

DISCOURSE ON HUMAN RIGHTS:  
REPRESENTATION OF THE IDEA IN TURKISH HUMAN RIGHTS  
CONFERENCE TEXTS

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## **ABSTRACT**

### **DISCOURSE ON HUMAN RIGHTS: REPRESENTATION OF THE IDEA IN TURKISH HUMAN RIGHTS CONFERENCE TEXTS**

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The main concern of this thesis is to analyze the transformation of domestic human rights discourse by looking at the shifting representations of the idea of human rights. The representation of the idea of human rights in ‘Turkey Human Rights Movement Conferences’ in different political contexts during the period 1998-2010 is evaluated with reference to three areas of literature on the idea of human rights and with a social constructionist perspective which begins with the proposition that ideas and practices concerning human rights are created by people in particular historical, social, and economic circumstances. The different conceptualizations of legitimation of the idea of human rights, the shifting representations of the idea of human rights as civil and political rights and economic, social and cultural rights and the varying

constructions of domestic human rights language amongst local and universal claims in respect of human rights within different political contexts is explored. In this framework, the research design of the study is envisioned to evaluate these issues in the context of ‘Turkey Human Rights Movement Conference’ texts. The final reports of eleven conferences held in the period 1998-2010 are analyzed by the method of ‘qualitative content analyses’.

Keywords: human rights discourse, domestic human rights movement, social construction of human rights

## ÖZ

### İNSAN HAKLARI SÖYLEMİ: TÜRKİYE İNSAN HAKLARI HAREKETİ KONFERANSI METİNLERİNDE İNSAN HAKLARI FİKRİNİN TEMSİLİ

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Bu tezin temel amacı yerel insan hakları söylemindeki deđişimi insan hakları fikrinin deđişen temsilinden hareketle analiz etmektir. İnsan hakları fikrinin ‘Türkiye İnsan Hakları Hareketi Konferansı’ metinlerinde temsili, farklı politik bağlamlarda ve üç temel literatüre referansla deđerlendirilmektedir. Bu tezde, insan haklarına dair fikir ve pratiklerin belirli tarihi, sosyal ve ekonomik koşullar içerisinde yaşayan insanlar tarafından belirlendiđi önermesinde bulunan sosyal inşacı perspektif benimsenmektedir. İnsan hakları fikrinin meşrulaştırılması yönünde kullanılan farklı kavramsallaştırmalar, insan hakları fikrinin sivil ve politik haklar ve ekonomik, sosyal ve kültürel haklar olarak deđerşen temsilleri ve yerel ve evrensel perspektifler doğrultusunda inşa edilen insan hakları dilinin deđerşimi farklı politik bağlamlarda incelenmektedir. Bu çerçevede, bu tezin araştırma tasarımı ‘Türkiye İnsan Hakları

Hareketi Konferansı' metinleri bağlamında bu konuların değerlendirmesine yönelik yapılmıştır. 1998-2010 arasında düzenlenen 11 konferansın sonuç raporları, 'niteliksel içerik analizi' yöntemi ile incelenmektedir.

Anahtar Kelimeler: insan hakları söylemi, yerel insan hakları hareketi, insan haklarının sosyal inşası

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## LIST OF ABBREVIATIONS

<b>EU</b>	European Union
<b>DSP</b>	Democratic Society Party (Demokratik Toplum Partisi)
<b>GONGO</b>	Government Organized Non-Governmental Organization
<b>HRA</b>	Human Rights Association (İnsan Hakları Derneđi)
<b>HRFT</b>	Human Rights Foundation of Turkey (Türkiye İnsan Hakları Vakfı)
<b>ICCPR</b>	International Covenant on Civil and Political Rights, 1966
<b>ICESCR</b>	International Covenant on Economic, Social and Cultural Rights, 1966
<b>İHK</b>	İnsan Hakları Konferansı (Human Rights Conference)
<b>TİHHK</b>	Türkiye İnsan Hakları Hareketi Konferansı (Turkey Human Rights Movement Conference)
<b>NGO</b>	Non-Governmental Organization
<b>UDHR</b>	Universal Declaration of Human Rights, 1948
<b>UN</b>	United Nations
<b>US</b>	United States
<b>JDP</b>	Justice and Development Party (Adalet ve Kalkınma Partisi)
<b>VDPA</b>	Vienna Declaration and Programme of Action, 1993

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## **CHAPTER 1**

### **INTRODUCTION**

In this study, the central concern is to present a contextual analysis of human rights language of the domestic human rights movement in Turkey. The main inquiry is the representation of the idea of human rights by domestic human rights movement in different political contexts during the period 1998-2010 through analysis of ‘Human Rights Movement Conference’ texts. In this sense, there is an exploration of change concentrating on the question of how ideas and practices in respect of human rights reconstructed within these texts.

The discourse of human rights is a common issue in fields of politics, law and ethics. The concept of right is mentioned within nearly all position, thought, statement and critics about social and political life. Some scholars described this situation with the concept of ‘Age of Rights’ (Jacob, 2007; Bobbio, 1991; Baxi, 2001; Henkin, 1996). The language of human rights is primarily a normative language which is based on Western philosophical and political tradition. The historical path of the idea of human rights can be conceptualized as transition from natural rights derived from religion to the rights derived from our basic humanity. The United Nations’ (UN) Universal Declaration of Human Rights (UDHR) which is formed after the Second World War is the basic reference for the justification of the modern human rights idea. At the same time, there are some alternative philosophical stances denoted for justifying the idea of modern human rights like emphasizing human dignity, equality

among members of the society and autonomy of the individual. Besides its justification, there are debates on the idea of human rights in terms of its value and effectiveness.

While Enlightenment era is described as the first expansionary period of rights, the adoption of the UDHR at the beginning of the post-war era is marked as the beginning of the second expansionary period (Edmundson, 2004, p. 127). The adoption of the UDHR was followed by a series of standard-setting processes which were driven by the international community. As international cooperation was institutionalizing at the new UN, the rhetoric of human rights was flourishing to be a “political *lingua franca*” (Pendas, 2011, p. 218). In 1966, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights were adopted. Human rights differentiated from civil and political rights into economic, social and cultural rights and lastly, into group and solidarity rights. In this framework, the proliferation of rights claims with reference to the idea of human rights resulted in the emergence of a human rights movement.

Ideas and practices regarding human rights have influence on the mobilization of people against injustices and indignities. The idea of human rights is a major means for “resisting the dictates of power and dissenting from the intolerance of public opinion” (Douzinas, 2007, p. 12). The notion that human rights are not just logos, but also praxis; that “they must be translated into action” in order to “have any meaningful bearing on the life of individuals and communities” (Tulkens, 2001, p. 128), is important to establish the connection between the idea of human rights and the human rights movement. The emphasis on the practical side of human rights is implying the historical and contextual nature of the discourse of human rights so that it can form the basis of a movement. Human rights ideas present the language for justification and realization of movements’ aims. This language may be in the form of law enforcements or ethical statements.

The aim of the human rights movement is the formation of “a social system where the human rights of all persons is fully recognized and respected” (Eisler, 1987, p. 28). In order to realize this, human rights movement follows the rhetoric of human rights to seek legal change at the domestic and international levels. Pedriana (2006) indicates that almost all social movement objectives are at least in some measure legal ones; “whether challengers demand recognition of previously denied rights, expansion of existing rights or benefits, or government regulation of social and economic behavior, social movements routinely draw upon law and seek legal change” (p. 1722). Reformation of state and global structures and practices within a legal framework comprises “a vital part of the very agendum of human rights movements” (Baxi, 2001, p. 207).

The normative agenda taken up by the human rights movement is at the same time, questioned. Douzinas (2007) makes an emphasis on the paradoxical nature of the relationship between the human rights activists and the rhetorical domain of human rights; “every time a poor, oppressed, tortured person uses the language of rights - because no other is currently available- to protest, resist, fight, she draws from and connects with the most honorable metaphysics, morality and politics of the Western world” (p. 33). Furthermore, Baxi (2001) criticizes the implementation of human rights “as an ongoing enterprise” in which human rights movement “organize themselves in the image of markets that produce, exchange, and service production/reproduction of symbolic goods” (pp. 216-217). It is emphasized that human rights NGOs emerge as “economic actors seeking to mobilize available resources around the adopted human rights agendum” (Baxi, 2001, p. 217). The position of human rights movement within the context of capitalist economy is correspondingly questioned.

Social movements construct claims for human rights throughout the process of definition of its boundaries. From a Touranian (Touraine, 1981, p. 77) perspective, the social construction of new values and norms carrying claims for human rights within the movement would refer to the self-production of society’s social and

cultural rehearsals, thus; historicity. Stammer's (1999) proposal on the role of social movements in the socio-historical construction of claims to human rights is illustrating the multi-faceted process of construction of new values and norms on human rights (p. 986). Social movements incorporates human rights discourse both to mention rights claims "as political economic and social demands" and "as legitimating alternative values/norms and validating self/group identities" (Stammers, 1999, p. 986). However, this point only illustrates the existing use of discourses; not drawing attention to the role of social movements in reconstructing ideas and practices regarding human rights. The clarification of the objectives of the social movements both from the instrumental and the expressive sides is necessary in order to conceptualize the potential role of social movements in the social construction of human rights discourse. Stammers' (1999) conceptualization would be helpful while defining these objectives; "democratization, equalization, diffusion and dispersion of concentrated sites of power" at the instrumental side and "equalization, diffusion and dispersion of socio-cultural manifestations of power relations in everyday life" at the expressive side (p. 1006). In case of human rights movement, the use and recreation of human rights discourse is a highly complex process involving various actors at the individual, organizational and institutional levels. To say that human rights discourse is socially constructed at the same time refers to the process of actors taking part in the creation of the frameworks and objectives of the particular movement that they belong to.

Drawing from this framework, this study highlights four areas of literature regarding the representation of the idea of human rights. The first one is the analysis of the moral basis of human rights from the idea of natural rights to the contemporary human rights doctrine. In this introductory section, the background of the contemporary human rights idea will be explored together with a particular focus on doctrine of natural rights, legal positivism and proliferation of human rights at the post-war period. Secondly, the literature illustrating different approaches for philosophical justification of human rights will be explained in terms of the question of the basis on which human rights are resting upon. Thirdly, the literature regarding

the differentiation between civil and political rights and economic, social and cultural rights will be highlighted. And finally, literature on the idea of universality of human rights will be explained alongside the objections to this universality.

These last three areas of literature are relevant for formation of the main themes of the study which are going to formulate the research questions. Three main themes which are derived from those areas of literature will be identified regarding the issue of representation of the idea of human rights. The first one is the clarification of the language of human rights and related conceptualizations through an analysis of the ways the idea of human rights legitimized by the theorists of rights. The second theme is the divergence between the narrowly defined conception of rights which are civil and political rights and the conception of the domain of human rights by inclusion of socio-economic rights. The third theme regarding the issue of representation of the idea of human rights by domestic human rights movement is the inquiry stating the universality of human rights and the challenge of cultural relativist approach and group rights approach to it. The exploration of these perspectives provides a better understanding of the universalistic approach pursued by international human rights regime towards human rights issues and the positioning of localized approaches.

Taking these themes as the basis of the inquiry, the representation of the idea of human rights by domestic human rights movement in different political contexts during the period 1998-2010 in Turkey is going to be analyzed. Human rights discourse is used by human rights movement “as an interpretative framework to criticize, resist, and reform domestic political, social and economic arrangements” (Çalı, 2007, p. 218). Since 1998, which is marking the organization of the first Human Rights Movement Conference in Turkey, human rights activists and organizations are voicing human rights claims and shaping their demands collectively, by means of human rights ideas and principles. To understand how ideas and practices in respect of human rights are constructed throughout those years is the central interest of this study. Hence, the main research question of the study is

“How does domestic human rights movement represent the idea of human rights in different political contexts during the period 1998-2010 in Turkey?”.

For the purposes of this study, it is important to designate human rights activism in terms of social movements and define the domestic human rights movement as “a group of non-state actors and organizations taking their cue from human rights ideals, principles and law, in order to assess, criticize, and resist domestic legal frameworks and exercise of power” (Donnelly, 1994). The above mentioned themes are relevant for an exploration of this research issue. Human rights movement has a role in shaping the domestic human rights discourse through its emphasis on particular conceptualizations like freedom, worth of human beings, human honor, rational purposive agency, human capacity/potential, self-authored life, identity etc. Its emphasis regarding the kind of rights which people can have a claim for is also important. Furthermore, the question whether these movements construct ideas and practices in respect of human rights from a local or a universal basis is also significant. Consequently, my sub-questions are;

- i. How the different conceptualizations of legitimation of the idea of human rights are represented in the conference texts?
- ii. How do representations of the idea of human rights as civil and political rights and economic, social and cultural rights shift in different political contexts?
- iii. How does the construction of domestic human rights language vary amongst local and universal claims in respect of human rights within different political contexts?

The research design of this study is intended to answer the above-mentioned research questions regarding phenomena in the context of ‘Human Rights Movement Conference’ texts. The final reports of eleven conferences held in the period 1998-2010 are the primary sources of the research. These conferences are aiming to “provide conceptual clarification of human rights along with enhancing its ideational

prosperity” (TIHHK 2010, p. 1). The issue-orientations of the conferences are changing across different social, political and economic contexts. The method of the study is ‘qualitative content analysis’ which enables a “subjective analysis of the content of text data through the systematic classification process of coding and identifying themes or patterns” (Hsieh & Shannon, 2005, p. 1278). In this framework, the ‘Human Rights Movement Conference’ texts will be analyzed by concentrating on the initial coding categories and time intervals which are described in the third chapter. A systematic study of the conference texts is intended to understand the representation of the idea of human rights by domestic human rights movement in different political contexts during the period 1998-2010 in Turkey.

In the following chapter, the idea of human rights will be explored with a concentration on the analysis of the moral basis of human rights, different approaches for philosophical justification of human rights, the differentiation between civil and political rights and economic, social and cultural rights and the idea of universality of human rights. At the third chapter, research design and methodology of the study will be highlighted with a specific focus on qualitative content analysis. At the fourth chapter, Human Right Movement Conference texts will be evaluated with the purpose of demonstrating their representation of the idea of human rights in different political contexts. In the conclusion chapter, the specific research questions presented in this part will be answered and the prospects for a more comprehensive interpretation of the issue will be presented.

## **CHAPTER 2**

### **THE IDEA OF HUMAN RIGHTS**

Before discussing the representation of the idea of human rights by the human rights movement, central areas of literature regarding this exploration are going to be identified. This study illustrates five areas of literature regarding the rhetoric of human rights. The first section of the chapter will demonstrate the moral basis of human rights by a specific focus at the historical path from the doctrine of natural rights to modern human rights idea. Secondly, literature on various philosophical approaches regarding the justification of human rights will be investigated. Thirdly, literature on the two main sets of rights, which are civil and political rights and socio-economic rights, will be clarified with a specific focus on the tension between those. Fourthly, literature on the universality of human rights and the challenges against the universalistic interpretation of human rights will be illustrated. And finally, the issue of human rights in the context of Turkey will be highlighted.

#### **2.1 Introduction: The Moral Basis of Human Rights**

##### **2.1.1 From the Doctrine of Natural Rights to Legal Positivism**

The concept of natural law has inhabited a significant place in Western ethics, politics and law since its first uses in Greek antiquity, and the Christianization of the concept is the major basis for its move towards a “a theory of natural rights” (Douzinas, 2007, p. 17). The theological content of the concept of natural law is evident in Aquinas’ writings. He argued that the “participation of the eternal law in

the rational creature is called the natural law....the light of natural reason, whereby we discern what is good and what is evil, which is the function of natural law, is nothing else than an imprint on us of the divine light” (as cited in Donnelly, 1980, p. 521). The doctrine of natural law is the higher divine law which made it possible for the Church to gain dominance over secular law and it is later used for the aim of justifying state power (Douzinas, 2007, p. 18).

The radical transformation from natural law to natural rights is materialized in the writings of liberal political philosophers of the seventeenth and eighteenth century. Douzinas (2007) illuminates this transformation from objective natural law to subjective individual rights as a “political revolution” which assigned the sovereign and the individual with their “respective rights and powers” at the focus of legal and political thought (p. 19). The concept of right is “no longer objectively given in nature or the commandment of God’s will”, but it follows “human reason and becomes subjective and rational” (Douzinas, 2007, p. 19). Griffin (2008) demonstrates the renunciation of the theological content of the idea of natural right with the acceptance of the Enlightenment philosophers that “human rights were available to human reason alone, without belief in God” (p. 1). The secularization of the doctrines of natural law and natural right is realized in the Enlightenment period.

The teleological content of the idea of natural rights is challenged by significant thinkers. In his work *Leviathan*, which is first published in 1651, Thomas Hobbes (1996) praised human reason by demonstrating the right of nature as “the liberty each man hath to use his own power as he will himself for the preservation of his own nature; that is to say, of his own life; and consequently, of doing anything which, in his own judgement and reason, he shall conceive to be the aptest means thereunto” (p. 86). Hobbes’ idea of natural right is derived by reason and belongs to each and all. In addition to this acknowledgment of the natural rights as belonging to each man, it has been identified in Hobbes’ (1996) theory that the government has its legitimacy from the contract among the governed that had transferred their rights to the government. At the state of nature, the need for security is the basis of this

transference of rights to an absolute state which has the legitimacy to interfere to the natural rights of man.

Another challenge to the teleological content of natural law came from Samuel Pufendorf with his work 'On the Duty of Man and Citizen According to Natural Law' in 1673. Tully (1991) mentions the aim of Pufendorf's intellectual work as cleansing natural law of "its grounding in the Aristotelian and Thomistic concept of nature as a purposeful realm ordered by intrinsic teleological dispositions" (p. xvi). Apart from the teleological explanations of human agency, Pufendorf emphasizes the sociable nature of human agency. Natural laws are the laws of this sociality which are "laws which teach one how to conduct oneself to become a useful member of human society" (Pufendorf, 1991, p. 35). This sociality needs to be preserved; all that makes for its preservation is agreed to be suggested by the natural law and all that created disruption is agreed to be prohibited by natural law (Pufendorf, 1991, p. 36). "A reciprocal obligation to sociality" together with "a series of absolute duties with corresponding rights which have no determining function", lies at the heart of Pufendorf's demonstration of natural law which is a "theory of duties, not of rights" (Kersting, 2006, p. 1028). Pufendorf established a relationship between rights and duties in his emphasis on mutual obligation of members of the human society to sociality. For him, "a right is an active moral power, belonging to a person, to have something from another by necessity" (Pufendorf, 1991, p. 46). This understanding of natural rights is different from "Hobbes's careless attribution of rights to men in a state of nature" (Edmundson, 2004, p. 25).

The way Locke framed the idea of natural rights is also different from Hobbes. His illustration of state of nature as a state of "reciprocal liberty", not a state of licence" (Edmundson, 2004, p. 28) is closer to Pufendorf's and far more different from Hobbes' account of state of nature. The inhabitants of the state of nature has a natural right to preserve themselves and a natural right to private property; the former limited by the rule of not harming others and the latter must be respected by other inhabitants (Edmundson, 2004, p. 28). His idea of "popular sovereignty" (Goodhart,

2003) is evident in his famous phrase; “Men being...by Nature, all free, equal and independent, no one can be put out of this Estate, and subjected to the Political Power of another, without his own Consent” (as cited in Waldron, 1987, p. 135). The intrusion of the state to the natural rights of the man who is naturally good is unacceptable in Lockean theory (Douzinas, 2007, p. 20). The government needs consent of the governed in order to exist as a legitimate power. The natural rights school of thought, especially Lockean theory of natural rights had a remarkable impact on the ‘American Declaration of Independence’ asserted in 1776. It was stated in the declaration that “all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness” (as cited in Armitage, 2008, p. 27).

Immanuel Kant’s influence to the theory and practice of rights cannot be deliberated here thoroughly. His work ‘The Metaphysics of Morals’ (1785) is significant in terms of his contribution to moral philosophy. In this work, he defines the “universal principle of right” as follows: “Any action is a right if it can coexist with everyone’s freedom in accordance with a universal law, or if on its maxim the freedom of choice of each can coexist with everyone’s freedom in accordance with a universal law” (Kant, 1991, p. 56). He proposes a division within the system of natural right as ‘innate’ and ‘acquired’ rights; the former is the rights which “belong to everyone by nature, independently of any act that would establish a right” and the latter is “for which such an act is required” (Kant, 1991, p. 63). Freedom is the one and only innate right “belonging to every man by virtue of his humanity” (p. 63) and the requirement of a free action is obligation “under a categorical imperative of reason” (Kant, 1991, p. 48). Like Pufendorf, Kant establishes the connection between rights and duties which are “located in ‘reason alone’ – that is, apart from our wants, desires, passions, and appetites”; our duties and rights are “fixed by laws we give to ourselves as rational beings” (Edmundson, 2004, p. 32). These laws which either decrees or prohibits are categorical imperatives that “combines man’s reason and freedom in an act of self-legislation” (Douzinas, 2007, p. 91). Each agent has different ‘maxims’ - which are subjective principles of action, pertaining to the same

law; however, the categorical imperative is acting “upon a maxim that can also hold as a universal law”; “any maxim that does not so qualify is contrary to morals” (Kant, 1991, p. 51). In Kant’s moral philosophy, morality is not “something that is given to us in nature”, “it is an ideal that we need to realize” (Norton & Kuehn, 2006, p. 976). Kant’s understanding demonstrates agents who are subjected to the law of reason, which is a clear departure from natural law theories having a teleological basis.

Enlightenment philosophers’ understanding of human rights as available to human reason contributed to the progress of French Revolution from which emanated the ‘Declaration of the Rights of Man and of the Citizen’ (1789). The term ‘human rights’ is pronounced for the first time in this document and designated as “natural, imprescriptible, and inalienable” (as cited in Edmundson, p. 39). Another document enunciating ‘human rights’ is the ‘United States Bill of Rights’ (1791) which is declaring constitutionally guaranteed rights as “freedom of speech, free exercise of religion, freedom to own and use property, freedom of assembly, and due process of law” (Patrick, 2003). The codes of human rights were materialized in these documents. Starting from its first interpretations, natural law “began as part of a teleological metaphysics capable of supporting strong interpretations of how morality is rooted in nature” and it “ended up at the close of the eighteenth century in something approaching vacuity” (Griffin, 2008, p. 14). In the course of the Enlightenment, the “metaphysical and epistemological background” (Griffin, 2008, p. 14) that natural rights provided is abandoned and the notion of human rights has come to life.

At the end of eighteenth century, the language of rights was a powerful language which provided individuals the encouragement for challenging the conventional moral and political order; however, it had not succeeded in instituting itself as a “coherent and well-founded mode of discourse”; the situation which is raised by challenges to the rhetorical emphasis upon rights from thinkers such as Edmund Burke, William Godwin, Jeremy Bentham, and John Austin (Edmundson, 2004, p.

41). The challenge of Jeremy Bentham to the rhetorical emphasis upon natural rights is significant because of his characterization of the idea as “mischievous nonsense” (Edmundson, 2004, p. 41). By identifying “the principle of utility” as a “critical standard of morality” (Bentham, 2000), he is illustrating a distinction between “law as it is” and “law as it ought to be” which postulated the foundation of his confrontation to natural law and natural rights (Schofield, 2006, p. 53). For him, the talk of natural rights which has their basis in natural law is “nonsense, nonsense upon stilts, it is belief in witches and unicorns, for there is no right which when its abolition is advantageous to society, it should not be abolished” (as cited in Douzinas, 2007, p. 20). A proposition pertaining to natural law just means that such a law or such a right ought to exist, not more: “To say that a thing ought not to be done because there is a Law of Nature against its being done, is an obscure and roundabout way of saying one of two things. “It ought not to be done, because it would be mischievous or dangerous to the community”: or else secondly “It ought not to be done, because I say it ought not”” (Schofield, 2006, p. 77). Notwithstanding the revolutionaries’ belief in fundamental human rights, Bentham viewed rights as “social conventions, political instruments subject to the utilitarian calculus” which possibly would confine the “utilitarian aim of increasing the benefits of the majority and limit the utilitarian dictatorship of that majority” (Kersting, 2006, p. 1063). Bentham’s ideas are recognized as a remarkable disruption with natural law theory in the history of moral and political theory.

Another utilitarian system was outlined by John Austin in a rather different way than Bentham. He criticized the rhetoric of natural rights without dismissing them as nonsense and recovered the utilitarian endeavor of “understanding natural or moral rights as rules of general utility” (Edmundson, 2004, p. 66). His identification of the staple of jurisprudence as positive law situated by political superiors to political inferiors implies a set of established rules different from the rules derived from natural law; “to the aggregate of the rules thus established...as contradistinguished to *natural* law, or to the law of *nature* (meaning, by those expressions, the law of God), the aggregate of the rules, established by political superiors, is frequently styled

*positive* law, or law existing by *position*” (Austin, 2008, pp. 81-82). From both Bentham’s and Austin’s point of view, natural-law theorists obscured the obvious distinction between “law as it is and law as ought to be” (Hart, 2008, p. 97). The doctrine of legal positivism which makes a clear-cut distinction between law and morals is noteworthy in nineteenth century political field. For legal positivists, the rhetoric of human rights is only consistent in the existence of a legal framework.

Bentham’s and Austin’s emphasis on utilitarian accounts of rights and liberties is complemented by John Stuart Mill especially in his 1859 work ‘On Liberty’ and his works collected under the name of ‘Utilitarianism’ in 1861. For him, having a right means “to have something which society ought to defend in the possession of it”, for the sake of general utility (Mill, 2003, p. 226). In Mill’s understanding, there is no contract that a society is founded on; so, each individual who receives the protection of society is obliged to return for the benefit by performing a certain line of conduct towards the others, which includes not harming the interests -considered as rights- of one another (Mill, 2003, p. 147). The sphere of action grasping “all that portion of a person’s life and conduct which affects only himself, or if it also affects others, only with their free, voluntary, and undeceived consent and participation” is the suitable region of “human liberty” (Mill, 2003, p. 96). The right to liberty concedes “liberty of conscience”, “liberty of tastes and pursuits” and “liberty of combination among individuals” for any purpose not involving harm to others; and, if these liberties are not respected, we cannot talk about a free society (Mill, 2003, pp. 96-97). Utilitarian rules of justice are going to “distribute rights and correlative duties in a manner that is reasonably expected to promote the general good” (Ten, 2009, p. 16); they are not going to endorse absolute rights. By emphasizing the compatibility of the utilitarian doctrine with moral rights and justice, Mill is proposing for its renovation; one of his fundamental theoretical objectives is to “reconcile the requirements of utility with the demands of liberty, justice and rights, to demonstrate their deeper compatibility” (Tebbit, 2005, p. 120).

### 2.1.2 Contemporary Human Rights

The weakening of the theory of natural rights enhanced by the formation of large-scale theory in sociology, economics and psychology by the first half of the twentieth century; “the belief that political society was created by means of a social contract was seen as a myth while the claim that certain rights are eternal, inalienable and absolute was exploded” (Douzinas, 2007, p. 20). The idea of natural rights has been discredited until its “rehabilitation under the new guise of human rights” after the Second World War (Douzinas, 2007, p.21). The Nuremberg trial of Nazi war criminals which began in 1945 is considered as a turning point in the field of international law. The defense of war criminals is consistent with the legal positivist understanding because of their claim that they were only obeying orders by fulfilling their obligation under the law and could not be held responsible for their action. However, the tribunal consented that “there can only be obligation to obey laws which are morally justified” (Culver, 2008, p. 76) and “the systematic killing of Jews, communists, gays, gypsies and others by Nazis had been against the customary law of civilized nations and could not be overridden by national laws” (Douzinas, 2007, p. 21). There was no categorical reference to the doctrine of natural rights at this consent of the tribunal; however, it was essential to call attention to the “standards of conscience independent of existing positive law” in order to plausibly discard the positivist defense (Tebbit, 2005, p. 36). The attempt to arraign individuals for crimes under international law is embodied in this tribunal and the corresponding ‘Tokyo War Crimes Tribunal’ (1946) for the first time. While international cooperation was institutionalizing at the new UN, the language of human rights was growing to be a “political *lingua franca*” (Pendas, 2011, p. 218).

Together with the adoption of the UDHR by UN, a series of standard-setting processes was launched by the international community. The declaration contains “a series of articles most of which formulate more or less specific protections” which are projected to form an “integrated whole” (Beitz, 2009, p. 18). The preamble at the beginning of the declaration denotes the “inherent dignity and of the equal and inalienable rights of all members of the human family” as the basis of “freedom,

justice and peace in the world”; indicates that “barbarous acts which have outraged the conscience of mankind” are the consequence of “disregard and contempt for human rights”; expresses that human rights should be safeguarded by the rule of law in cases of compulsory “rebellion against tyranny and oppression”; emphasizes the need of cooperation between the UN and the member states for the endorsement of “universal respect for and observance of human rights and fundamental liberties”; and refers the declaration as “a common standard of achievement for all peoples and all nations” which requires “universal and effective recognition and observance” (UDHR). The articles following the preamble are conveying protections such as “right to life, liberty and security”, “right to freedom of movement”, “right to own property”, “right to freedom of thought, conscience and religion”, “right to freedom of opinion and expression”, “right to social security”, “right to work”, and “right to education” (UDHR). The declaration calls for “progressive measures” to secure “universal and effective recognition and observance” of these rights and liberties, and concludes by the contention that “everyone has duties to the community in which alone the free and full development of his personality is possible” (UDHR, Article 29). René Cassin makes a classification of the rights in the declaration as rights to liberty and personal security, rights in civil society, rights in the polity and economic, social and cultural rights (cited in Beitz, 2009, p. 27).

While describing Enlightenment era as the first expansionary period of rights, Edmundson (2004) designates the adoption of the UDHR as the beginning of the second expansionary period; “the language of rights –amplified by the adjective ‘human’– once again seemed to be the only suitable means of formulating the concerns of the world-historical moment” (Edmundson, 2004, p. 127). The adoption of UDHR continued by a fast proliferation of international law together with a series of standard-setting processes driven by the international community. Besides the UN, regional bodies, like the ‘Council of Europe’ and ‘Organization of African Unity’, and states negotiated and embraced hundreds of human rights conventions, treaties, declarations and agreements (Douzinas, 2000, p. 115). Human rights differentiated

from civil and political rights into economic, social and cultural rights and finally, into group and solidarity rights.

## **2.2 Philosophical Justification of the Idea**

The question of the basis on which human rights are justified is an important one in the field of philosophy of human rights. It is also important for its implications regarding the ideational stance of movements of human rights. Though the idea of human rights emerged out of liberal political tradition in general, there are various philosophical approaches adopted for the justification of rights. In this section, these approaches regarding the justification of human rights are going to be explained. Firstly, the philosophical approach emphasizing the ‘dignity of human beings’ as the basis for human rights will be described. Secondly, the perspective highlighting ‘reason’ as the distinctive characteristic of human beings and the existence of human rights as the precondition for the fulfillment of it will be defined. Thirdly, the ‘autonomy’ approach that human rights are descended from the conditions essential for sustaining a self-authored life is going to be discussed. Fourthly, the ‘equality’ perspective attributing equal moral worth to each individual and claims this worth as the basis for human rights will be described. Fifthly, the ‘needs’ approach which lay emphasis on the basic rights and liberties as the guarantee of the basic needs of human beings is going to be discussed. Finally, two relatively more pluralistic approaches to justification of human rights than the previous ones are going to be discussed: the ‘capabilities’ approach, which is concerned with human potential, sees capabilities as the fundamental basis upon which human rights must lie and the ‘consensus’ approach which regards the compromise among diverse people as the fundamental basis of human rights.

The understanding that regards human dignity as the foundation of human rights is bestowing the most general and abstract form of rights that “unites the infinite diversity of ways of being human with the overall notion that enjoins equal respect and concern for the dignity and worth of all human beings” (Baxi, 2001, p. 122). Human dignity was mentioned at the UDHR in phrases like “recognition of the

inherent dignity and of the equal and inalienable rights of all members of the human family”, “the dignity and worth of the human person” and “an existence worthy of human dignity” (UHDR). The rights specified in the declaration are believed, like natural rights, to be the inherent rights of human beings. It was mentioned that “individuals are entitled to enjoy such rights by virtue of their nature and dignity as human beings” (Charvet & Kaczynska-Nay, 2008, p. 4). The expression human dignity was later referred in various human rights conventions, treaties, declarations and agreements. This emphasis on human dignity is interpreted as having a religious ground or being driven in large degree by cultural factors. According to Perry (1998), the former interpretation is mainly emphasizing the idea that recognition of “the attributes of each and every human being” on which “the essential rights of man” is based as the “inherent dignity of all members of the human family”, is mainly a religious one; “that a fundamental constituent of the idea, namely, *the conviction that every human being is sacred -that every human being is ‘inviolable’, has ‘inherent dignity’, is ‘an end in himself’, or the like-* is inescapably religious” (The Idea of Human Rights: Four Inquiries, p. 13). It is pointing out that the liberal rhetoric of human rights which rests itself upon the ideas of human dignity, preciousness and sacredness is inevitably attached to a “world view that would be properly called religious in some metaphysically profound sense” (Perry, 1998, p. 41). The alternative interpretation of the human dignity approach is to see the intrinsic meaning of dignity of the human person as “left to intuitive understanding, conditioned in large measure by cultural factors” (Schachter, 1983, p. 849) or see the basis of human dignity as the “reality of the common world and our common experiences” (Parekh, 2008, p. 5). In general, in this approach of human rights, human rights are seen as protections of that human dignity, whether it is understood in religious or secular terms.

The second approach is grounding human rights in the “opportunity to live out one’s life project rationally” (MacKinnon, 1993, p. 98). Alan Gewirth’s book ‘The Community of Rights’ is one of the most important contemporary insights on this understanding of grounding human rights. Gewirth (1996) is emphasizing the need

for setting down “a basis from which rights can be logically generated” since “only from such a basis can the normative necessity of moral rights be established” (Gewirth, 1996, p. 13). The valid basis from which rights can be derived is *human action*. The basic idea is that the concern of all human beings, who are potential purposive agents in need of fortification of the necessary conditions of their actions, is the logical and fundamental basis of rights and rights-claims (Gewirth, 1996, p. 16). Human beings must have and assert these rights in order to protect the necessary conditions of their actions which are freedom and well-being. The argument commences to ascertain two main theses: the former is that every individual logically need to agree that he or she has rights to freedom and well-being and the latter is that the individual logically need to also agree that all other individuals also possess these rights equally, so that in this way “the existence of universal moral rights, and thus of human rights, must be accepted within the whole context of action and practice” (Gewirth, 1996, p. 17). The presence of human rights is the precondition for rationally purposive action of the agent.

Some right theories justify the existence of rights by referring to the importance and value of individual autonomy. An individual is autonomous if she has advanced capacity to exercise a considerable degree of control over her life through her own decisions and choices (Beitz, 2009, p. 146). As Joseph Raz (1986) puts it, an autonomous individual is the maker and author of his own life; “his life, in part, is his own making” (p. 372). Since having an autonomous life is decisive, “having a sufficient range of acceptable options” is also decisive, “for it is constitutive of an autonomous life that it is lived in circumstances where acceptable alternatives are present” (Raz, 1986, p. 205). The question whether morality is right-based is relevant for establishing the connection between autonomy and rights, which takes us to the view appreciating the protection of personal autonomy as the ultimate concern for liberty (Raz, 1986, p. 203). For Raz, the autonomous life is “a life within unviolated rights” that construct or protect opportunities; what one makes of these opportunities is left undetermined “by the sheer existence of the rights” (Raz, 1986, p. 205). For this approach, the sole rationale of rights is to promote exercise of autonomous

choice; to have capacity for autonomous choice is indispensable to be entitled to right-holding (Edmundson, 2004, p. 127). Douzinas (2007) claims that autonomy has become a synonym for private freedom of choice in the modern world (p. 127). And, the modern subject has become the moral ground of autonomy and freedom (Douzinas, 2000, p. 226). In this approach, autonomy is seen as the metaphysical principle grounding the idea of human rights. Rights are derived from the conditions needed in order to endure a self-made, self-authored life.

The view that human rights gain its legitimacy from the principle of equality which ascribes every individual equal moral worth is influential in the field of rights theories. Article 7 of UDHR states that “all are equal before the law and are entitled without any discrimination to equal protection of the law” and “all are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination” (UDHR). Ronald Dworkin is one of the most important rights theorists who conceptualized equality as the basis of rights. In his work, ‘Taking Rights Seriously’, he emphasizes the need to compromise between liberty and equality while asking whether we have liberty. If freedom to choose is something we all desire, than “we are not entitled to hang on to those freedoms in the face of what we concede to be the rights of others to an equal share of respect and resources” (Dworkin, 1978, p. 267). The base for a compromise is possible through an understanding of freedoms as entitlements to ourselves, not merely as something we want. He is investigating a ground for a right to certain liberties beyond the idea that “individual rights may lead to overall utility” by pointing out the only possible ground for rights as equality (Dworkin, 1978, p. 272). Regarding this principle of liberal conception of equality as the basis for certain rights, citizens have a right to “equal concern and respect”; having both “the right to equal treatment” and “the right to treatment as an equal” (Dworkin, 1978, p. 273). The authentication of a general theory of rights with the fundamental ideal of equality is against the utilitarian explanations for justification of human rights, which means that in the process of distribution of goods and opportunities, deliberations of right claims must precede alternative deliberations.

Some rights theories highlight needs as the basis upon which the doctrine of human rights rests. For Henry Shue, a right “provides (1) the rational basis for a justified demand (2) that the actual enjoyment of a substance be (3) socially guaranteed against standard threats” (as cited in Beitz & Goodin, 2009, p. 6). This statement was elaborated in two ways; the first is that proclamation of a right is not the fulfillment of it and the second is that rights should be enforceable (Beitz & Goodin, 2009, p. 7). The former explanation is highlighting what is missing from the formal conception of rights: “some assurance that a person said to ‘have’ the right will in fact be in a position to enjoy the advantage that having the right is supposed to secure” (Beitz & Goodin, 2009, p. 6). The latter one is emphasizing that a justified demand for social guarantees is indispensable of a right; “that the relevant other people have a duty to create, if they do not exist, or if they do, to preserve effective institutions for the enjoyment of what people have rights to enjoy” (Shue, 1996, p. 17). Shue is arguing that basic rights, which are security and subsistence, are vital prerequisites for the fortification of other rights (Beitz & Goodin, 2009, p. 155). The basic rights agenda aims to preserve “a person’s agency and capacity to enjoy her other rights” (Beitz & Goodin, 2009, p. 24). An essential drive of admitting any basic rights is to reduce the degree of vulnerability of people who cannot provide their own security or subsistence as far as possible (Beitz & Goodin, 2009, p. 25). Jeremy Waldron (2009) questions this understanding by underlining how accepting the precedency of some basic rights over others is illogical in resolving the issues including different agency’s conflicting basic rights (p. 226). The availability of certain basic rights and liberties is the requirement for encountering the basic needs of the individuals to security and subsistence, which requires effective monitoring.

Besides the emphasis on individual basic needs as the precondition of human rights, the individual basic capabilities are also regarded by some rights theorists as the normative basis of the idea of human rights. The emphasis on basic capabilities of individuals has been promoted in UN’s Human Development Reports since 1990. It was stated in the Human Rights Development Report 2004 that “the basic purpose of development is to enlarge human freedoms” and “the process of development can

expand human capabilities by expanding the choices that people have to live full and creative lives.” (Charvet & Kaczynska-Nay, 2008, p. 152). Human potential and its fulfillment throughout life have central importance in this line of thought. Amartya Sen and Martha Nussbaum both put forward a theory of human rights as protections of basic human capabilities. The basic point Sen draws attention to is the “expansion of the capabilities of persons to lead the kind of lives they value” (Sen, 2000, p. 18). The idea of capability refers to “the opportunity to achieve valuable combinations of human functionings: what a person is able to do or be” (Sen, 2004, p. 332). The human capability perspective concentrates on “the ability -the substantive freedom- of people to lead the lives they have reason to value and to enhance the real choices they have” (Sen, 2000, p. 293). Sen is searching for a more comprehensive view of development regarding the social and economic arrangements as well as political and civil rights rather than only focusing on economic growth. Human capability has central importance regarding this broader view. He is stressing the necessity of recognizing individual’s “positive role of free and sustainable agency” rather than seeing them principally as “passive recipients of the benefits of cunning development programs” (Sen, 2000, p. 11). Nussbaum goes a bit further in her capabilities approach by making an emphasis on the need to identify a comprehensive list of *central human capabilities* (Nussbaum, 2000, p. 5). The list of central human capabilities composed of ten separate constituents which are ‘life’, ‘bodily health’, ‘bodily integrity’, ‘senses, imagination and thought’, ‘emotions’, ‘practical reason’, ‘affiliation’, ‘other species’, ‘play’ and ‘control over one’s environment’ (Nussbaum, 2000, p. 80). The list is not a “complete theory of justice”, it provides us “the basis for determining a decent social minimum in a variety of areas” (Nussbaum, 2000, p. 75). It signifies a kind of “overlapping consensus on the part of people with otherwise very different views of human life” (Nussbaum, 2000, p. 76). This particular emphasis on consensus underlines her relation to the last approach of justification of human rights which focuses on the areas of settlement among diverse people.

While naturalistic theories concentrated on the common features pertinent to human being's nature, the theories taking agreement as the basis for legitimation of human rights are more pluralistic; "these theories conceptualize human rights as standards that are or might be objects of agreement among members of cultures whose moral and political values are in various respects dissimilar" (Beitz, 2009, p. 73). This perspective is making an emphasis on the idea that "human rights express an intercultural agreement" (Beitz, 2009, p. 74). In one interpretation, they are capabilities which "can be the object of an overlapping consensus among people who otherwise have very different comprehensive conceptions of the good" (Nussbaum, 2000, p. 5). And in another, they are "certain norms that ought to govern human behavior" which are derived from an agreement among "different groups, countries, religious communities, civilizations, while holding incompatible fundamental views on theology, metaphysics, human nature, etc." (Taylor, 1999, p. 101). Disinclined to explore a metaphysical basis upon which rights should rest, this approach is giving prominence to the areas of compromise among people for legitimation of human rights.

So far, conceptual grounding of the idea of human rights has been examined. There are various perspectives giving weight to a single basic value or convergence of these values such as human dignity, reason, autonomy, equality, needs, capabilities or consensus in legitimation of the idea. The reasons why we have to bear in mind these values vary with "the content of the right in question and the nature of our relationship, if any, with various classes of potential victims of abuse" (Beitz, 2009, p. 128). Some of these approaches merely cover the terrain embraced by the so-called 'first-generation rights' (political and civil liberties) and some include the so-called 'second-generation rights' (economic and social rights) to their analysis. The following section is going to explore the civil and political rights and socio-economic rights.

### **2.3 Two Sets of Rights: Civil and Political rights and Economic and Social Rights**

Just after the adoption of UDHR, there were some views within the UN Commission that it would be more appropriate to prepare two separate instruments in order to treat civil and political rights and social and economic rights distinctly (O'Flaherty & Heffernan, 1995, p. 2). It was thought that civil and political rights “are capable of immediate implementation and are justiciable within familiar legal categories”, whereas economic and social rights “must be gradualist and are unsuitable for traditional justiciable consideration” ((O'Flaherty & Heffernan, 1995, p. 2). The proposal has been declined at that time until its realization in 1966 by adoption of ‘International Covenant on Civil and Political Rights’ and ‘International Covenant on Economic, Social and Cultural Rights’. They came into effect a decade later, in 1976. There is a remarkable agreement across cultures: “first, that because every human being is sacred, certain things ought not to be done to any human being and certain other things ought to be done for every human being; and, second, about what many of those things are” (Perry, 1998, p. 72).

At the preamble of both ‘The International Covenant on Civil and Political Rights’ (ICCPR) and ‘International Covenant on Economic, Social and Cultural Rights’ (ICESCR), it was declared that for “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”, the States under the Charter of UN are obliged to “promote universal respect for, and observance of, human rights and liberties” by all appropriate means, and the conditions for achievement of one group of right is dependent on the other’s realization (ICCPR & ICESCR).

Various civil and political rights and some necessary provisions to realize them were brought up in the ICCPR. It was stated in the ICCPR that every human being has the “inherent right to life”, “right to liberty and security of person” and no one shall be exposed “to torture or to cruel, inhuman or degrading treatment or punishment” and

be “held in slavery” or servitude. (ICCPR, Articles 6, 9, 7, 8). Besides, everyone shall have “the right to freedom of thought, conscience and religion” and “the right to hold opinions without interference” (Articles 18, 19). The principle of equality before the law has a central importance; all persons “shall be equal before the courts and tribunals” and are “entitled without any discrimination to the equal protection of the law” (Articles 14, 26). Citizenship rights were also highlighted in the Covenant; every citizen has the right to have “liberty of movement and freedom to choose his residence” within the territory of their State; every citizen belonging to ethnic, religious or linguistic minorities shall have the right “to enjoy their own culture, to profess and practice their own religion, or to use their own language” in community; every citizen shall have the right and the opportunity to “take part in the conduct of public affairs”, “vote and to be elected at genuine periodic elections” and have equal access to public service in his country (Articles 12, 27, 25).

Economic, Social and Cultural rights were mentioned in the UDHR in a restricted way. In ICESCR, numerous economic, social and cultural rights and the necessities, that the State Parties are responsible to provide for the full realization and achievement of these rights through taking measures and enhancing cooperation at the international level, were introduced. First of all, the Covenant laid emphasis on the need of State Parties to recognize “the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”; “the fundamental right of everyone to be free from hunger” together with an emphasis on the recognition of “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health” and “the right of everyone to social security, including social insurance” (ICESCR, Articles 11, 12, 9). Furthermore, rights of individuals regarding employment are highlighted: “the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts”; “the right of everyone to the enjoyment of just and favorable conditions of work” which guarantee “fair wages and equal remuneration for work of equal value”, “safe and healthy working conditions”, “equal opportunity for everyone to be promoted”

and “rest, leisure and reasonable limitation of working hours”; “the right of everyone to form trade unions and join the trade union of his choice” together with “the right to strike” (Articles 6,7,8). Additionally, the right to education and the need to direct education to “the full development of the human personality and the sense of its dignity” was underlined (Article 13). Regarding cultural rights, the Covenant laid emphasis on the necessity of acknowledgment of the rights of everyone “to take part in cultural life”; “to enjoy the benefits of scientific progress and its applications”; “to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author” (Article 15).

These expansionary tendencies of rights debate took place within the Cold War environment in which different sides made emphasis on different rights. The West underlined the renunciation of civil and political rights in the Communist world, whereas the Communist bloc stressed to the “economic insecurity and inequality tolerated in the West” (Edmundson, 2004, p. 173), along with the importance of social rights. For Western governments, with their “negative and individualistic character”, civil and political rights have a clear precedence over social and economic ones which are not proper “legal rights” since they are “claimed by groups, not individuals; they are ‘positive’ in their action” (Douzinas, 2000, p. 166). It can be said that, by the dissolution of the Soviet bloc in 1989, which marked the end of the Cold War, there was “a global consensus about the priority, as well as the universal existence, of a set of political and civil rights” (Edmundson, 2004, p. 174).

It was stated in the Vienna Declaration and Programme of Action (VDPA), adopted by the UN-sponsored World Conference on Human Rights in 1993, that “all human rights are universal, indivisible, interdependent and interrelated” and they must be treated globally by the international community “in a fair and equal manner, on the same footing, and with the same emphasis” (VDPA, Article 5). It was also declared at the 50th anniversary of the UDHR that all human rights “should be taken in their totality and not disassociated from one another” (as cited in Stammers, 1999, p. 1002). However, this is not the case. The dominant rhetoric of human rights favors

civil and political rights over socioeconomic rights and the individual rights over collective rights. There are some rights theories positioning the so-called civil and political rights as the sole human rights, and some others suggesting a wide ranging set of rights by the inclusion of the so-called economic and social rights or welfare rights.

Those who are skeptical towards the expansion of the domain of human rights emphasize feasibility problems, the need of these rights to be institutionalized or simply pointing out the need to define civil and political rights as “core rights”. Sen (2004) defines two critiques challenging the inclusion of social and economic right claims within the domain of human rights as the institutionalization critique and the feasibility critique. The former one is implying the necessity of a correspondence between genuine rights and particular correlate duties; Onora O’Neill states that “some advocates of universal economic, social and cultural rights go no further than to emphasize that they can be institutionalized, which is true...the point of difference is that they must be institutionalized: if they are not there is no right” (as cited in Sen, 2004, p. 346).

Besides its institutionalization, the latter critique is emphasizing the infeasibility of the realization of economic and social rights even with the most preeminent attempts to accomplish them. Maurice Cranston (1983) is asking how the governments of poorer societies can be reasonably appealed to make social and economic rights available to its citizens (p. 13). Additionally, Katherine Eddy (2006) proposes to “take scarcity into account in the framing of welfare rights” (p. 339). Besides scarcity arguments, Danny Frederick (2010) emphasized the impossibility of substantive universal welfare rights; in case of duties to realize these rights, “how much is done, and what forms it takes, is a matter for each government to decide, taking account of its circumstances and overall policy objectives” (p. 442).

Above and beyond the institutionalization and the feasibility critique, Ignatieff is favoring some rights claims while strongly calling into question others; he is

indicating the risk of a possible “rights inflation” which will eventually culminate in the indefensibility of a legitimate core of rights -civil and political rights (Ignatieff, 2000, p. 346). Although it is true that civil and political rights need accompanying with social and economic ones, civil and political liberties are the prerequisite for the achievement of social and economic security (Ignatieff, 2000, p. 346). He is prioritizing individual rights over collective rights; “individual rights without collective rights may be difficult to exercise, but collective rights without individual ones means tyranny” (Ignatieff, 2000, p. 346).

These criticisms towards the inclusion of socio-economic rights are challenged by various rights theorists. Social and economic rights are envisioned to provide people the resources for earning their livelihood, “through education and equal access to social services and amenities of the state, and employment opportunities” and cultural rights empower people to express and preserve their identity (Ghai, 2009, p. 132). Those rights as well as civil and political ones have a vital importance for the realization of human freedoms. For Douzinas (2007), those rights intent to change the formalism of the law which is making the legal person an “empty vessel”; by acknowledging differences, they add “gender, color, sexuality, desires and needs to the abstract outline of the legal person” (p. 41).

Regarding the recognition of social and economic rights within the domain of human rights, Sen (2004) is indicating two points; the first one is that institutional or political change is the prerequisite of the realization of these rights which should be worked for rather than claiming its impossibility (p. 320) and the second one is that the problem of feasibility is a wide-spread one, not restricted to the field of economic and social rights only (p. 348). Also, Shue’s (1996) emphasis on ‘subsistence rights’ as the basic rights of the individuals leads the way for anti-poverty rights. Anti-poverty rights which aim to protect subsistence interests of individuals inhabit a significant place within the contemporary human rights doctrine. The noteworthy features of those rights are that they set thresholds to be met by deployment of a range of notions of distributive justice and they assert “objectives for policy while

leaving the choice of means for local determination” (Beitz, 2009, pp. 161-162). The interests secured by these rights are among “the most uncontroversially urgent of all human interests and the least open to variation by culture” (Beitz, 2009, p. 163); however, this does not mean that they are not going to be challenged by proponents of civil and political rights

Some of these approaches simply cover the terrain comprised by the so-called ‘first-generation rights’ and some contain the so-called ‘second-generation rights’ to their analysis. And, the prevailing rhetoric of human rights favor civil and political rights over socioeconomic rights and the individual over collective rights. Making social and economic rights more effective legally is an important goal which is hard to accomplish.

#### **2.4 Universalism of Human Rights and the Challenge Against it**

As regularly stated in previous sections, the universality of human rights was emphasized within several international human rights instruments. The notion that human rights belong to everyone, no matter what status the individual holds in society or wherever the individual resides, is the conception of universalism underpinning the idea of human rights (Reichert, 2006, p. 27). It is thought that since human rights are the rights one has simply because one is a human being, than, they are possessed “universally”. The universality of human rights resides in the matter of possession of human rights by human agents merely in “virtue of their normative agency” (Griffin, 2008, p. 48). This kind of interpretation of the idea of human rights is challenged by various perspectives among which the cultural relativist critiques and the critique of group rights has a central importance. In this section, the notion of universality of human rights and the challenge of these perspectives against it will be elaborated. Additionally, the notions of international and humanitarian law which are the outcome of the universalistic interpretation of the idea of human rights will be pointed out.

The principle of universalism of human rights is compatible with the basic principles of liberalism which are “the notion of equality” and “the progress of human institutions through rational design in the direction of individualism” (Niezen, 2003, p. 120). According to the universalists, all cultural value and moral norms “should pass a test of universal consistency”; they are not attached to historical or territorial particularities; “judgments which derive their force and legitimacy from local conditions are morally suspect” (Douzinas, 2000, p. 136). Moreover, for universalistic interpretation of the idea of human rights, talking of human rights is simply a way of highlighting “the universality and non-contingency of certain rights which are distributed equally among humans, in contrast to rights that are contingent on some qualification or the satisfaction of some condition” (Edmundson, 2004, p. 186).

The idea of universalism has its basis within the moral philosophy of Kant which consents on a precise solution to an ethical problem; “if it is applicable to every similar case without contradiction or exception and elevates a principle of action into a moral rule, it can become a universal maxim” (Douzinas, 2007, p. 181). In Kantian moral philosophy, each individual has different “maxims”, nevertheless; there is the categorical imperative which acts “upon a maxim that can also hold as a universal law” (Kant, 1991, p. 51). Universalist perspective finds its principles and values by “testing them according to criteria of universal applicability following the protocols and procedures of reason” (Douzinas, 2007, p. 208).

In ‘Universal Human Rights in Theory and Practice’ (2003), Jack Donnelly states his belief in universal conception of human rights with an emphasis on its compatibility with the “historical contingency and particularity of human rights” and challenging the main critique against the universality of human rights as they are timeless and absolute conceptions (p. 1). He makes an emphasis on the “relative universality of human rights” together with a view restricting human rights to the sphere of the individual. He argues that human rights “rest on a view of the individual person as separate from and endowed with inalienable rights held primarily in relation to

society, and especially the state” (Donnelly, 2003, p. 145). And for him, any form of group membership or identity could not be the basis of being human; rights stemming from solidarity could not be considered as human rights (Niezen, 2003, p. 128).

The universalist understanding of human rights has paved the way for effectiveness of international and humanitarian law in the second half of the century. Human rights was associated to peace and security, and by the acceptance of Universal Declaration, a global human rights regime was initiated through “international treaties that obliged state parties to respect and protect human rights” (Arat, 2007, p. 1). A rights-based international order has been built by “the normative power of rights, together with the development of an extensive system of international law on human rights” (Evans, 2005, p. 1054). The superiority of human rights law is deriving from its proposition that “other law is inadequate or unjust” (Clapham, 2007, p. 1). Together with globalization, which goes hand-in-hand with human rights, people are exposed to international human rights norms progressively (Charvet & Kaczynska-Nay, 2008, p. 158). The narratives of globalization point out the fact that “there is significant entrenchment of cosmopolitan values concerning the equal dignity and worth of human beings; the reconnection of international law and morality” and “the growing recognition that the public good...requires coordinated multilateral action” (Held, 2002, p. 79).

Humanitarian law is a body of international law which means, politically-neutral efforts to “regulate the use of force during armed conflict” in its traditional form, and “growing Western involvement in the internal affairs of the developing world and the use of economic sanctions and force for humanitarian purposes” in its contemporary form (Douzinas, 2007, p. 59). This new type of humanitarianism is using human rights vocabulary in order to justify or mask argumentative decisions (Douzinas, 2007, p. 59); “post-9/11 discourse clearly showed the potential for human rights discourse and international law to be exploited by power” (Pham, 2006, p. 211). Both the international and humanitarian law are part of the “global normative order”

which is a “body of norms that are more or less widely accepted as regulative standards for conduct in various parts of global political space” (Beitz, 2009, p. 209).

The question whether human rights are universal or contingent on the local specificities is an important one. Universalist interpretation of human rights is challenged by various perspectives. The cultural relativist critique and the critique of group rights are particularly important in this regard. While relativist critique is emphasizing the principle that an individual’s beliefs and activities should be understood in terms of his or her own culture, the critique of group rights is stressing the legitimacy to appeal specific rights regarding land, language, representation etc. to the members of certain groups, without the necessity of universal application.

The cultural relativist critique presumes the fact that there exist different cultures with different systems of belief and values in the world. And these different systems of beliefs and values cannot be assessed “from the point of view of their truth and falsity, because truth and falsity and right and wrong are terms that are given their meaning from within one of these cultural perspectives” (Charvet & Kaczynska-Nay, 2008, p. 319). The perspective of cultural relativism asserts that “particularities of context, especially cultural particularities, do and should play a role in determining the specific shape -for example, the specific institutional embodiment- one or another culture gives to a value represented by a human rights provision” (Perry, 1998, p. 86). According to this line of thought, the values recruited within the international human rights instruments cannot be concluded without paying attention to contextual specificities.

The VDPA (1993) makes an emphasis on the contextual specificities together with an emphasis on the universal applicability of human rights; “while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms.” (VDPA, Article 5). While a line of criticism to cultural

relativist perspective perceives it as an instrument to legitimize tyrannical regimes, another one distinguishes it as an instrument to challenge against the human rights domain dominated by the West. Also, some theorists searched for reconciliation between human rights universalism with cultural pluralism. From an individualist position, Ignatieff (2000) claimed that it is moral individualism which preserves cultural diversity, “respect the diverse ways individuals choose to live their lives” (p. 323).

The group rights critique argues that there should be some rights of the individuals that stem from their membership to a group which may be a religious, social, cultural, indigenous, or minority community. Group rights are understood “not to be reducible to the individual rights of their members”: they are believed to be “rights that certain groups have simply in virtue of being from those groups” (Griffin, 2008, p. 256). There are some circumstances of life -the right to use a language or the right to practice a religion, for example- that cannot be protected by individual rights alone. In 1966 International Covenant on Civil and Political Rights, the group right of people is recognized solely in this article; “in those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language” (ICCPR, art. 27). There are various conceptualizations of group rights.

Raz (1986) initiates his conceptualization of group/collective rights by asking the question that whether morality can be rights-based assumed that foundation of it includes collective as well as individual rights (p. 208). Then, he defines a number of conditions in order for a right to be a collective one which assures the principle that they should serve the interest of the members of the group. He views the concept of collective rights as developing from an “analogical extension” of idea of individual human rights; while indicating “the aspects of the personal sense of identity which are inextricably bound up with the existence of communities and their common culture, it recognizes the intrinsic value of some collective goods” (Raz, 1986, p.

209). In Raz's conception, a group right lies on the interests of the agents who compose the group, irrespective of the strength of "their shared identity and the interdependence of their shared interests" (Jones, 1999, p. 84).

Ignatieff (2000) recognizes the prominence of group rights by conceptualizing them as the prerequisites for the implementation of individual rights (p. 330). Besides, he emphasizes the need to balance all "collective rights provisions" with "individual rights guarantees" to facilitate protection of substantive freedoms of individuals discordant with the group (Ignatieff, 2000, p. 336). Furthermore, with similar concerns of protecting the individual liberties, Will Kymlicka (1995) proposes a liberal theory of minority rights which explains "how minority rights coexist with human rights, and how minority rights are limited by principles of individual liberty, democracy, and social justice" (p. 6). He emphasizes that while holding on to individual rights in order to avoid damage of personal liberties, we may neglect the fact that the needs and identities of particular ethnic and national groups are recognized and supported by the state, and in so doing, ignoring others (Kymlicka, 1995, p. 108). The only way minority rights can have a worthwhile place within a broader theory of liberal justice is to ensure that "there is equality between groups, and freedom and equality within groups" (Kymlicka, 1995, p. 194). In this sense, the coexistence of group rights with human rights is achievable through a conceptualization of group rights in line with the principles of individual liberty, democracy, and social justice.

## **2.5. Human Rights in Turkey**

The term 'human rights' firstly introduced to the Turkish lexicon at the Ottoman period by the European powers that "assumed the role of 'protectors' of the non-Muslim population" living in the Ottoman Empire (Arat, 2007, p. 2). After the Kemalist regime's declaration of its political system as a republic on 29 October 1923, it "moved aggressively away from traditionalism towards modernity" (Ahmad, 2003, p. 84) and endeavored to "create a new secular polity, and transform the passive subjects of the Empire into dedicated citizens" (Arat, 2007, p. 3). The first

human rights organizations in Turkey are established after the advent of UN in 1945. ‘Human Rights Association’ (İnsan Hakları Derneği) is established in 1945 as an attempt to catch the worldwide efforts to protect human rights in the post-war period (Anar, 1996, p. 171). The ‘United Nations Association for Human Rights and Fundamental Rights and Freedoms’ (Birleşmiş Milletler İnsan Haklarını ve Ana Hürriyetleri Sağlama ve Koruma Türk Grubu) is established in 1946 with the intention to “disseminate the studies for the objectives of UN, leading the activities to provide and protect human rights in Turkey” (Anar, 1996, p. 172). A second ‘Human Rights Association’ (İnsan Hakları Derneği) is established in the same year for the aim to “protect freedom and democracy” (Anar, 1996, p. 173) and dissolved by the government after a while. The first human rights organizations were the outcome of government’s and the oppositional parties’ efforts to “conform to the new international order” (Çalı, 2007, p. 219).

The 1961 Constitution of Turkey is indicating a strong intention to expand and to strengthen basic human rights as well as introducing “the concept of social state held the state responsible for securing social peace and justice while also justifying active intervention by the state in the social and economic activities of the nation” (Hazama, 1996, p. 317). This framework enabled the establishment of a new organization named ‘Association of Basic Rights’ (Temel Hakları Yaşama Derneği) in 1962, which lasted until its founder became the president of the newly established Labor Party at the same year (Anar, 1996, p. 175). The military intervention of 12 March 1971 has resulted with the repression of leftist groups, imprisonment of many left-wing activists, pacification of trade unions and dissolution of Workers’ Party by the government (Ahmad, 1993, p. 156). Çalı (2007) indicates that the conditions for the emergence of a domestic human rights discourse is weak in the 1970s and the efforts of organizations such as the Turkish branch of Amnesty International (AI), Peace Association (Barış Derneği) and Association of Contemporary Lawyers (Cağdaş Hukukçular Derneği) are not effective on shaping the political discourse (p. 221).

The 12 September 1980 coup is marking a new era instigated by means of the military government's initiation of a "systematic and largely effective depolitization process", accomplished by the 1982 Constitution which "spelled out individual freedoms and rights but also provided long lists of conditions under which these rights would be limited" (Arat, 2007, p. 6). That resulted "crushing every manifestation of dissent from the left, including revolutionaries, social democrats, trade unionists, and even members of the nuclear disarmament movement organized as the Peace Association and which included the very cream of Turkey's elite" (Ahmad, 1993, p. 184). Furthermore, economic liberalization and structural adjustment policies of the International Monetary Fund became effective with the policies of the new Özal government (Arat, 2007, p.7). According to Çalı (2007), "within this repressive political structure, human rights discourse emerged as one of the few available ways of criticizing and resisting state violence" (p. 222).

The Human Rights Association (HRA-İnsan Hakları Derneği) is an NGO established in 1986 with the efforts of the people who are the victims of the negative conditions of the era and their relatives (Çetin, 2008, p. 7). In its foundation statute, the organization describes itself as independent from any government, state or political party and defending the universality and indivisibility of human rights. The organization has been subjected to extreme repression since its foundation; there were many investigations and court cases against its administrators and members, its many branches were shut down by the governors and 23 of its administrators and members were killed. Today, the organization is composed of 29 branches, 3 representative offices and over 10.000 members and activists<sup>1</sup>. While the main issue is repression on the 'left' at the first years, the Kurdish question was included on the agenda of the organization which led to the inclusion of the "discrimination based on ethnic, cultural and linguistic origins" to the discourse on human rights (Çalı, 2007, p. 224). In 1990, the decision of the HRA to establish a foundation specialized on providing treatment and rehabilitation services for torture survivors was realized with the establishment of Human Rights Foundation of Turkey (HRFT-Türkiye İnsan Hakları Vakfı). It was stated by the HRFT that it "grew out of the necessity to further

promote the prevention of torture in Turkey where grave human rights violations left thousands of people tortured and traumatized”<sup>ii</sup>. HRFT is the marking “the specialization and institutionalization of human rights advocacy in Turkey” (Çalı, 2007, p. 224).

Organization of Human Rights and Solidarity for Oppressed People (MAZLUMDER) is established in 1991 for the aim of carrying out the struggle for human rights without discriminating different groups of people and being on the side of the oppressed. It may be argued that the establishment of the organization is “a reaction to the HRA’s inadequate attention to the problems of the ‘conservative/nationalist/religious/right-wing’ prisoners” (Çalı, 2007, p. 225). Like other human rights organizations in Turkey, it was also faced with repressions. There were many investigations and court cases against its administrators and some of its branches were shut down by the governors (Çetin, 2008, p. 12). Çalı indicates that the organization sees itself as an “alternative” to HRA and HRFT, which is “filling a gap in the human rights discourse of the post-1980 Turkey” (Çalı, 2007, p. 226).

Another human rights organization is Helsinki Citizens’ Assembly (HCA) which is “a non-governmental organization, working on the notions of fundamental rights and freedoms, peace, democracy and pluralism”<sup>iii</sup>, established in 1993. It organizes various activities and conferences on the issues of the improvement of the relationship between the individual and the state on the basis of citizenship and furthering democratization (Çetin, 2008, p. 14). Furthermore, Turkey Human Rights Institute (TIHAK) is established in 1999 by 93 people as a reaction “to the current order of priorities in the domestic human rights field, which favors claims based on identity politics at the expense of socio-economic rights” (Çalı, 2007, p. 227).

Turkey is a founding member of the UN, signatory of several regional and international treaties to protect human rights -including the UDHR, the European Convention on Human Rights, and the United Nations Covenant on Civil and Political Rights- and bound to the obligations of being part of the Council of Europe

(Çelik, 2005, pp. 982-983). Turkey entered to the jurisdiction of European Court of Human Rights in 1987. Aside from these pledges, conversely, the human rights record of Turkey has been criticized by many human rights organizations and foreign governments, mainly in the matter of civil and political rights. Turkey's weak civil and political rights record is reported by international human rights organizations on a regular basis by an emphasis on "limits on freedom of expression and organization, the imprisonment of individuals for political reasons, and the use of torture by authorities" (Mousseau, 2006, p. 298).

## CHAPTER 3

### RESEARCH DESIGN AND METHODOLOGY

#### 3.1 Introduction

The research design of this study is intended to answer research questions mentioned in the introduction chapter concerning phenomena in the context of ‘Human Rights Movement Conference’ texts in Turkey. The research design’s relevancy relies on the idea that these conferences are reflecting human rights movement’s representation of the idea of human rights. These texts came into being as the sole material of the research since they are composed by the actors of the movement and identified by them as having an aim of conceptual clarification of the idea of human rights. There are various materials which would be helpful in search of a process of construction of the idea of human rights like the publications made by the non-governmental domestic human rights organizations, the organizational principles stated by these associations and the press statements made by various actors of the movement. However, for the aims of this study, these texts are believed to be the most relevant sources in order to find answers to the specific research questions which are inferred from the literature and the texts with a holistic view.

While pointing out the increasing comprehension of language as the most important phenomenon in social and organizational research and its accessibility for empirical investigation, Alvesson and Karreman (2000) make an emphasis on the differentiation between two approaches to “discourse”, which are “the study of the social text (talk and written text in its social context)” and “the study of social reality

as discursively constructed and maintained (the shaping of social reality through language)” (p. 1126). The latter approach, which considers discourses as “general and prevalent systems for the formation and articulation of ideas in a particular period of time” (Alvesson & Kärreman, 2000, p.1126), is more compatible with the research interests of this study.

As mentioned in the introduction chapter, comprehending the construction of social phenomena and the meaning embedded to it within a specific social context requires a social constructionist understanding. Drawing from Heller (2001), the constructionist examination points out the intersection of “the analyses of human understandings of the world”, “the conditions which produce those understandings”, and “their role in the construction of the social order” (Heller, 2001, p. 261). The social constructionist understanding of human rights movement as both grounding their principles and challenges to the discourse of human rights and at the same time constructing claims in respect of human rights, gives an adequate theoretical picture of the use and framing of the symbolic discourse of human rights.

### **3.2 Data**

The documents I have chosen as the primary source of my research are final reports of ‘Human Rights Movement Conferences’. These conferences are organized by two major human rights organizations in Turkey which are HRA and HRFT. Various actors from the institutional structure of the human rights movement, human rights activists and academicians, who are specialized in the issues concentrated on each conference, are brought together in these conferences. At each conference, main aspects of the specific issue are determined and study groups are formed in order to describe the problem and propose solutions regarding it. There are eleven conferences held since 1998 which are centered upon various issues (summarized in Table 1).

*Table 1: Human Rights Movement Conferences: Issue-orientations*

<p><b>1998</b> - <i>Turkey Human Rights Movement at the 50th Year of the Universal Declaration: Experiences and Perspectives</i> → The struggle of human rights at the 50th year of Universal Declaration: parties and tendencies (proceedings of Universal Declaration, globalization and human rights, institutionalization of the international law for the protection of human rights, the relationship between human rights and humanitarian law); human rights struggle in Turkey: experiences and perspectives; human rights violations as a governance practice and government responsibilities; struggles and strategies in order to implement human rights</p>
<p><b>1999</b> - <i>Turkey Human Rights Movement at the beginning of new millennium</i> → The problem of globalization with regard to human rights; human rights in the EU, human rights movement in Europe; the problem of law in protection of human rights; human rights and solidarity problem</p>
<p><b>2000</b> - <i>Conference of Human Rights Movement in Turkey</i> → Social and economic rights, cultural rights and minority problem; the problem of forced migration; the problem of prisons, media and human rights</p>
<p><b>2001</b> - <i>Coping with Trauma and Human Rights</i> → Experience of torture and inhumane treatment; experience of forced migration/ exile; experiences in relation to unusual deaths traumas; the problem of discharging of coercive regimes</p>
<p><b>2002</b> - <i>Poverty and Human Rights</i> → Poverty and exclusion/ isolation; struggle with poverty and human rights; social and economic rights as a condition of human rights; women and poverty</p>
<p><b>2003</b> - <i>War and Human Rights</i> → International system and war; war as a human rights violation and trauma; peace right and peace culture; peace movement and human rights movement</p>
<p><b>2004</b> - <i>Turkey-EU Relations from the Perspective of Human Rights</i> → EU: Its place in the world system and its internal political structure; Turkey-EU relations; compliance period: acquisitions, problems and future</p>
<p><b>2005</b> - <i>September 12</i> → September 12 1980 military coup and regime at its twenty-fifth year</p>

Table 1 (continued)

<p><b>2007</b> - <i>Human Rights in Turkey After Hrnt</i> → Increase in the authoritarian tendencies and violations of human rights and policies towards erosion of human rights sensibility; freedom of speech and thought; nationalism and racism; vengeance and lynch practices and legal, economic and social sources fostering these</p>
<p><b>2008</b> - <i>The Dimensions of Human Rights Violations and Erosion of Sensibilities at the 60th Year of the Universal Declaration</i> → Impunity as the reason of increase in human rights violations, legitimations and erosion of sensibilities; the role of popular culture in the legitimation of violation of rights and erosion of sensibilities; the state/role of international civil society against violation of rights and desensitization, the possibilities of alliance and solidarity</p>
<p><b>2010</b> - <i>Twenty-five years of Human Rights Movement in Turkey: An Evaluation</i> → Democracy within movement; international human rights and Turkey; the relationship of human rights movement with state and government; human rights movement and social opposition</p>
<p>Source: HRA and HRFT (1998-2008), Human Rights Movement Conferences. Retrieved from HRA Web site: <a href="http://ihd.org.tr/index.php?option=com_content&amp;view=category&amp;layout=blog&amp;id=65&amp;Itemid=208">http://ihd.org.tr/index.php?option=com_content&amp;view=category&amp;layout=blog&amp;id=65&amp;Itemid=208</a></p>

The issue-orientations of these conferences are determined in relation to the political agenda of that era. The symbolic emphasis on a particular kind of rights, the determination of problems and the way the movement evaluates possible solutions are changing across time and political space. However, the main emphasis is that “human rights movement is under pressure of an uneasy agenda necessitating taking action and providing conceptual clarification of human rights as well as enhancing its ideational prosperity” (TIHHK).

Furthermore, my research questions are implying an exploration of change. The fact that these declarations are published in course of twelve years is giving the chance to make inferences from the texts regarding change. To see how ideas and practices in

respect of human rights are reconstructed throughout those years is one of the central concerns of this study. For practical purposes, I have identified some events regarding the emphasis given by the human rights movement to those events and determined time intervals in the light of these;

- i. 1998-2002: the Constitutional Court of Turkey orders dissolution of Welfare Party for violating principle of secularism (January 16 1998)<sup>iv</sup>, the 50<sup>th</sup> year of the Universal Declaration of Human Rights (December 10 1998), massive earthquake in north-western Turkey (August 17 1999)<sup>v</sup>, the first Human Rights Movement Conference (November 28-29 1998), the declaration of Helsinki European Council that Turkey is a candidate state destined to join the EU (December 10-11 1999)<sup>vi</sup>, the beginning of the era of ceasefire between PKK and the state (September 1999)<sup>vii</sup>, the beginning of hunger strikes in prisons (October 20 2000)<sup>viii</sup>, the events of 9/11 in New York, Washington and Pennsylvania (2001).
- ii. 2002-2007: Parliament passes the ‘democratic packet’ of new laws which are intended to meet EU requirements (August 3 2002)<sup>ix</sup>, Justice and Development party won over two-thirds of parliamentary seats (November 3 2002)<sup>x</sup>, Invasion of Iraq (March 19 2003), attacks of Bet Israel and Neve Shalom synagogues, HSBC Bank AS and the British Consulate in Istanbul (November 15, November 20 2003)<sup>xi</sup>, the end of the era of 5-year ceasefire between PKK and the state (June 1 2004)<sup>xii</sup>, International (War) Crimes Tribunal held in Istanbul (June 23-27 2005).
- iii. 2007-2010: JDP increased its share of the vote to 47% in general elections (July 22 2007), the assassination of Hrant Dink (19 January 2007)<sup>xiii</sup>, the termination of relative enhancements in human rights regarding the compliance with EU norms (2007)<sup>xiv</sup>, the Constitutional Court of Turkey banned ‘Democratic Society Party’ (December 11 2009)<sup>xv</sup>.

It is important to note that these events are not presented here as the only decisive factor on construction of definitions and claims in respect of human rights but as

important traces to understand social and political context behind these ideas. The first time interval comprises the 1998, 1999, 2000 and 2001 conferences. The second one involves 2002, 2003, 2004 and 2005 conferences. And, the third one involves 2007, 2008 and 2010 conferences. Furthermore, the determination of these time intervals is not to imply clear-cut distinctions between these eras but to make inferences systematically with an awareness of the existence of continuities and discontinuities.

### **3.3 Data Analysis**

While bearing in mind the idea that research design, data collection and analysis are simultaneous processes (Bryman & Burgess, 2002, p. 217), I have conducted qualitative content analysis. There are various definitions of content analysis which mainly emphasized the quantitative character of it. Cartwright proposed to “use the terms ‘content analysis’ and ‘coding’ interchangeably, to refer to the objective, systematic, and quantitative description of any symbolic behavior” (as cited in Shapiro & Markoff, 1997, p. 11). In line with Cartwright’s suggestion, Berelson identified content analysis as “a research technique for the objective, systematic, and quantitative description of the manifest content of communication” (as cited in Franzosi, 2009, p. 548).

The possibility of a qualitative description of the content is mentioned by Krippendorff (2004) in his definition of content analysis as “a research technique for making replicable and valid inferences from texts (or other meaningful matter) to the contexts of their use” (p. 18). Krippendorff (2004) emphasized the qualitative nature of the text (p. 87) and drawing from Stevens, he defined the categorization of textual units as the most elementary form of measurement (as cited in Krippendorff, 2004, p. 87). He identifies some characteristics of qualitative approaches to content analysis as requiring “close reading of relatively small amounts of textual matter”, involving “the rearticulation of given texts into new narratives” and involving the participation of the analyst’s “own socially and culturally conditioned understandings”

(Krippendorff, 2004, p. 17). The creative and interpretive nature of qualitative research is valid for text analysis which aims to acknowledge the holistic qualities of texts.

Using verbal categories and acquiring verbal answers to research questions is widely considered as a valid and reliable technique of social research. In his paper ‘The Challenge of Qualitative Content Analysis’, Siegfried (1953) mentioned the importance of qualitative content analysis (p. 631). Qualitative analysis of content is indicating “the selection and rational organization of such categories as condense the substantive meanings of the given texts, with a view to test pertinent assumptions and hypotheses” (Siegfried, 1953, p. 638). This process is valid and reliable in the sense that there is a systematic exploration of meaning which is assumed to be socially constructed by the qualitative researcher. Furthermore, acknowledging “the holistic qualities of the texts” (Krippendorff, 2004, p. 88) without too much concern on the procedure to be followed, it is possible for the researcher to make more comprehensive inferences from the text.

Defining of content analysis broadly as a research method that “uses a set of procedures to make valid inferences from the text” (Weber, 1990, p. 9) and qualitative content analysis as a method which makes room for a “subjective analysis of the content of text data through the systematic classification process of coding and identifying themes or patterns” (Hsieh & Shannon, 2005, p. 1278), is suitable for my research interests. At this point, it is important to mention that an intention of a value-free framework is not proposed in this analysis. While stressing the socially constructed nature of reality, it is also important to emphasize “the intimate relationship between the researcher and what is studied and the situational constraints that shape the inquiry” (Denzin & Lincoln, 2005, p. 10). However, this subjectivity does not prevent to conduct a research concerning “a methodical or systematic study of text” (Shapiro & Markoff, 1997, p. 30).

### 3.4 Categories

The formation of verbal categories in qualitative content analysis is possible by rather inferring these categories from the available literature or out of the research material. My research topic has made it possible for me to compose these categories by relying on existing theory on this issue without losing sight of the data. Categories are “patterns or themes that are directly expressed in the text or are derived from them through analyses” (Hsieh & Shannon, 2005, p. 1285). The main themes which mentioned in the introduction chapter are the initial coding categories whose operational definitions were determined in the light of the theoretical search. Furthermore, the relationships between these categories and whether these categories need sub-categories were determined. Here, it is important to note that it is hard to make clear-cut distinctions between the initial coding categories which mean that a specific part of the relevant text may be significant for various themes or patterns. However, qualitative analysis of content makes room for a discussion of these overlapping textual parts.

The next step would be the coding process which is defined by Weber (1990) as “organizing large quantities of text into much fewer categories” (as cited in Hsieh and Shannon, 2005, p. 1285). The consistency and reliability of ‘text classification’ (Weber, 1990, p. 15) is relying on the clear operational definitions of the categories formed. Operational definition of the categories regarding the analysis part will be explained before passing to the next part. The first category is “representations regarding the conceptual clarification of the idea of human rights” which highlights the construction of ideas in respect of human rights by the movement. The different inflections on human dignity, reason, equality, autonomy, needs, capabilities and consensus, are demonstrating a distinct portrait of various conceptualizations regarding these approaches like freedom, justice, worth of human beings, human honor, rational purposive agency, human capacity/potential, self-authored life, identity etc. The second category is “representations of the idea of human rights as civil and political rights and economic, social and cultural rights”. Civil and political rights and liberties are the protections described in the ICCPR “against arbitrary

interference and deprivation of life, liberty, and security by the state” which “make the state obey the principle of the rule of law” (Karstedt, p. 2184). Economic, social and cultural rights are protections described in the ICESCR “such as those to health, housing, and education” which, in contrast to the civil and political rights, “require active intervention by the state to ensure their protection”. Finally, the third category of the study is “representations of the idea of human rights as universal or contingent on the local specificities”. The conception of universality of human rights is the notion that human rights belongs to everyone, no matter of what status the individual holds in society or wherever the individual resides (Reichert, 2006, p. 27). The conception of human rights as contingent on local specificities, which means that they are attached to historical or territorial particularities, emphasize on “judgments deriving their force and legitimacy from local conditions” (Douzinas, 2000, p. 136).

## CHAPTER 4

### EVALUATING THE REPRESENTATION OF THE IDEA OF HUMAN RIGHTS THROUGH HUMAN RIGHTS MOVEMENT CONFERENCE TEXTS

#### 4.1 Introduction

In this chapter, Human Right Movement Conference (Türkiye İnsan Hakları Hareketi Konferansı-TIHHK) texts are going to be analyzed to demonstrate their representation of the idea of human rights in different political contexts. Before moving on the analysis of texts by concentrating on the categorical differentiations and time intervals, the introduction section of conference documents, which is identical in all texts, is going to be demonstrated. At this part, the guiding principles of Human Rights Movement Conference are identified. The main aim of the conferences is stated as “discussing the problems of the human rights concept and human rights movement and generating a platform to settle some determinations for the future” (TIHHK).

Regarding the subject of conceptual clarification of the idea of human rights, it was stated that “human rights movement is under pressure of an uneasy agenda necessitating taking action and providing conceptual clarification of human rights as well as enhancing its ideational prosperity”. Conceptual clarification and ideational prosperity were seen as the main condition to be able to intervene in the social agenda. The first “guiding principle” identified at the introduction part of each conference is defining human rights as “principles of action aiming to realize human

dignity at every human being and norms leaning upon these principles”. The “indivisibility and inalienability of human rights” is emphasized. This emphasis on the indivisibility of human rights is significant regarding the issue of the differentiation between the civil and political rights and economic, social and cultural rights. The second guiding principle is pointing out that human rights should be determinative within the economic, social and cultural domain as well as the political. About the universality of human rights, it was indicated that “the possession of equal rights of all the members of the human family” are the central principles for the human rights movement (TIHHK).

#### **4.2 Reflections on the Conceptual Clarification of the Idea of Human Rights**

Regarding the conceptual clarification of the idea of human rights in general, the period 1998-2002 is marked by the movement’s emphasis on conceptualizations of human rights, jurisprudence and human rights, language of human rights, humanity, human dignity, human security, freedom, equality, individual as a subject, autonomy/choice of the individual, natural determinism of human beings and public space. On the subject of human rights, it is declared that the principles taking place in the UDHR and other international human rights documents should be reviewed on the basis of clarification of the concept of human rights (IHK 1998, p. 4). The concept of rights can be discussed only on the basis of issues which are excluding “the characteristics forming the existential foundation of human beings” (TIHHK 2000, p. 9). These pre-determined characteristics can be ethnicity, mother language or gender, which cannot be used as criteria to distribute or deprive of rights (TIHHK 2000, p.9). It is widely accepted that there are certain basic innate rights of the human beings which are inviolable, indispensable and inalienable. The conference texts indicate that “human rights are the uppermost values regarding the determination of juridical, social, political and economic arrangements” (IHK 1998, p. 4). It is also significant to point out that there established a substantial connection between human rights violations and “trauma” in this documents. And, the ways of dealing with trauma arising from human rights violations are highlighted. For instance, the issue of compulsory migration is characterized as a deepening traumatic

experience which is the consequence of people's detachment from their social, cultural and economic living areas (TIHHK 2001, art. 2).

The emphasis on human dignity, which finds its comprehensive expression on the UDHR, is one of the central themes of the 1998-2002 documents, as well as others. It is generally expressed in relation to the concepts of liberty and equality. In the 1998 conference, it is asserted that "principles of liberty, equality and brotherhood have central importance concerning the lives of human species" and "the laws of the states should be resting upon the principles of human dignity and human rights-which are developed to protect human dignity in every member of the human family" (IHK 1998, p.3). It is also questioned in the same conference whether the concept of equality in the Universal Declaration is a sufficient concept to protect human dignity which is inherent in every human species' nature, or not (IHK 1998, p.4). The need to protect dignity of the individual is stated nearly in all abuses of human rights. For instance, at the issue of problems of prisons, the first step of the solution is identified as "laying the foundation for a system of law which is grounded on human dignity" (IHK 1999, p.6). Additionally, in relation to this emphasis on human dignity, human security is also seen as a value which is threatened by "attribution of value to concepts such as national security, national interests and national culture" (IHK 1998, p.4).

Another central subject of the conference texts of 1998-2002 is their highlighting on the individual as a subject having autonomy and choice. The vital foundation of rights is the means and assurances which are the preconditions of being a person (TIHHK 2000, p. 9). There is a significant emphasis on the "displaying and improving of the individual himself/herself as a person with his/her own being" (TIHHK 2000, p. 11). People have a right to choose and build their own culture and lifestyle and to use their mother language freely in every sphere (TIHHK 2000, p. 10). The autonomy of the individual should be protected by the human rights regime which should be the main reference to laws and regulations regarding people's daily lives. Furthermore, there is a need to construct a new definition of public space in

line with the understanding of human beings as subjects. In order to protect it, the public space should be depicted in a way “making the society the owner of the public space, instead of objectifying it as users or consumers of public services”; it should take its legitimation from “a societal willpower attached to basic principles of human rights” and it should turn the individuals, whose choices formed after a free dialogue, into subjects of this societal willpower (TIHHK 2000, p. 7). This new conceptualization of public space should be in line with “humanity”; it should be based on a new kind of political organizational structure formed by the state after leaving off its dominant position over the society and it should be embracing the whole humanity with a wide and acceptable frame (TIHHK 2000, p. 10).

Concerning the conceptual clarification of the idea of human rights in general, the period 2002-2007 is denoting a continuing emphasis on conceptualizations of human rights, humanity, human dignity, worth of human beings, and particular emphasis on conceptualizations of the antagonism between being human and nonhuman or human and nature, individual as the subject of rights, individuals as the author of their own lives, justice and solidarity. On the question of human rights, it is declared in the 2002 conference that we are living in times which the whole concept of human rights is eviscerated (TIHHK, p. 12). It is necessary to intensify a new language of human rights which is going to eliminate privileges by placing human dignity at its center (TIHHK 2002, p. 12). The “language of conflict”, which destructs the basic normative values human rights are grounded on (TIHHK 2003, p. 18), is positioned as contrary to the “language of human rights” in the documents.

The principle that “individual is the bearer of human rights” should be the reference point for necessary regulations in respect of human rights (TIHHK 2002, p. 24). The system of rights is based on “the idea of individual right at the normative level and modern state at the political level” (TIHHK 2003, p. 14). In this framework, the individual is regarded both as the subject and the constructor of the right, whilst the state is regarded as the political structure realizing these rights at the legal domain (TIHHK 2003, p. 14). At this point, it is also important to mention the texts’

emphasis on the essential relationship between the concept of right and the modern state which derives from the requirement of security mechanisms for the protection of the “right to life” (TIHHK 2003, p. 14). The claims on “the right to peace” and “peace culture” within the texts are indicating this problematic nature of this relationship between the concept of right and the modern state. It was stated that there is an urgent need to identify “the right to peace” with a positive content (contrary to its restricted identification lying on a negative content) by reconstructing its normative and political constituents; to look for a framework which is not restricted to “right to life” and the need of security mechanisms at the normative level and nation-state at the political level (TIHHK 2003, p. 15).

The emphasis on the opposition between being human and nonhuman is one of the central themes of the 2002-2007 documents. Above all, the 2002 conference highlighted this opposition in order to understand the issue of poverty and exclusion as a result of it. The issue of poverty is framed as a problem of “exclusion of a group of people from being human” (TIHHK 2002, p. 8). It was highlighted in the text that definition of the existence and production of human beings in terms of exchange value within the capitalist world economy objectifies human beings and deepens the practice of exclusionary mechanisms (TIHHK 2002, p. 9). Firstly, it is important to point out the conceptual relationship between this perspective and the value ascribed on the worth of human beings and human dignity within the texts, especially on the topic of moral exclusion. Besides its various effects on human beings, poverty is something which damages dignity and self-respect of the individuals. It was indicated in the text that the practice of moral exclusion, which renders the poor morally worthless as human beings, is orienting them to places which are excluded by the dominant system and signifies them with categories such as “lower kind”, “dangerous classes” or “precarious groups” (TIHHK 2002, p. 9). Secondly, on the issue of spatial exclusion, the significance of the protection of the social domain is highlighted. The situation of spatial segregation of a group of people from others within a process of mutual isolation is engendering the destruction of the social which is “one of the basic elements of being human” (TIHHK 2002, p. 10).

The emphasis on the reconstruction of the idea of human rights for the aim of averting these exclusionary mechanisms is also significant. Since it is through these exclusionary mechanisms, “the human beings are objectified” and “poverty is recognized as belonging to the domain of nonhuman” (TIHHK 2002, p. 11), than, it is necessary to reconstruct the idea of human rights in a way to render the poor as “subjects of right” again. Being able to think of the idea of human rights in a way to prevent the practices of exclusion is possible through “revitalizing its characteristic which centralizes equality, justice and liberty claims” (TIHHK 2002, p. 12). In addition to that, it was stated that this new discourse of human rights which has a transformative potential of the social domain should reinforce the creation of a “culture of solidarity” while challenging the “culture of aid” (TIHHK 2002, p. 12).

One of the significant themes of 2002-2007 conferences is the continuing emphasis on the autonomy of the individual and a particular emphasis on the capability of the individual. The premises that an autonomous individual is the maker and author of his own life are effective in this regard. The opposition drawn within the documents between the “culture of solidarity” and “culture of aid” is implying different ways of positioning the subject. It is only within the framework of culture of solidarity it is possible to render the poor as “autonomous” and “capable”, not within the framework of culture of aid which renders the poor as “passive receivers” or “dependent persons”. It is declared in the 2002 conference that the struggle with poverty should “embrace methods bestowing the poor capable” and making them “the authors of their own life” (TIHHK, p. 14).

In the 2002-2007 conference texts, the subject of solidarity is not solely mentioned in respect of its strength to challenge poverty, but also its use as a powerful concept in conceptual clarification of the idea of rights. Additionally, the concept of justice is highlighted within the texts in relation to the concept of solidarity. To begin with, the concept of solidarity is situated on a contrary position to the concept of security. It is declared in the 2003 conference that the concept of solidarity is forming an alternative to the concept of security since it makes it possible for us to “think about

rights from a conception of the bond between human beings rather than a conception of an isolated and atomic individual” (TIHHK 2003, p. 15). Thereby, this kind of conceptualization of solidarity is pointing out “a new normative foundation upon which the “right to peace” can be instituted” (TIHHK 2003, p. 15). And, the concept of justice is pointing out the political framework of the “right to peace” together with a cosmopolitan perspective (TIHHK 2003, p. 16). It was stated that the concept of justice is giving us the chance to discuss the problems of global inequality and undertake these issues from a citizenship perspective at the same time (TIHHK 2003, p. 15). Furthermore, it is important to point out that the emphasis on justice within these texts is also highlighting the need to fix the problem of erosion of the sense of justice at the societal level (TIHHK 2005, p. 2). The main reason of this erosion of the sense of justice within the society is the impunity of people who are responsible from human rights abuses. For instance, it is stated in the 2005 conference that the impunity of the chief offenders of September 12 coup is cultivating the sense of injustice within the society (TIHHK 2005, p. 2).

Regarding the conceptual clarification of the idea of human rights in general, the period 2007-2010 is paying attention to concepts such as human rights, autonomous individual, human potential and the binary opposition between security and human rights. But principally, it is demonstrating a distinct portrait of conceptualizations such as the process of becoming human, identity and claims in respect of it, the other, the public good and freedom of thought and expression. On the subject of the idea of human rights, it was stated that the basic idea that human beings have rights “simply in virtue of being human” (TIHHK 2008, p. 5), independent of their ethnic identity, religion or political and conscious judgments, is the first step in the construction of human rights. The principle of universality and integrity of human rights and the need of compliance between different kinds of right claims is emphasized (TIHHK 2010, p. 25). It is also declared that one of the reasons of erosion of sensibilities in respect of human rights is “the damage engendered by nationalist, racist, fundamentalist and essentialist identity politics” which are invalidating “common ground of human” (TIHHK 2008, p. 6). In order to overcome

these kinds of discriminatory perspectives, the concept of “public good” is introduced as a concept which needs clarification in its content. It was stated that the concept of public good should be identified at the ground of strengthening rights and liberties of the citizens within a democratic social conscience (TIHHK 2007, p. 13).

Discriminatory perspectives are regarded as having their subjective origins in “the process of becoming human”, which is one of the central themes of the 2007-2010 conferences. This process is also clarifies the conceptualizations of “the other” and “identity”. The process of becoming human is identified at the 2007 conference as follows: human beings become subjects by experiencing psychological birth which takes place with the mediation of culture. However, there is a tendency of human beings towards absolute unity which conflicts with restrictions of culture. If the individual achieves to overcome this illusion of unity by accepting it, then, she has a chance to have an ego, to become human. Everything threatening the identity of the ego is an “other” to the subject and signified as “bad”. What is expected from the subject to become human is the achievement of the second step which is being able to find “good in bad”, and “bad in good” by overcoming the fragmented inner self (TIHHK 2007, pp. 22-23).

The realization of the second step is the precondition of challenging the discriminatory perspectives which is possible through an understanding placing emphasis on empathy. It was indicated in the text that the ones who do not belong to the dominant identity position in Turkey, which is Turkish, Muslim, Sunni, male and heterosexual, are seen as threatening “others” (TIHHK 2007, p. 25). But it is especially these individuals who have claims in respect of human rights. There is an emphasis on the need of perspectives which “recognizes different identity positions without making them absolute”, “making space for transitions and flexibilities across identities” and “reconstructing differences under more encompassing identity positions” (TIHHK 2007, p. 28). In this regard, it is proposed that the system of rights in Turkey should be redefined on the basis of “constitutional citizenship” (TIHHK 2007, p. 29).

As a final point, the issues of the subject of freedom of thought and expression and the autonomy of the individual are intertwined within the texts. The subject of autonomy of the individual is concentrated on the previous periods, but this time, it is comprehended as the definition of a basic right. It is stated that “what is implied with the freedom of thought and expression of an individual is the possession of the power to form her own conviction and talk/act according to this conviction” (TIHHK 2007, p. 7). Having freedom of thought and expression is an inalienable component of the domain of the autonomy of the individual.

### **4.3 Human Rights as Civil and Political and Social, Economic and Cultural**

In respect of the question of changing representations of the idea of human rights as civil and political rights and economic, social and cultural rights, the 1998-2002 conferences are highlighting concepts and issues such as integrity of human rights, the need to identify socio-economic rights as basic rights, the lack of social security mechanisms, democratization of the domain of economy, globalization and free market as a threat to socio-economic rights and lack of representation of social, economic and cultural rights at the domain of international law. Some of the rights and liberties mentioned in the documents under the heading of civil and political rights are “the right to life“, “the right not to be torture“, “freedom of faith“, “the right to privacy”, “the right to security”, “the right to a fair trial”, “the right to freedom of thought and expression”, “the basic rights of the imprisoned” and “right to refuge”. And, some of the rights and liberties pointed out in the documents under the title of social, economic and cultural rights are “the right to work”, “the right to job security”, “the right to unionize”, “the collective bargaining rights”, “the subsistence rights”, “the right to nourishment”, “the right to housing”, “the right to health care”, and “the right to education” together with “the right to education in one’s mother tongue”.

There is a significant emphasis on the necessity to comprehend human rights in its integrity within the 1998-2002 conferences. It is declared that an individual’s

personal, political and economic rights are proposed in its integrity within the Universal Declaration (IHK 1998, p. 3). Similarly, in the conference of 2000, it is pointed out that “social, economic and cultural rights are approached in isolation from other human rights” and there is lack of normative regulations for protecting these basic rights (TIHHK 2000, p. 5). The integrity of human rights is also emphasized within the context of integration to the EU; “the process of European integration should be maintained according to the principles of human rights which are defined in their integrity” (TIHHK 1999, p. 3). In this framework, there is an emphasis on the necessity to define social, economic and cultural rights as “basic rights” of the individual. It is declared that human rights organizations are ineffective on performing studies on social, economic and cultural rights, while prioritizing studies on “right to life”, basic liberties and individual security as “basic rights” (TIHHK 2000, p. 6). Moreover, while drawing attention to specific human rights violations, these are mostly expressed in their relation to the other kinds of human rights abuses. For instance, in the 2001 conference, it was mentioned that experience of compulsory migration and displacement is a process which engendered human rights violations at both sets of rights (TIHHK 2001, p. 12). This process brought about a series of violations in a wide sphere of rights and liberties such as right to life, right to suffrage, right to property, right to work and education, and welfare rights (TIHHK 2001, p. 12). The intertwined nature of abuses of both civil and political rights and social, economic and cultural rights is pointed out within the conference texts.

Regarding the representation of two sets of rights, the 1998-2002 conferences are indicating a lack of social security mechanisms for the realization of socio-economic rights. According to this understanding, the domain of economy, as well as the domestic and international order, should be determined in line with human rights principles (IHK 1998, p. 5). It is stated that the weakening of the welfare state has brought about “the erosion on the domain of social and economic rights”, “restriction of public services within the domain of security” and discussion of the concept of public good under the concept of free market (TIHHK 2000, p. 6). The individual

states, which should ratify the international conventions on socio-economic rights, are responsible from the protection and implementation of these rights. Some of the detections expressed within 1998 conference are implying deterioration in the domain of social, economic and cultural rights; “the economic foundations of the system are relying on exploitation of labor”; there are tremendous restrictions on unionization and there is an increase in implementation of privatization policies (IHK 1998, p. 14). Furthermore, social security system is weakened by its transformation into private retirement funds (TIHHK 2000, p.5).

In this framework, the absence/inadequacy of social security mechanisms is regarded as a consequence of globalization and rise of neo-liberal policies. Globalization and social and economic inequalities at the global level viewed as a threat to socio-economic rights. It was stated in the 1998 conference that “the existing economic and social developments at domestic and international order, particularly the process of globalization, is threatening basic rights and deepening the inequalities between the social classes and countries in respect of life standards, right to education, right to health care, right to housing and right to work” (IHK 1998, p. 4). It was indicated that the main reason of the invasion of socio-economic rights within the developing countries is the social and economic inequities at the global level (TIHHK 2000, p. 6). As stated by the 1999 conference, globalization process, that retains “the freedom of market” rather than “the freedom of human beings” at its center, is dangerous in terms of the future of human kind and economic, social and cultural rights (IHK 1998, p. 2). Likewise, globalization is enhancing problems within the work sphere by reinforcing regulations of flexible employment, wages and working hours (TIHHK 2000, p. 4). It is indicated that unionization and collective bargaining rights are made ineffective through these regulations and child labor, exploitation of women’s labor and discriminatory practices at the workplace is in increase (TIHHK 2000, p. 4). According to the conference texts, the aim of the “democratization of the economic sphere” should be realized at the global level in order to broaden the domain of basic rights and challenge the detachment of two sets of rights.

With regard to the matter of changing representations of the idea of human rights as civil and political rights and economic, social and cultural rights, the 2002-2007 conferences are underlining issues such as the connection between two sets of rights, questioning of the “positive rights” discourse, social security as a public matter and construction of an all-encompassing framework within socio-economic rights. The emphasis on the need to comprehend human rights in its integrity and identify socio-economic rights as basic rights is significant in the 2002-2007 conferences, as it is in the previous period. It is indicated in the 2002 conference that “it is essential to put forward social and economic rights as a basic human rights” (TIHHK 2002, p. 4).

In this framework of integrity of human rights, social and economic rights are at equal worth with negative rights (TIHHK 2002, p. 16). For instance, the EU is criticized because of its restricted vision of human rights. It is stated that “EU should be embodied in the direction of a liberal and social ideal” (TIHHK 2004, p. 8). And, one of the basic components of this embodiment should be the effort to transform the dominant understanding, which sees human rights as composed from individual civic rights and liberties, in a way to include social and economic rights and liberties (TIHHK 2004, p. 8). From a wider perspective, it is indicated within the conference texts that socio-economic rights should be realized as preconditions for realization of negative rights; “the problem of poverty, which threatens millions of people around the world, has proved and has been proving day by day that social and economic rights are in quality of condition for the use of other basic human rights and civil rights” (TIHHK 2002, p. 16). In this framework, the relationship between two sets of rights is established at a different level than regarding them as basic rights having equal worth with civil and political rights.

The 2002 conference is particularly significant at the subject of the necessity to understand the issue of social security within the framework of the public domain. It was declared in the previous section that the autonomy of the individual is emphasized at the conference texts. It is mentioned that a “minimum income” should be assigned to the citizens living under the hunger line as a concrete socio-economic

right (TIHHK 2002, p. 14). The realization of this demand would relocate the relationship of social assistance-which is under the hegemony of paternalistic relationships-from the sphere of morality to the sphere of rights (TIHHK 2002, p. 14). At this point, the importance weighed on the presence of a self-authored life is noteworthy. It is necessary to generate social security mechanisms at the public sphere in order to realize civil and political and social and economic rights in its integrity.

Concerning the subject of shifting representations of the idea of human rights as civil and political rights and economic, social and cultural rights, the 2007-2010 conference texts are implying issues such as hierarchy between rights, the challenge of social rights to the “abstract” human rights and identity-based right claims. Compared to the previous periods, the claims in respect of social, economic and cultural rights are decreased, while civil and political right claims such as freedom of thought and expression and right to information are increased. The hierarchy between different sets of rights is pointed out in the 2010 conference as an issue of restrictiveness of the domestic human rights movement; “the concentration of the movement’s components on specific problem areas (Kurdish issue, headscarf problem, prisons etc.) is leading to interpretation of the concept of human rights in a restricted form and disengagement from inclusiveness” (TIHHK 2010, p. 6). It is stated that the hierarchy between different sets of rights is created by attitudes which are outside the sphere of human rights (TIHHK 2010, p. 18). In this sense, human rights organizations might have adopted the perspective of hierarchy of rights regarding different discriminatory areas and different types of rights (TIHHK 2010, p. 24). The need to establish interaction between the two different sets of rights is highlighted.

In this context, the challenge of social rights to the “abstract” human rights language is mentioned in the 2007-2010 conference texts. It is indicated that, at the foundation of the idea of human rights, there resides a principal value given to “abstract human” which is constructed as “purged from all its characteristics and specific conditions”

(TIHHK 2008, p. 5). From a different perspective, the conception of social rights considers the restrictions instigating from an individual's practical and objective conditions and presents an inclusive framework for the realization of right and liberty claims (TIHHK 2008, p.6). The clarification of identity-based rights claims in the documents may be thought within the same framework. It is stated that this era is marked by identity politics which resides on particular identity differences while the principles of equality and liberty is losing its influence (TIHHK 2007, p. 28). However, this does not mean that individual's objective conditions might be neglected. The diverse identities should be able to live together by both preserving their differences and internalizing universal values (TIHHK 2007, p. 30).

#### **4.4 The Universality of Human Rights**

On the subject of the idea of human rights represented as universal or contingent on the local specificities, the 1998-2002 conferences are indicating the movement's reflections on the Universal Declaration, the universality of human rights, globalization and human rights, the relationship between international law and local context and minority rights. Universal Declaration is frequently referenced throughout the texts. It was expressed that "UDHR is an acquisition for humanity in terms of its meaning and content" (IHK 1998, p. 3). The declaration emphasized the universal claim that "human dignity should be protected in every member of the human family" (IHK 1998, p. 3). However, it is also mentioned that the universality of some of the rights highlighted within the declaration should be questioned; for instance, the universality of right to property needs to be discussed (IHK 1998, p. 4). The idea of universality of human rights, which means human rights should be possessed universally since they are the rights one has simply because one is a human being, is indicated in the 1998 conference. The eventual aim of the advocates of human rights is presented in the first conference as "building the environment in which human rights is realized and protected for every member of the human family" (IHK 1998, p. 10).

Regarding the relationship between globalization and human rights, the 1998-2002 conferences are implying a confrontational positioning of the two. According to the documents, globalization means determination of law through the universally valid principles of free market, mainly the principle of free enterprise (IHK 1998, p. 5). In this sense, globalization “denotes a set of adversary principles in comparison to the determination of law through principles of human rights” and “comprises the imposition of legal practices and regulations which impedes the realization of human rights” (IHK 1998, p. 5). The conception of globalization in compliance with neo-liberal policies which are triggering human rights violations is indicating the comprehension of it as a threat to the realization of human rights at the universal level. The role of human beings within the globalization process is pointed out; “since this process is planned and implemented by human beings, the point in question is that human beings should intervene to the process in behalf of the ‘human’” (IHK 1999, p. 1). Accordingly, for being able to realize human rights universally, advocates of human rights should discuss the decision making mechanisms of the globalization process (IHK 1999, p.1).

The period of 1998-2002 is also emphasizing the relationship between international law and local context. It is stated that the institutionalization of international justice is compatible with the principles of human rights to protect and enhance human dignity in every member of the human family (IHK 1998, p. 6). Correspondingly, it is suggested that “international human rights law can be used as an important source without abandoning a critical point of view towards it” (TIHKK 2000, p.11). It is mentioned that there exists protections in the international human rights law for the rights and interests which are incompatible with the idea of human rights (IHK 1998, p. 6). For the reason that these rights and interest may impede the realization of human rights universally, it is needed to reconstruct them under a new guise of international human rights law.

The conference texts draw attention to the threat of degradation of human rights principles into legal norms, both at the local and international levels; “national and

international law which is generated on the basis of the knowledge of human rights, has an important role in protection of human rights; however, human rights cannot be reduced solely to legal norms” (IHK 1999, p.5). At the local level, there is a need to establish relationships with universal knowledge and experiences (TIHHK 2001, p. 11) while at the same time participating in the efforts of realization and development of human rights standards at the international level (IHK 1999, p. 3). Moreover, it is frequently advocated throughout the texts that Turkey should sign the unratified human rights documents. In this way, the structures institutionalizing international justice is also going to be usable by the citizens and people living in Turkey (IHK 1998, p. 7).

As a final point, in the 1998-2002 conferences, it is stated that “minority rights”, which are seen as a challenge to universality of the idea of human right, should be regarded as “basic rights”. In the 2000 conference, the categories of minority and majority are principally declined without losing sight of the “opportunities and guarantees within the scope of minority rights” (TIHHK 2000, p. 9). It is declared that essentially, “this opportunities and guarantees should be accepted as basic innate rights of the human beings which are inviolable, indispensable and inalienable”, without creating categories such as minority or majority (TIHHK 2000, p. 9).

Concerning the representation of the idea of human rights as universal or contingent on the local specificities, the period of 2002-2007 is denoting an emphasis on universality of human rights, cultural framework of rights, international and humanitarian law, instrumentalization of human rights and the significance of local dynamics in the process of encompassing human rights. On the subject of the universality of human rights, it is stated that “citizenship rights and law should be redefined at the universal level by a universalist spirit which is beyond the discriminatory/insulating framework of nation-state” (TIHHK 2002, p.17). For instance, workers’ rights such as “the right to work”, “the right to wage” and “the right to social security” should be detached from the perspective of citizenship and redefined by means of their universal characteristics (TIHHK 2002, p.17). In this

context, the emphasis on cosmopolitan perspectives within the documents is also significant. In the 2003 conference, the concept of solidarity is proposed for the creation of a perspective of cosmopolitan citizenship intended for building peace (TIHHK 2003, p. 15).

However, the emphasis on the universality of human rights does not mean that these rights are reflected as abstract idealizations within the documents; the socially contingent nature of human rights is also mentioned. In this sense, however much they are universal in terms of their content, human rights would be “rights of the people living in a certain society and keeping traces of a certain history and culture” (TIHHK 2003, p. 1). The conceptualization of differences is important in this regard. Two ideas are pointed out in the 2003 conference. Firstly, it is stated that ethnic, religious and cultural differences are not the reason of conflict in themselves, but rendered as sources of conflict by the dominant economic and political systems and secondly, the need to avoid from dissolving differences under universalist frameworks (TIHHK 2003, pp. 16-17). The need of a cultural framework for the realization of these rights is emphasized.

The emphasis on local dynamics in the process of encompassing human rights is significant in this period. The issue of membership of Turkey to the EU and enhancements in human rights regarding the compliance with the EU norms is evaluated in this regard. While the prevalence of pragmatist approaches in EU-Turkey relationships within the framework of human rights is criticized at the domestic level, the tradition of Euro-centric thought is questioned at the international level (TIHHK 2004, p. 7). It is stated that the internal dynamics should be operative in the process of the EU along with being effective at the domestic level which necessitates taking action without external interference (TIHHK 2004, p. 8). Furthermore, the internal dynamics would not just “contribute to the understanding of human rights in Turkey but also, to the prevailing understanding of human rights within the EU” (TIHHK 2004, p. 8).

In the period 2002-2007, international human rights law is viewed more as a threat rather than a source for the protection of human rights. The rise of the US as a global power and its adoption of “a political strategy intended for establishing its global hegemony step by step” (TIHHK 2003, p. 6) is frequently emphasized in criticisms of international law and humanitarian intervention. The instrumentalization of the concept of human rights and related concepts for legitimizing military intervention is underlined. It is stated that the US is invading concepts possessed by humanity while “presenting its war strategies within a rhetoric build upon concepts such as “democracy”, “human rights” and “humanitarianism” (TIHHK 2003, p. 7). The only way for this intervention to reside within a “humanitarian framework” is its being independent from the states’ hegemonic intentions (TIHHK 2003, p. 8). In this context, international human rights organizations which are deriving the legitimacy of their actions from international law should be independent from states. For instance, it is emphasized in the 2004 conference that GONGOs, which are government organized structures intended to be active in the field of human rights, cannot substitute independent NGOs (TIHHK 2004, p. 9). It is indicated that there is a need of a struggle both at the practical and theoretical levels against “the invasion and instrumentalization of the concept of human rights for the aims of the hegemon powers” (TIHHK 2003, p. 10).

On the subject of the idea of human rights represented as universal or contingent on the local specificities, the 2007-2010 conferences are indicating the movement’s continuing reflections on the universality of human rights, Universal Declaration, opposition of liberty and security in international human rights standards and besides, a particular emphasis on interaction between domestic and international human rights movement. The adoption of UDHR and the idea of universal human rights is an important acquisition for the humanity (TIHHK 2008, p. 17). It is stated in the 2007 conference that “the main principles of human rights which are universalism and equality is clearly neglected in this environment which are shaped by the dilemma between security and human rights” (TIHHK 2007, p. 6). It is indicated that the post-September 11 political environment confronted societies with

the dilemma of security and liberty in rhetoric of “struggle with terrorism” and human rights violations legitimized in this way (TIHHK 2008, p. 3). The universality of human rights is defended against the tendency of essentialist identity politics to undermine shared human values and identities; “the first step of the idea of human rights which cannot be abandoned by the human rights movement is that every human being has rights and inviolabilities deriving from their being ‘human’” (TIHHK 2008, p. 6). The imposition of particular identities instead of producing common and shared values is at the same time seen as a threat to democratization of domestic human rights movement (TIHHK 2010, p. 9).

As a final point, there is an emphasis on interaction between domestic and international human rights movement within the 2007-2010 documents. It is indicated that there is a need to construct an equal relationship between domestic and international agencies in developing and strengthening international cooperation and solidarity (TIHHK 2008, p. 18). The emphasis on interaction between domestic and international human rights movement displays itself especially in the 2010 conference. The contribution of international human rights movement on the attainment of domestic human rights movement’s current position is indicated (TIHHK 2010, pp. 10-11). The shared aims of domestic and international human rights movements are stated as “decreasing the violations of human rights, protection of human rights, the creation of mechanisms to prevent violations and the development of international human rights law” (TIHHK 2010, p. 11). In this framework, the role of international movement is to reflect local problem areas to global sphere, to use regional and global mechanisms and legal and diplomatic sources for the aim of preventing human rights violations of states and provide conditions for increasing effectiveness of the local human rights movement (TIHHK 2010, p. 11). And, the domestic human rights movement should not just contend with taking support; it should contribute to the realization of the human rights both at domestic and universal levels.

## CHAPTER 5

### CONCLUSIONS

The proposition of a theoretical framework for conceptualizing the idea of human rights within social movements should be taking into consideration the incapability of a single perspective to capture the “multiplicity of discourses, practices, agencies, events and struggles that are using the term human rights” (Douzinas, 2007, p. 14). In the light of these, this thesis adopts a social constructionist perspective; in that it begins with the proposition that ideas and practices concerning human rights are created by people in particular historical, social, and economic circumstances. Such an approach stands in contrast to a positioning of ideas and practices in respect of human rights as timeless and absolute. Stammers (1999) states that “social movements construct claims for human rights as part of their challenge to status quo” (p. 998); contending the significance of social movements in the process of cultivating socio-historical change.

The main aim of this study is to present the transformation of domestic human rights discourse in Turkey by looking at the shifting representations of the idea of human rights. The central inquiry is the representation of the idea of human rights by domestic human rights movement in different political contexts during the period 1998-2010 through analysis of ‘Turkey Human Rights Movement Conference’ texts. There is a consideration of change focused on the question of how ideas and practices in respect of human rights reconstructed within these texts. The representations of the idea of human rights in periods of 1998-2002, 2002-2007 and

2007-2010 is evaluated with the intention of answering the questions of the study mentioned in the introduction chapter.

To begin with, the question of “how the different conceptualizations of legitimation of the idea of human rights are represented in the conference texts?” is important in the sense that it reveals the role of human rights movement in construction of conceptualizations like freedom, worth of human beings, human honor, rational purposive agency, human capacity/potential, self-authored life, identity etc. Regarding the issue of conceptual clarification of the idea of human rights, the period 1998-2002 is marking an emphasis on grounding principles of human rights in human dignity and autonomy. Firstly, the idea that individuals are entitled to enjoy human rights by virtue of their nature and dignity as human beings is manifested within the documents. It is widely recognized that there are certain basic innate rights of the human beings that are inviolable, indispensable and inalienable. The necessity to protect dignity of the individual is indicated commonly in criticisms of violations of human rights. Secondly, autonomy, which is an individual’s capacity to exercise a considerable degree of control over her life through her decisions and choices, is also considered as a basis for the idea of human rights. According to the texts, the vital foundation of rights is the means and assurances for the individual to display herself as a person with her own being. The conferences of 2002-2007 are also denoting an emphasis on human dignity in conjunction with the worth of human beings and autonomy/capability of the individual as the basis upon which the idea of human rights rests. The former is indicated as the indispensable ground of a new “language of human rights” for the aim of eliminating privileges which are the sources of “language of conflict”. The value ascribed on being “human” as the shared identity is significant in the sense that “exclusion of a group of people from being human” is frequently identified as the ground for human rights abuses. Besides, the conceptualization of the latter concepts implies the individual as the maker and author of her own life; embraces methods bestowing the individuals “capable”. Finally, within the 2007-2010 conferences, the conceptualization of “common ground of human” is prominent in grounding of the idea of human rights.

Reconstruction of differences under more encompassing identity positions, for instance, by redefining the system of rights in Turkey on the basis of “constitutional citizenship” would be convenient for recognizing different identity positions without making them “absolute”.

Secondly, the question that “how do representations of the idea of human rights as civil and political rights and economic, social and cultural rights shifts in different political contexts?” is tried to be answered within the framework of this study. The 1998-2002 conferences are making a significant emphasis on the necessity to define human rights in its “integrity” and as “basic rights” of the individual. The intertwined nature of violations regarding the two sets of rights is indicated. The erosion on the domain of socio-economic rights is regarded as the consequence of the weakening of the welfare state with the rise of globalization and neo-liberal policies. The emphasis on the exclusion of socio-economic rights from the rights sphere is also maintained within the conferences of 2002-2007, and furthermore, a wider perspective is presented in suggestion of realization of social, economic and cultural rights as preconditions of the rights known as “negative”. In this framework, the relocation of the relationship of social assistance from the sphere of morality to the sphere of rights is prominent in pointing out social security (the domain of socio-cultural rights) as a public matter. Compared to the previous periods, the claims in respect of social, economic and cultural rights are decreased in the 2007-2010 conferences, while civil and political right claims underlined. There created a hierarchy between two sets of rights which is an issue declared within the conference texts in the form of self-criticism of the movement. The concentration of the movement on specific problem areas restricted to violation of civil and political rights is keeping apart the interpretation of the concept of human rights from an all-encompassing framework.

To end with, the question of “how does the construction of domestic human rights language varying amongst local and universal claims in respect of human rights within different political contexts?” is pointing out the question whether this movement constructs ideas and practices in respect of human rights from a local or a

universal basis. Human rights movements both ground their principles on the basis of universal discourse of human rights and at the same time constructs claims in respect of human rights from a local framework. In the 1998-2002 conferences, there is an emphasis on the need to discuss the “universality” of some rights such as “right to property” within the declaration. While international law and establishing relationships with universal knowledge and experiences are seen as an important source, at the same time, questioned on the basis of their compatibility with local claims. Finally, globalization is widely seen as a threat to the realization of human rights at the universal level. On the subjects of international and humanitarian law, the 2002-2007 conferences are taking a more critical stance compared to the previous period. While the criticism towards globalization and its social, economic and political effects is more intensive in the previous period, at the same time, international human rights law is frequently emphasized as an important source for the preservation of human rights both at the local and global levels. In the period 2002-2007, international human rights law is regarded more as a threat rather than a source for the protection of human rights. At the same time, the socially contingent nature of human rights is commonly emphasized in the texts. The 2007-2010 conferences are making a significant emphasis on the universality of human rights against the tendency of “essentialist identity politics” which are undermining shared human values and identities. As a final point, the need to construct a relationship between domestic and international agencies in equal terms is widely acknowledged within the conference texts of 2007-2010.

The narrow scope of the study enables an evaluation of the language of human rights remaining restricted to the ‘Human Rights Movement Conference’ texts and obstructs making general arguments about the representation of the idea of human rights by the human rights movement at other platforms such as publications made by the non-governmental domestic human rights organizations, the organizational principles stated by these associations and the press statements made by various actors of the movement. This study may be widened by including these research materials to the analysis of the data. Furthermore, this study is concentrating on the

domestic human rights movement's role in shaping the human rights discourse from a descriptive perspective. The question of the role of domestic human rights movement in shaping the policies at the domestic, regional and international levels is also a significant one which needs to be searched. Finally, the contextual exploration of the language of human rights in this study is limited to the realm of human rights movement. The comparisons between representation of the idea of human rights by the public authorities and contained by media along with the human rights movement will give a more comprehensive interpretation of the issue.

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<sup>i</sup> See

[http://www.ihd.org.tr/english/index.php?option=com\\_content&view=article&id=141&Itemid=48](http://www.ihd.org.tr/english/index.php?option=com_content&view=article&id=141&Itemid=48)

<sup>ii</sup> See <http://www.tihv.org.tr/index.php?about-hrft>

<sup>iii</sup> See <http://www.hyd.org.tr/?pid=175>

<sup>iv</sup> The pro-Islamist Welfare Party (Refah Partisi) was banned by the Constitutional Court in 1998 on the account of violation of secularism, similarly to its predecessors. See Celep (2012).

<sup>v</sup> The official death toll was 17 000 with more than 43 000 people injured, more than 250 000 people became displaced. The failure of the Turkish government to deal effectively with the country's earthquake hazard weakened people's confidence in state. See Jacoby & Özerdem (2008).

<sup>vi</sup> "The Commission report which paved the way for Turkey's promotion to candidate status at the Helsinki Council in December 1999 concluded that there are still 'serious shortcomings' in terms of human rights and the protection of minorities. When consideration is given to Turkey's candidature some of the biggest barriers to accession are thought to exist in the fields of democracy and human rights". See Rumford (2001).

<sup>vii</sup> Workers' Party of Kurdistan (PKK) declared unilateral ceasefire in 1999. See Watts. Abdullah Öcalan, leader of PKK, is captured in Nairobi and brought back to Turkey, an opportunity for government to "declare victory" over Kurdish rebels. See Ahmad (2003).

<sup>viii</sup> "Some 27 prisoners and their supporters have died as a result of death fasts initiated in protest over the Turkish government's decision to transfer political prisoners from dormitory-based prisons into the new single cell F-Type prisons. A further 30 political prisoners were killed in December 2000 as Turkish security forces violently attempted to transfer protesting prisoners to F-Type prisons". See Green (2002).

<sup>ix</sup> "The Turkish parliament passes an EU Adaptation Law (Avrupa Birliği Uyum Yasası—APD) of 15 Articles to meet the remaining requirements of the APD in the human rights field. The reforms include the abolition of the death penalty, the allowance of broadcasting in different languages

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and dialects used traditionally by Turkish citizens in their daily lives, and the improved education possibilities for minority languages. These recent efforts were thought to lead to positive decisions being taken by the European Council at its Copenhagen summit (December 2002)". See Erdemli (2010).

<sup>x</sup> "If one of the most interesting characteristics of the Turkish party system in the 1990s was the rapid rise of political Islam under the banner of the Welfare Party (RP), an equally, perhaps, even more, noteworthy development in the early 2000s is its transformation under the Justice and Development Party (Adalet ve Kalkınma Partisi, AKP) leadership into a moderate conservative democratic party. The AKP won the 3 November 2002 parliamentary elections with 34.3 per cent of the vote and almost two thirds (363) of the assembly seats". See Ozbudun (2009).

<sup>xi</sup> 25 people are killed and more than 200 injured when two car bombs explode near Istanbul's main synagogue. Days later two coordinated suicide bombings at the British consulate and a British bank in the city kill 28 people. <http://news.bbc.co.uk/2/hi/europe/1023189.stm>

<sup>xii</sup> See <http://www.hurriyetdailynews.com/default.aspx?pageid=438&n=pkk-to-end-ceasefire-2004-05-31>

<sup>xiii</sup> Hrant Dink, a prominent Turkish-Armenian editor of the bilingual Turkish-Armenian weekly *Agos*, was murdered outside his newspaper's offices in Istanbul. See <http://cpj.org/2007/01/turkisharmenian-editor-murdered-in-istanbul.php>. Numerous violations and irregularities occurred in the context of the investigation which were expressed repeatedly by the Friends of Hrant Platform and Fethiye Çetin, joint attorney of the Dink family, in the course of the trial. See <http://bianet.org/english/minorities/131762-hrant-dink-murder-trial---summary-of-discrepancies>

<sup>xiv</sup> The partial suspension of EU–Turkey accession negotiations in 2006 considerably slowed the reform process in Turkey. See Rumelili (2011).

<sup>xv</sup> The Constitutional Court of Turkey announced its decision to ban the Democratic Society Party (DTP) which was a legally recognized pro-Kurdish party along with barring 37 party members, including executives and non-executives, from participating in Turkish politics for five years. See <http://hrbrief.org/2010/02/turkish-constitutional-court-bans-kurdish-political-party/>

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**Appendix A: Tez Fotokopisi İzin Formu**

**ENSTİTÜ**

Fen Bilimleri Enstitüsü	<input type="checkbox"/>
Sosyal Bilimler Enstitüsü	<input type="checkbox"/>
Uygulamalı Matematik Enstitüsü	<input type="checkbox"/>
Enformatik Enstitüsü	<input type="checkbox"/>
Deniz Bilimleri Enstitüsü	<input type="checkbox"/>

**YAZARIN**

Soyadı : .....

Adı : .....

Bölümü : .....

**TEZİN ADI** (İngilizce) : .....

.....

**TEZİN TÜRÜ** : Yüksek Lisans  Doktora

Tezimin tamamı dünya çapında erişime açılsın ve kaynak gösterilmek şartıyla tezimin bir kısmı veya tamamının fotokopisi alınsın.

Tezimin tamamı yalnızca Orta Doğu Teknik Üniversitesi kullanıcılarının erişimine açılsın. (Bu seçenekle tezinizin fotokopisi ya da elektronik kopyası Kütüphane aracılığı ile ODTÜ dışına dağıtılmayacaktır.)

Tezim bir (1) yıl süreyle erişime kapalı olsun. (Bu seçenekle tezinizin fotokopisi ya da elektronik kopyası Kütüphane aracılığı ile ODTÜ dışına dağıtılmayacaktır.)

Yazarın imzası ..... Tarih .....