

# THE CRITIQUE OF UNIVERSAL HUMAN RIGHTS: WHO PROTECTS WHOM FROM WHOM?

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## **Abstract**

What is the difference between human rights as such and human rights as a discourse (Foucault). Althusser would call it as human rights as ideology. What does it mean to call a violation as “crime against humanity”? Who draws the limits? To what extent is it possible to question those limits? How come the “crime against humanity” is under the protection of law-that necessitates violence to be protected?

Human rights discourse, in its liberal democratic form, is founded upon three important parameters: universal nature of man, universality of the rights of human being. This notion of human rights posits that it strives for protecting human beings from being subjected to violence. In fact, by adding notions of protection and homogenized notion of violence adds to the main debate as constructive categories rather than being supplementary. In this presentation, we will explore and elaborate the limits of “humanity,” of “rights,” of violence,” and of protection.

Who are those “humans”? No abstract human in the world. Who has the right to have rights? Who is protected against violence? Can human rights give humans absolute protection from absolute violence?

These notions, emanating from Kantian universal ethics, dominant in the circles of human rights. The notion of “crime against humanity” as a constructive principle that governs the ethics of war, a crude version of violence,; international human rights courts, The Hague or similar institutions, by enforcing the notion of universal rights and creating this illusion, conceals the other types of violences against other socially, racially, religiously, politically etc. marked human beings by not counting them as human beings. This is the crux of our problematic around which we will attempt to weave our discourse.

# EVRENSEL İNSAN HAKLARININ ELEŞTİRİSİ: KİMİ KİMDEN KİM KORUYACAK?

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## Özet

İnsan hakları ile (Foucault'un deęimiyle) bir söylem olarak insan hakları arasındaki fark nedir? Althusser insan haklarını bir ideoloji olarak nitelendirmişti. Şiddeti "insanlığa karşı işlenmiş suç" olarak nitelendirmemizin anlamı nedir? Bunun sınırlarını kim belirliyor? Nereye kadar bu sınırları sorgulayabiliriz? "İnsanlığa karşı işlenmiş suç" nasıl şiddetten korunmayı sağlayacak bir hukukun koruması altına alınabilir? Bu tebliğ, evrensel insan hakları fikrinin hümanizm bağlamında temel varsayımlarından başlayarak, temel insan hakları aktivizminde analiz edilmeden bırakılmış bir problem olan insan hakları ile şiddet ilişkisini, egemenlik, istisna, ulus devlet ve mülteci kavramları bağlamında ele alacaktır.

## **THE CRITIQUE OF UNIVERSAL HUMAN RIGHTS: WHO PROTECTS WHOM FROM WHOM?**

To think about human rights is to start from its philosophico-historical critique. This attempt should start from its philosophical heritage, its premises, its relations to other traditions of thinking and its politico-social claims. If we start from the canonical question of cultural studies, it is to ask “who benefits from human rights?”

The answers to these questions may vary. The idea of universal human rights originates from western European tradition of secular humanism. This tradition is not a homogeneous tradition, but has different discontinuities, transformations and reformulation throughout the history. Starting from western natural law tradition that originates from Christian humanism, it continued to make sense in the context of deism, pantheism and secularism in relation to different theological assumptions that have resonances in political theories.

The history of universal human rights has different momentum in itself. Starting from natural law tradition to French Declaration of Rights of Man and Citizens, from American Declaration of Independence to positive law tradition, and eventually 1948 Human Rights Declaration of UN, the universal human rights idea had different connotations that change through the changing global political atmosphere.

Defending rights of man against absolute monarchies (Locke) or defending the rightless, stateless and deportable refugees against the states in-between the two world wars (Arendt), and defending citizens' rights against the states (Ignatieff) in post-WWII conditions, analyzing the condition of post-modern subjects against the biopolitical powers has produced different problems.

In our discussion, we will start from the basic assumption of universal human rights ideas in the context of humanism; we will present a basic problem that has left to be unanalyzed in the mainstream human rights activism: that is the relationship between human rights and the violence by referring to the concepts of sovereignty, exception, nation-states and refugees.

### **Universal Human rights**

The idea of universal human rights arises from the Western tradition of humanism that puts the human in the center of its metaphysics. Making human as the measure of everything, the universal human rights idea resonates the Renaissance humanism in a different context. Including idealist, transcendental, materialist, anarchist, catholic or communist variants, humanism is an untilted belief in human nature. This very idea, believing everything in the world is available for human's instrumental use, depends on ontological superiority of human against other species, environment and spirituality. Human is the only measure for himself.

Universal human rights idea originated from these beliefs. However, the critiques of this notion became widespread after the experience of the Holocaust, that is the return of colonialism to the home. Hannah Arendt, discussing the conditions of refugees in Europe, not claiming the former condition of Muslim refugees had to flee from ex-Ottoman soil to Ottoman State, points out that because these refugees were stateless, rightless and most tragically deportable, they were out of the pale of law (Arendt, ...). This was the point that had long been dreamed by the humanists: a man who is deprived of any rights or relations, but becomes a pure, abstract, naked human. The dream of the humanist dream, thus, turned into the nightmare of other people in Europe.

Being a secular humanist is not bad or evil per se, but it is bad, because it produces legitimacy for any kind of discrimination against other people in the name of humanity who were not enough human. These people were slaves (Thomas Jefferson as the champion of the human rights own tens of slaves), savages (justification of the legal appropriation of America), barbarians (Muslims in the eye of Serbians), fundamentalists (Chechens), less educated primitives (colonial people from all

around the world) etc.. This is the basis of humanism that leads to the idea of universal human rights.

Humanism therefore is burdened with racism, western supremacism, sexism etc. and cannot even offer a “good life” to their own people, but seeks to colonize whoever finds around it. Human rights activists are also aware of this problem. This very awareness, in the last two decades paved the way for a revised humanism in different forms. One of the important attacks to the indifference of humanism, comes from Rorty. He criticizes this position as “human rights foundationalism” and offers an anti-foundational defense of human rights. His offer depends on the rejection of ‘universal human rights’ in favor of ‘human rights culture’ that assumes the human rights culture has nothing to do with human nature, and constructed, but also necessary for the protection of fellow-people from violence. Ignatieff, who occupies an important position in the last discussion on his human rights minimalism defends a similar position and to offer a human rights activism not on the basis of human nature but on minimum standards to protect individuals from violence. Charles Taylor, similarly, criticizes the humanist foundation of human rights, and offers an “Unforced international consensus on human rights” a form of “overlapping consensus.”

From our point of view, even though these attempts has to be appreciated for their comparatively “openness” to the other cultures, they are not able to produce a political critique of human rights. That is why, we prefer to use the word “human rights discourse” to more focus on the political character of the human rights discussion. Human rights discourse, for us, is a power discourse that works through inclusions, exclusion, laws, methods of legitimations, professionals, punishments, corrections etc. (Foucault AK 38-49). It is not a neutral, apolitical and ahistorical formation, but creates a form of totality, punishes, rewards, creates norms, and excludes and creates its ‘insanes.’”

If we differentiate the Universal Human Rights and Human Rights discourse we may have a better understanding of the debate. We have to acknowledge that the lexicon of modern human rights discourse has been developed within the western political and intellectual tradition.

Now, it seems that different forms of critiques of humanism are also able to critique the humanist basis of human rights discourse, but unable show the political consequences of these problem. In order to focus on this problematic, we will focus on violence in general, to produce a better and a political critique.

Aside from the classical political theorists who saw the problem of violence and conflict at the center of politics such as Machiavelli and Hobbes, Walter Benjamin is one of the first who emphasizes the importance of violence and its relation to politics.

Walter Benjamin locates his “historico-philosophical view of law” as a critique to destabilize the conventional arguments on law and violence (p, 279). What makes law, as a subject to a critique is this unnatural character of violence and law that inaugurate a different relation among men. For Benjamin, violence is inescapable horizon of law and is possible under this violence that makes society possible. Benjamin’s reading of violence, separates it from the defenders of natural law that sees violence as a consequence of nature, and from positive law that sees violence as a product of history. Benjamin’s position opens up a space where the violence can be put in a more politico-theological space. Violence has to be analyzed independently from its cases .

Law-making violence offers us a new law by applying to justice instead of law. It may justify its violence in this brand new law. At the same time, this founding moment of new law is an instance of non-law. This moment is the pure performative moment of law, which suspends the old law, but it is not the part of the new law. Because new law could be possible after the moment of the performative act. Norms and rules of old law are totally unreadable in this new law.

Law-preserving violence; whereas, appears as a threatening force rather than being deterrent, not because of its force, but because of the “uncertainty of legal threat”. Threat is the very “origin” of law (p, 285). “exercise of violence over life and death more than in any legal act, law reaffirms

itself" (p, 286). Benjamin discusses the situation of police in democratic societies to show the combination of law-making and law-preserving violence in one institution.

Similar to Benjamin, Carl Schmitt discusses the violence in the context of modern theory of state. The omnipotent God turns into an omnipotent lawgiver (PT 36) By seeing a continuation between theological beliefs and their secularized versions, Schmitt defines violence not just as a historical or sociological reality, but as a politico-theological construct. Schmitt's famous formula "Sovereign is who decides on the exception" finds its roots in this analysis (PT 5). Violence, thus cannot be seen just as violation of rights or as an exception, but it arises from the very condition of exceptionality. Exception is not an exception that can be ruled out or governed, but by definition, with its full meaning, is an exception that cannot be foreseen, limited legitimized (PT 7) or predicted. Both Schmitt and Benjamin, thus locates violence in a messianic context that long has been exiled from Western thinking by the effect of positivism and pantheism .

In doing so, Schmitt understand modern sovereignty of the states not as a monopoly to "coerce or to rule but as the monopoly to decide" (13). Sovereign is the one who has a right and power to decide when and how the law is suspended. The liberal-constitutional approach, thus, trying to eliminate the exceptional rule of the sovereign, attempted to repress the question of sovereignty (PT11).

Deist thinking of sovereign remained outside of the world as an engineer of the world, cleaned the miracles from life, and rejected the importance of decisionistic character of the sovereign and transfers its power to general will (47-48). Through the pantheistic theology and the notions of immanence, the theory of democracy is consolidated (50). This marks a turning point from monarchical legitimacy to democratic democracy. Even though these political theologies attempted to repress the question of sovereignty, the problem showed itself best in the 20th century nation-states.

As opposed to her the Human Condition, that violence as a pre-political act that deteriorates the political life (30), which is theoretically correct, but practically mixes "is" with "ought to," Arendt understand violence as the ontological status of the nation state in her article "Decline of Nation-state." Hannah Arendt is another figure who was able to contextualize the problem of refugees and human rights into the context of nation-state and violence. Arendt's questioning starts from the conditions of the refugees immediately after the WWI. According to new founded nation-states, some people left outside of the "nation" because of variety reasons, and thus expelled from their born countries. This massive population changes left some people "stateless" that led to the problem of being "rightless" in the modern world. In this very example, Arendt sees the intrinsic relationship between two. Being deprived of one's own once thought as "inalienable rights" left undeletable traces in the political arena, eventually preparing the ground for Holocaust.

These social movements was a sign of the coming end of the illusion of the "rights of Man" (155). There were no rights of men, but citizens. Only citizens were able to enjoy the protection of law. Refugees, were stateless, unprotected, rightless and "undeportable" (156). The profile of the refugee, since he has to transgress the law constantly due to lack of work permit of right to residence, turn into a criminal (166), and leaves its destiny to the mercy of police rule. Arendt's reference to police as the "lawgiver", carries the tone of Benjamin's analysis of the police in the democratic societies. Police therefore, "had received an authority to act on its own, to rule directly over people" (167. the police enforces the law with its violence and sovereignty).

The transformation from the monarchical and theological era, to humanist era as putting the man into very center of the law and legitimacy created "man" as the only sovereign (171). This sovereignty, with the democratic governments were transferred to "people" to "nations" (171). As a consequence if one is not form the people or the nation came to be seen as a real human but not having any rights (172). Supposedly universal and inalienable human rights, thus, turned into "civil rights" that was endowed to only citizens (173). Humans, thus, not citizens were deprived of all their rights, because they did not have any community to seek for asylum or protection. They were outside of the pale of law(176). Only after the construction of organize humanity, one would be able to expelled from humanity and opened to any kind of violence (177). Then the famous quote comes:

“Man, it turns out, can lose all so-called Rights of Man without losing his essential quality as man, his human dignity” (177). The condition of refugee was the condition of human. “The world found nothing sacred in the abstract nakedness of being human” (179). The point where one becomes a human but nothing else, he loses all his political qualities and becomes human but nothing else (182).

Kristeva, following this line of discussion, depends the discussion of Arendt, and discusses the formation of “stranger” in the political societies. The foreigner in the modern political society is the outsider. Only the citizen can be a man and enjoy the human rights. In order every human being to enjoy the same rights, either there should be a “global united states of all former nation-states” or a “humanistic cosmopolitanisms” (98). Because the very nature of nation state depends on this exclusionary logic by endowing the special rights to its fellow citizens. Kristeva asks, “If consciously, one grants foreigners all the rights of man, what is actually left of such rights when one takes away from them the rights of the citizen?” (98).

In her close reading of the Declaration of the rights of Man and Citizen, Kristeva shows the slippage from man to citizen in numerous occasions concluding these rights were taken as civic duties (149). The free, equal, and natural man is actually the citizen and “immediately political, hence national” (150). Thus, Kristeva deduces that the Declaration is not about the human rights as such but about “national rights of people” (151).

Violence in Derrida becomes a performative, constructive act that forms the society itself. Thus violence is not a supplementary act between human, rather is a sort of unintentional act that works for its own sake by which society can be possible. If a man is not subjected to a law, he cannot be a subject. Not being subjected to a law is the reduction of man into animal where it is meaningless to talk about being just or unjust. Therefore, law is the first gesture of the very possibility of being subject (to a law).

For Derrida, without force it is impossible to have law. Law has to be enforced. Law as an authorized force enforces and justifies itself to be recognized as law. Enforceability of law is an essential prerequisite of any kind of law. Without force there is no enforceability or applicability of law. Then Derrida questions the relationship between law and justice. Justice also needs power to be taken as justice. Force without justice is tyrannical; justice without law contradicts itself. Therefore we also see that justice depends on force.

The founding moment of law is neither just nor unjust. This moment is a pure moment of performance. In this founding moment, there cannot be justice. There can be interpretative and performative force, violence. Inauguration of law is itself force and violence. In this moment, there is no anterior law or condition as a criterion for justice. Silence veils the founding violence of law (p. 14). Origin of law, thus, does not depend on anything but itself. This is not legal or illegal, but it exceeds any kind of ground and foundationalism by constructing itself “violence without a ground”. This creates the mystical foundation of authority for Derrida.

One of the important figures that saw the way in which the discourse of rights worked through the modern times was Foucault. Pointing out the importance of new-rising form of power, that is bio-power, Foucault focuses on the changing character of the regulatory controls that aims the population as its target. Not the taking life is important now, but the administration of body and the management of life. (Foucault Reader 262).

The discourse of rights, thus, appears as the changing notion of violence. Torture, now, as different than older spectacles, disappears from the public scene (DP 7). In the modern era, punitive systems depends on the reproduction of docile bodies, through corrective instruments, if fails to do so, eliminates the whole population.

Agamben, following the path of immanent ontology of the modern nation state, questions the rights of human in reference to sovereign power and bare life. Separating zoe, “simple fact of living”, from bios, “way of living proper to an individual or group”, re-questions the Arendt’s problematic. As Arendt show that, one would have become a human but nothing else, at the very moment of his

exclusion from the human community. Agamben argues, this being human was the very same thing as “zoe” i.e. bare life, but not bios.

Sovereign power has something common with homo sacer, man who can be killed but his killing wouldn't be homicide. Both are at the same time outside and inside of the system. Homo Sacer is the modern man, who becomes a human but nothing else. He is the one who has bare life. The condition of refugees, thus, is not an exception, but the very nature of the modern state. Humanitarian organization, thus, Agamben argues, by accepting the separation of rights of man from rights of citizen, maintains a secret solidarity with the modern sovereign bio-powers. (133). The politics turns into a total biopolitics, and refugee remains as the limit and the threshold of the modern nation-state (134). Therefore, for Agamben, what sovereign power does in the age of biopolitics is the constant “production of bare life as originary element and as threshold of articulation between nature and culture.

In doing so, Agamben ontologizes the condition of refugees under the rubric of homo sacer. Now on, he argues, every citizen is virtually a homo sacer.

Johan Galtung's analytical categorization of violence is useful for the purposes of deeper analysis of the issues related to violence and human rights violations. He differentiates the analytical layers of violence into three, on the tip of the iceberg stands the direct violence, which is visible form of violence but it stands on the layers of structural and cultural violence. Human rights debates usually deal with the direct and sometimes structural forms of violence without touching the deep-rooted background of cultural violence. It is easier to raise arguments against practices of direct violence and direct violations of human rights. It is more difficult to discuss and bring practical protections against deep-rooted forms of cultural violence. International human rights institutions are not prepared to understand and deal with the cultural forms of violence. With this debate we want to raise some questions related to the nature of Human Rights issue from a more comprehensive way.

Debates on cultural violence have to deal with the controversial issues of eurocentrism, orientalism, imperialism, religious intolerance and conflicting discourses of holy war. Especially after the last couple of years, the hegemonic discourses in the world politics have been shifting from endorsing Human rights and neo-liberal globalization to emphasizing global terror war and inter-cultural conflicts. There are more references to cultural and symbolic repertoires in contemporary conflicts. There is also an increasing level of discriminatory practices against people, who can be identified culturally as “Other” in many parts of the world. Some groups of “Humans” do not benefit from the protection of human rights norms and they have been exposed to different forms of violence. These violations have been normalized by use of certain discourses and symbolic references such as songs, cartoons and sermons. The concept of cultural violence and the means through which this form of violence is reproduced needs to be elaborated in order to understand the cultural conflicts of our age.

Galtung defines cultural violence as the aspects of culture, the symbolic sphere of human being's existence- that is exemplified by religion and ideology, language and art, empirical and formal science that can be used to justify or legitimize direct or structural violence (39). Stars, crosses and crescents; flags and anthems and military parades; the ubiquitous portraits of the leaders; inflammatory speeches, posters, cartoons and discourses of hatred may be the tools of cultural violence. Cultural violence is invisible, but it has a clear intent to harm, even kill, indirectly, through words and images. This is the violence of the intellectuals, journalists, priests and military training. Cultural violence defines certain acts of violence as good or acceptable, similarly it may also be used in order to legitimize certain forms of exploitations and unjust social and political practices.

Direct violence is a visible destructive form of violence that has the intention to do physical harm; it is the most feared form of violence but it is not necessarily the most destructive of all. As an example we can give first Gulf War, according to estimates 100 thousand Iraqis died in the first Gulf War because of the combat and the bombardment. On the other hand, according to UNICEF estimates more than 90 thousand Iraqis died every year after the war because of the medical

shortages that was a result of economic sanctions. The victims of these shortages were mostly Iraqi children. In 1996, US State Secretary of Madeline Albright made controversial remarks in an interview with on CBS's Sixty Minutes. She was asked by the CBS reporter

We have heard that half a million children have died. I mean, that's more children than died in Hiroshima. And, you know, is the price worth it?" Albright replied: "I think this is a very hard choice, but the price -- we think the price is worth it ."

This comment should not be considered as just a strategic calculation or just the most rational option. There is a cultural baggage behind the comment which makes killing of 500 thousand Iraqi kids legitimate course of action.

Structural violence is invisible form of violence, with no intention to harm directly. Structural violence kills slowly but it may be much more destructive than direct violence. For example today the life expectancy in Sweden is 80 years old whereas it is 34 years old in Botswana it is a clear manifestation of structural violence. Structural violence may be the frozen direct violence of past conquest and/or repression, like colonialism, slavery, and economic exploitation (Galtung). Structural violence may turn into an institutionalized form. Discourses of democratization, bringing civilization, freedom, bringing justice, faith or holy war may be the legitimizing tools of these structural violence.

It is often easier to recognize and challenge the direct violence, but the tools that are used to prevent the direct violence may be useless to prevent the structural and cultural violence. Today the main challenges to Human Rights are deep-rooted ideologies of discrimination and cultural intolerance. Galtung identified six cultural domains that constitute the cultural violence: religion, ideology, language and art, empirical and formal science (Galtung). The discrimination, hatred, intolerance and violation of HR have been nurtured by the discursive and performative practices through these channels. The significance of the Galtung's frame is that it intends to provide practical solutions and concrete mechanisms to challenge HR violation within the post-modern age. He simply shifts the domain of discussion from a HR debate to a more concrete debate on the challenges to world peace. HR debate is a philosophical and political debate rather than a legalistic debate. We will discuss the changing nature of the violence, we think that the HR debate should address the new challenges and threats.

### **Representations of Violence in the Postmodern Age**

In the contemporary era cultural violence is reproduced through postmodern instruments. Postmodern violence can be defined as the televised spectacles and all other cultural and symbolic forms of discrimination and the cultural practices that encourage direct and structural forms of violence over the groups of people whose rights are not being protected under the modern institutions of jurisdiction. With the decline of the established modern social institutions of control another battle have been fought over pre-modern categories of social organizations via the medium of hyper modern instruments such as media, internet, images and others forms (Hanssen ). Ethnic, religious minorities; immigrants and people with different political orientations became more visible with the improvements in the mass media and internet. Every time a crime or misdemeanor has been committed by a person from a minority community, identity of the person is also emphasized. Same attitude is not common if the same crime or misdemeanor have been committed by a member of majority community. News reporting or profiling of certain people may increase cultural violence. We also have to remember the residue of modern/conventional forms of cultural violence such as Eurocentrism, civilizing discourses, colonialism, Orientalism as well as Occidentalism on the contemporary debates. Modern forms of structural and cultural violence have not been debated and addressed yet but it started to reproduce itself with different forms. Cultural violence in postmodern era have been reproduced with the discourses of violence and discrimination.



Political Philosopher Beatrice Hanssen said that violence today while coercive is not physical but more insidious, yet nonetheless nefarious (Hanssen 174). Category of violence is not always manifest or visible. The more graphic representation of violence in our mediatized culture has been enacted through enunciatory and discursive practices. There should be more emphasis on the analysis of discursive spheres of violence. Most important concern today is the ever growing use of cultural references and discursive resources in the episodes of ethnic, religious and cultural conflicts. Hate radio in Rwanda, ideology of genocide in Bosnia, cartoon crisis and Islamophobia are some of the manifestations of this threat in contemporary age.

Immigrants, religious groups, ethnic minorities and children that are not protected with the laws of modern nation states have often been the victims of postmodern forms of rights violations. Some forms of cultural and symbolic violence can not be protected with the modern legal and political instruments. When these practices are evaluated through conventional modern political and legal institutions liberal concepts of freedom of speech and individual rights and liberties have been emphasized. Abstract definitions of universal human rights does not bring protection. It is difficult to try to prevent post-modern threats with the modern institutions and instruments. If we start to evaluate discursive practices of violence under the liberal definition of freedom of speech, we should also ask the question who are included within the domain of liberal polity?

### **Speech Acts and HR Discourses**

Speech act theory is associated with a series of lectures given at Harvard University in 1955 by the Oxford philosopher J. L. Austin (1911–60) and published posthumously in 1962 as *How to Do Things with Words*. According Austin utterances not only have a certain meaning, they also have force, that is, they are not only about things, they also do things. In other words talk/ language is action. Austin's specific formulation of speech act theory opens with a distinction between what he calls the "constative," an utterance used for stating things or conveying information, and the "performative," an utterance used for doing things or performing actions. For example the utterance by the judge "you are now divorced" does not convey information but perform an act that legally separates spouses from their legal tie of marriage.

According to Austin's scheme, utterances can be considered in terms of three features: (a) their locutionary or referential meaning (what they are about), (b) their illocutionary force (what the speaker does with them), and (c) their perlocutionary force (their effect on the hearer). For example if say you killed someone, we are not only describing the situation but also accusing the hearer of being a murderer. The emphasis in discourse analysis is on what talk is doing and achieving. Talk has a multiple function. The speaker may be insulting the hearer or may be constructing the identity of the hearer as murderer. What a person might be doing with talk depends on the other persons involved, the circumstances. The discourse analyst will look at discourse what is being done, not primarily for what it is about.

Performative quality of discourse, we have to consider the utterances on context in order to identify other functions. For example a newspaper article reported that China would observe the 50th anniversary of the Universal Declaration of Human Rights while continuing to crack down on dissidents (Wood and Kroger, 5). The headline read, "China's words on human rights louder than its actions." The claim that China defends human rights in words but not in actions only serves as an accusation that China is behaving against the standards of human rights conventions.

The function is central to discourse analysis. It requires some elaboration, in part because, like discourse and text, the term is used in a number of ways. What people are doing with their talk and text is important in the debates on discourse. Action may refer to anything that can be done using words, from connecting words and phrases to speech acts, including communication of ideas, attitudes, and meaning. Generally speaking, the topic for discourse analysts is more properly framed not as language or talk, but on terms of what people are doing with words.

Judith Butler's, the deconstructive reading of speech act theory has turned Austin's assumption of a self-present, intending speaker inside out: the individual speaker has been replaced by social discourse, and the individual speech act has given way to a generalized performativity. The effects of power, produced by iteration itself, include, for instance, the infliction of pain by hate speech, the maintenance of hierarchies and "norms" of race, gender, and sexuality, and the phenomenon of gendering itself, which Butler describes as "a reiterative and citational practice by which discourse produces the effects that it names," power manifesting itself in materiality through the imposition of regulatory norms (Bodies That Matter 2).

### **Freedom of Speech vs Discourse of Violence**

Our proposal does not emphasize chaos under the threat of post-modern forms of cultural violence; we rather suggest thinking outside the boundaries of liberal understanding of HR and political order. Liberal thinkers emphasize free speech, and public deliberation for reaching a consensus whereas post-structuralists shift the burden from speech to discourse and culturally defined discursive practices, which are said to defy the speaker's claims to culturally defined discursive practices. Liberals argue that speech counts as the organ of transparency, political power, and, in the final analysis it serves the advancement of universal freedom (Hanssen 160). Speech constantly constitutes the privileged medium within which freedom is executed and performed.

Liberalism's instrumental, referential, and freedom-producing understanding of language has been questioned by poststructuralist thinkers. Poststructuralists argue that freedom, discrimination and violence can be reproduced with same instruments. Discourses, speech acts and performative practices of violence as well as instruments of power are emphasized in the writings of poststructuralist thinkers. There is a controversy on the subject of pornography not everybody consider pornography within the domain of freedom of speech. There is a special consensus on the status of child pornography, not many people consider it as a freedom of speech. Pornography provides the instruments of domination over another body and soul, it is not about the freedom of speech or sexual freedom. According to some feminist thinkers it is systematically practiced and ideologically endorsed (Dworkin).

Habermas' rationalist theory of communicative action attempts to attain universalist consensus on the instrumental use of speech to reach political/cultural consensus. It does not provide a clue what to do if there is not a consensus on a universalistic instrumental rationality. He argues that argumentation oriented toward reaching understanding, with its implicit commitment to assent to the force of best reasons, is the inner telos of human language and can provide an ideal of undistorted (not coercive or manipulative) communication. Habermas's discourse ethics does not provide how to challenge power-determined modalities of inequality among speech partners how to negotiate the differences. Today human rights discourse is also presented as a key humanistic instrument that will ensure universal consensus on certain set of rights.

As an abstract concept human rights has been presented as the key to the peoples of the non-western societies, just like the concept of civilization, which had been used by the colonizers for more than a century starting early nineteenth century. We have to bring divide it into political, social, economic and cultural rights just like that is used in the western societies. We can than start to talk about the rights in a more concrete ways. The same concepts and procedures of deliberation does not bring the form of freedom that is experiences among the western subjects.

### **Politicizing the Debate**

The main line of the argument around the HR debates are whether there are universal rights or are they defined culturally. We have to move to another debate about the political debates. Why can not Turkish NGO's or organizations monitor the Human Rights violations and records in US or in

France. Why does the French have a luxury to monitor Zimbabwe or Americans have a luxury to monitor human rights violations in Afghanistan. The argument is that the organizations are civil and international, but subjects of monitoring are non-western societies. The procedural diversity and multiculturalism may bring a legitimacy to the process. The principle of legitimacy should also be emphasized on the HR diplomacy.

Poststructuralism reverses one of the underpinnings of humanistic tradition. Hierarchy of ontological priority subject and the language have been reversed according to the tradition of Saussure, Levi Strauss, Lacan, and Foucault. Subject being formed by language to be caught in a potentially ideological, private, antihumanistic apparatus of discursive subjection. (Subject formation). Althusser's interpellation. Derrida turned every speech act into a citation or iteration "within a general iterability" whose disruptive force authorized but also interfered with communication. Bourdieu, uncovered "illocutionary force" a magical mystical power, that speech act theory ascribed to words, arguing that such power, in reality, was generated by societal, and hence extra-linguistic, conditions (172). Bourdieu understood social relations as symbolic interactions or "relations of symbolic power," that is, actualizations of power relations between speakers and their respective groups (172). Invalidating the claims that use of language primarily served communication was the conscious and unconscious "pursuit of symbolic profit" that regulated speech acts. Bourdieu vs Derrida: sociological approach that favors extralinguistic symbolic capital, the other endorsing an intralinguistic operation of force. Butler believed in the transformative role of language .

Zizek's "The Violence of the Liberal Democracy", attacked liberalism's commitment to universalism, whose historical blindness, and intolerance towards, cultural otherness is thought to have numbed its analytical acumen when it comes to understanding contemporary global crises. To complicate political matters even more, a similar rhetoric of universalism is reported to return, in a strangely adapted, mutated form, in the electoral campaigns and political pamphlets of neo-racist, populist demagogues, such as Le Pen. Those racist discourse is moving towards the mainstream politics in the western democracies this is a remarkable threat but this process have been dangerous. Linguistic or discursive violence must remain at odds with the foundational premises that sustain liberal definitions of political speech.

## **Conclusion**

Reading human rights discourse with a political critique is important to produce a critique of human rights discourse which is not just a amalgamation of thoughts or naïve assumption, but attempt to hegemonize a particular "good life" over others. The problem mainly arises from HR discourses blindness to the problem of violence. If the necessity of violence can be shown, it is possible to produce alternatives to this discourse. However, this violence should also go hand in hand with the critique of Eurocentrism. HR discourse, thus, as a sign of western supremacist discourse, shows the limits of its own supremacism by failing to deal with the cultures of "others." This failure itself would be a starting point to the possibility of politics.