Human Rights Commission undertook the task of writing a human rights statement. The declaration was issued about two years later, in December 10, 1948. Along with the universal human rights statement shared in 1948, it managed to reach the present framework in a short time. This law unit, which has many principles, has been structured and put forward to defend the rights of the people of the world and to formalize these rights together with legal frameworks. The basic responsibility for the realization of human rights belongs to the state and to the authorities, not individuals. Because the idea of the emergence of human rights is to protect the individual from the arbitrary attitude and treatment of the state.³ Philosophical foundations of human rights are based on the views of the ancient philosophy which also includes the ideas and views of Greek philosophers Socrates and Epicurus. We see the assumption that the society is founded by people's own will, transferring all the personal rights and freedoms that people knowingly and willingly possess and creating a social life with the concept of “The Social Contract”. Beginning from the 16th and

¹ J. Nickel, Making Sense of Human Rights: Philosophical Reflection on the Universal Declaration of Human Rights, 1987, pp. 561

² Ş. Gözübüyük and F. Gölcüklü, Avrupa İnsan Hakları Sözleşmesi ve Uygulaması, Avrupa İnsan Hakları Mahkemesi İnceleme ve Yargılama Yöntemi, 2011, pp. 85

³ J. Nickel, Making Sense of Human Rights: Philosophical Reflection on the Universal Declaration of Human Rights, 1987, pp. 562

17th centuries, the idea of social contract has been more frequently expressed. Some important thinkers such as John Locke, Thomas Hobbes, Jean Jacques Rousseau were mentioned about the social contract. Hobbes argues that since people initially act with emotions rather than their minds, there is no order and they live in a constant struggle environment, and that in such an environment everyone tries to protect their own personal rights and interests.⁴

However, people will act in their minds by defeating their passion and mutually transfer all their rights and start a social life that ends the fight between them. This is the social contract that will form the order of the new life. According to Hobbes, in this period, while people protecting their selves, they will prevent things that they do not want to be done by the others.⁵ The social contract gained its present meaning with the French philosopher Jean-Jacques Rousseau. According to Rousseau, the founder of the society is a contract and the necessities and freedoms that bring people to live in their natural state from their previous state. Obligations and liberty bring people together first in the family, then in tribes and finally in nations. In the life of society, all the people who come together will not have a superior right over others because they have given up their rights. The purpose of the social convention is not to make people captive, but to keep them out of aggression and struggle by making them to have absolute equality among themselves.⁶

Locke, considered to be the founder of liberalism, points to the existence of a state in which an individual has to secure his rights to live, freedom and property.⁷

In summary, people lived in great turmoil before the community and society regulating state was established. At this stage, where everyone has done what they want and is in a quarrel with each other, to end the chaos and to secure their property, people have contracted with each other and gave up some part of their unlimited rights and handed over their liberty to the society and the state with a higher will. The society and its regulator state, as well as the struggle environment, gave the opportunity to obtain more than the rights of individuals. According to the philosophical theory that begins with Thomas Hobbes and with the contribution of other thinkers, human rights are appropriate tools and are legitimate to secure the conditions necessary for a human being to live a life worthy of human beings. The social contract theories aim to construct a new society apart from the current social dynamics and the political philosophy that has lasted for centuries. The idea of a social

contract has been largely influential in the development of human rights in Europe and other parts of the world.⁸

In terms of the formation of the modern state, the effect of social contract on social relations and individuals, and therefore on power relations, is absolute. Because there are a lot of new, domination and totalitarian relations in which the contract has been abolished but at the same time it produces.⁹

A broad definition of freedom is that individuals can do whatever they want without any restrictions or coercion. However, because actions can be unlimited and actions that are harmful to others can be considered as freedom, some actions are restricted by the principle of harmlessness due to common sense. With this restriction, the definition of negative freedom has emerged. If it does not harm others, the negative freedom that can be defined as doing the desired without any restrictions or coercion constitutes the basic understanding of liberalism.¹⁰

In classical liberalism, freedom is based on the understanding that citizens should be freed from the arbitrary pressure of the state. It aims to prevent the imprisonment of citizens for illegal and arbitrary reasons. Unlike liberalism, which was changed in many respects from a later perspective, the basis of real liberalism or classical liberalism is based on the application and defense of the rights and freedoms of a person in a constitutional state.¹¹ Classical liberalism's political and social understanding of fixed rules is largely inspired by the philosophy of natural law in the history of ancient Greek and Roman law.¹²

With the idea of enlightenment, it has become a generally accepted belief that the human mind is able to discover several universal rules in the fields of nature, morality and aesthetics. It is based on this optimistic acceptance of the enlightenment that liberalism can advocate in a systematic way, especially human rights, and the rules that can be applied by every society, regardless of which cultural body.¹³

In general, liberalism is a thought that aims to guarantee the individual's freedom, autonomy and fundamental rights. Therefore, it focuses on the limitation of political power. But after the First World War, a reaction has begun against liberalism in many European countries. Because of the war irregularity and instability have begun in society. The countries were in a state of suffering and weariness brought about by defeat and devastation. People lost their wives, their husbands, their children, their relatives and their loved ones with the war. This includes the

⁴ T. Hobbes, *Leviathan veya Bir Din ve Dünya Devletinin İçeriği*, Biçim ve Kudreti, 2012, pp. 13

⁵ T. Hobbes, *De Cive – Yurttaşlık Felsefesinin Temelleri*, 2007, pp. 8

⁶ J. J. Rousseau, *İnsanlar Arasındaki Eşitsizliğin Kaynağı*, 2010, pp. 138

⁷ Y. Taşkın, *Siyaset*, 2014, pp. 31.

⁸ A. K. Çüçen, *İnsan Hakları*, 2011, pp. 39

⁹ K. Atalay and Ö. Albayrak, *Sözleşme Teorileri*, 2012, pp. 107

¹⁰ C. Horner and E. Westcott, *Felsefe Aracılığıyla Düşünme*, 2011, pp. 181

¹¹ G. Sartori, *Demokrasi Teorisine Geri Dönüş*, 1996, pp. 12

¹² J. Locke, *Hükümet üzerine ikinci inceleme*, 2004, pp. 71

¹³ S. Lakoff, *Özerklik ve Liberal Demokrasi*, 1999, pp. 199

failure of economic conditions and the political instability of the country. People were in material depression, political parties were desperate regarding the problems of the country, and they were also contending within themselves. These poor and angry masses have detached from the bourgeois-democratic mass parties they have pursued to that time and have gathered around the military-nationalist militias and offensive continents with a sense of resentment and anger toward democracy. Therefore, the public felt that they needed a more disciplined regime. This need has been instrumental in strengthening the dictatorships and establishing new dictatorships.¹⁴

The historical period between the First and Second World Wars, 1914-1945, has led the most intensive social, economic and political conflicts through the nations. These changes and developments of the nineteenth century were influential in the formation of the ideology which is called as fascism.¹⁵

One of the simplest definitions about fascism that expresses the concept briefly and clearly as follows; A totalitarian philosophy of government that glorifies the state and nation and assigns to the state control over every aspect of national life.¹⁶ In the relationship between liberalism and fascism, it is seen that the approach of the two ideologies to the concept of the individual is different. The main principle of the liberal ideology is individualism. Liberalism believes that an individual is superior to any collective formation or social group. The concept of individual is different for fascism and liberalism. In fascism, the individual is not treated as an abstract entity. The individual does not have the liberty or the right to defend against the state as it is in liberalism. In fascism, the state is considered superior to the individual. National interests are held above personal interests. Freedom for liberalism precedes authority and justice. Such freedom in fascism is not the case, the authority of the state is over everything else.

In the fascist state, social institutions are more important than individuals. There are some requirements that these organizations must fulfill. The individual is considered valuable according to the functions it performs within the state. This situation is also an indicator of inequality between people. The fascist state is often associated with the concept of power.¹⁷ No one could be stronger or authorized than the state.

The state is superior to everything. In fascism, the individual will only have place within the context of relations with certain social institutions. In the political structure of the fascist state, it is necessary to represent not the individuals, but the social institutions and the interests represented and protected by these institutions. Because, as it is

known, in this state system, people do not have rights, but they have duties. The people have value according to importance of the function they carry out in society.

In fascism, the state is the sovereign and the authority. The state, which governs all the forces in society, also keeps them under strict control. The fascist state, which is hierarchically placed on the individual, has an unlimited and almost unquestionable superiority in representing and realizing the national interests of the Italian nation. In the fascist regime, the belief that an individual's existence can only be understood within the state, obliged the unconditional obedience of the masses to the state.¹⁸ The state in fascism is authorized to intervene social, political, moral and economic areas and structures. In fascism, the state was seen as the most blessed of the values.

In the fascist state, "organic theory" has been included. In this state system individuals are not the base and source of the society. The base and sources of the society is social institutions which were formed by individuals meet various needs and protect various interests. According to organic theory, society is like human body. Whatever the relations between the role, nature, functions and organs in the human body, it is also same the role, nature, functions and relations of social organizations in society life. The individuals, in these organs, are like organic cells. According to this, society is a body; social organizations are the organs that fulfill the various functions of this biological whole; and the individuals are organic cells that dissolved and fused in these organs. Thus, society is accepted in the fascist state as; a sociological, historical fact, an organic, biological whole. Fascism, which is clearly opposed to individual and individualism, attempts to make the individual an organic part of society by removing it from its own value. This is accomplished by creating a "total" society consisting of a single type of living, monotonous, amalgamated people and all areas of life unified by penetrating into all spheres of civilian life, from educational to fine arts, literary to recreational forms, through a party integrated with the state.¹⁹

The state is not a structure formed by individuals, but a living organism based on social institutions. Mussolini also expressed this with the following expressions: "All within the state, nothing outside the state, nothing against the state." Parallel to the views of the Fascist Ideologue Gentile, Mussolini, in another statement, at the first assembly of the regime, in 1929 states the sanctity of the state as follows: "For fascism, the state is not just a night watchman who is interested in the personal security of the citizens. The state, which cannot be reduced to purely material

¹⁴A. Thalheimer, O. Bauer and A. Tasca, *FaşizmveKapitalizm*, 1999, pp. 90

¹⁵S. G. Payne, *A History of Fascism 1914-1945*, 1995, pp. 23

¹⁶J. Bainville, *Dictators*, 1937, pp. 151

¹⁷A. Vincent, *Modern Political Ideologies*, 2010, pp.139

¹⁸J. Pollard, *The Fascist Experience in Italy*, 1998, pp. 126

¹⁹H. B. Örs, 19. Yüzyıldan 20. Yüzyıla Modern Siyasal İdeolojiler, 2008, pp. 496-497

goals, is not just a political organization. For fascism, the state is a spiritual and moral phenomenon".²⁰ According to National Socialism in Germany under the leadership of Hitler, the individual is not a social reality, but a social organization that is real. There are similarities between human societies and biological organisms. Therefore, National Socialism participates and supports the organic theory just like fascism. The individual is no different from a cell in the organism. The individual is a cell within society and has no personality. Society is not a whole formed of individuals but a collective personality. Individuals melt in this collective personality and disappear. Every social organism, like all biological organisms, does not consist of the same type of cells. When organisms develop a little, there are differences in the functions and qualities of the cells. Within the social organism are also people from different races. There are people who come from superior races, there are harmful racial people, there are people who have ordinary race. It is necessary to throw them away from the organism.²¹ The fascist regime which considered as repressive and totalitarian, the rights of the individual to defend against the state are not in question. Individuals are dissolved in these state models. The individual has no right to defend against the state or any freedom to seek protection from the state. The individuals are only obliged to fulfill the assignments given to them and they gain meaning in the context of the assignments they have fulfilled. It is a fact that the fascist state is putting all the forces in society under a strict discipline. The fascist state has the authority to intervene in moral, religious, social, political, social justice and economic activities. In other words, the state has the right and authority to interfere in all kinds of activities of the persons, each field has its own vision and the program it wants to realize. It is accepted that the source of law and justice is the state; Freedom is also regarded as the movement that the state recognizes to the extent that it is fit for its own interests.²²

CONCLUSION

As a result, the society is considered as it consists of people who prefer to live together and accept to transfer some of their rights in accordance with this preference. Societies should determine a roadmap for the future by analyzing the political, economic and social conditions in which they exist, and govern the structure which is called as the state in this direction. Societies need a system after a certain growth and development. These systems are aimed at the prevention of chaos in the society. This system is

for to create a society in where social functioning is achieved in a hierarchical system and which the rulers and public are determined. Thus, the idea of social agreement emerged. With the idea of social contract, people have agreed to entrust their rights to the state and share them equally. The social contract requires each person to waive some of their rights for other people and agree to give it to others and in this way, it foresees that the society will develop the principles of living together by creating an integrated structure. However, the personality traits, political attitudes and opinions of the person who takes power are important and even the existence of social consciousness sometimes cannot prevent this. The most obvious example was in Italy under the leadership of Mussolini and Germany under the leadership of Hitler in the fascist period. People's declarations of will and a conscious society are not enough conditions for good use of power. A leader elected by the majority of society by their own free will may not respect the rights and freedoms the community has handed over to it and that, as in fascist administrations, can cause society to experience problems in human rights. Apart from fascist administration, liberalism is an ideology seems to support individual freedoms and especially classical liberalism is perceived as parallel to the idea of human rights. Because, in liberalism, the powers of the state are limited. Thus, unlike the fascist states, in liberal states, a leader's personal decisions or political attitudes do not reach the dimensions that threaten the freedom or rights of the whole society. The enlightenment period has made great progress in human rights, but the world wars that reveal the most important and impressive results of history has strengthened the foundations of fascism in the 19th century. In general respect, the fascist state and fascist ideology is an inverse ideology to liberalism, which brings individualism and individual freedoms to the forefront. In fascism, which is a totalitarian ideology, the most important being is the state. The state is more important from the law; the creator of law and freedoms; is the representative of the public interest. The person does not have any meaning against the state, and there cannot be a desire for rights and freedom. There is no right; there are the tasks. Fascism evaluates the person within the state. The granting, abolition, or restriction of liberty, belongs entirely to the state. The right to represent the state belongs the fascist party. The leader is considered as the state itself. It can be also said that, in line with the nature of the fascist ideology and the ideas it advocates, it is quite far from the idea of human rights.

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