

Review Article

The Impact of Social Darwinism on the Western Legal System in the Interwar Period

İki Dünya Savaşı Arası Dönemde Batı Hukuk Sisteminde Sosyal Darwinizmin Etkisi

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Abstract

This study examines how Social Darwinism shaped Western legal systems in the period between the First and Second World Wars. The application of Darwinian natural selection to social life—particularly through the rise of the eugenics movement—provided a purportedly “scientific” basis for legal interventions grounded in racial hierarchy, public health, and social classification. In this context, Social Darwinism informed mental health, family, and citizenship laws in the United Kingdom; immigration quotas, anti-miscegenation statutes, and compulsory sterilization policies in the United States; and radical racial legislation during the Nazi era in Germany. Similar sterilization programs emerged in several other countries, including Sweden, Norway, Finland, Canada, and Japan. In early Republican Turkey, Social Darwinist debates influenced academic and intellectual discussions, though they did not translate into extensive biopolitical legal practices comparable to those in Western states. Overall, the study argues that Social Darwinism legitimized racist and exclusionary legal measures under the guise of scientific objectivity, and that understanding this legacy is crucial for interpreting the post-World War II development of human rights norms.

Keywords: Social Darwinism, West, Law, Eugenics.

Öz

Bu çalışma, sosyal Darwinizmin I. ve II. Dünya Savaşları arasındaki dönemde Batı hukuk sistemlerini nasıl şekillendirdiğini incelemektedir. Darwin'in doğal seçim kuramının toplumsal alana uyarlanmasıyla ortaya çıkan sosyal Darwinist yaklaşım, özellikle eugenics hareketi üzerinden hukukta ırk, sağlık ve toplumsal hiyerarşi temelli müdahaleleri meşrulaştırmıştır. İngiltere'de eugenics düşüncesi zihinsel sağlık, aile hukuku ve vatandaşlık düzenlemelerine; ABD'de göç kotaları, ırklar arası evlilik yasakları ve zorunlu sterilizasyon uygulamalarına; Almanya'da ise Nazi döneminde ırk saflığını korumaya yönelik radikal yasal düzenlemelere dönüşmüştür. İsveç, Norveç, Finlandiya, Kanada ve Japonya gibi ülkelerde de benzer sterilizasyon programları uygulanmıştır. Erken Cumhuriyet Türkiye'sinde sosyal Darwinist tartışmalar akademik düzeyde etkili olmuş, ancak Batı'dakine benzer kapsamlı biyopolitik uygulamalara dönüşmemiştir. Çalışma, sosyal Darwinizmin hukuk aracılığıyla ırkçı ve ayrımcı politikaları “bilimsel” gerekçelerle meşrulaştırdığı sonucuna ulaşmakta ve insan hakları düşüncesinin II. Dünya Savaşı sonrası yönelimlerinin bu tarihsel miras üzerinden anlaşılabilirliğini vurgulamaktadır.

Anahtar Kelimeler: Sosyal Darwinizm, Hukuk, Öjenizm, Irk Islahı.

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1. Introduction

Charles Robert Darwin's 1859 study, *On the Origin of Species*, explained the emergence of other living species, excluding humans, through the theory of evolution based on natural selection. This work attempted to explain the emergence of living species not through creation, but through evolution. Darwin's 1871 study, *The Descent of Man*, included humans in the theory of evolution and explained the ontological nature of humans outside of divine explanations. With this theory, humans were reduced to biology, and their place in the universe began to be defined in this way. The theory of evolution based on natural selection was not limited to the field of science but also permeated other areas of human life. This is because explanations of the ancient question of where humans came from became inherent and intrinsic to the answer of how to live today.

Social Darwinism, which took shape in the late 19th century, emerged as an adaptation of Darwin's theory of evolution based on natural selection to the social sphere. This school of thought, shaped around Herbert Spencer's concept of 'survival of the fittest', gained widespread acceptance in Western societies in the first half of the 20th century (Hofstadter, 1944, p. 6-7). Although Social Darwinism is defined as the adaptation of Darwin's theories to the social sciences and fields, Spencer contributed significantly to this idea. Spencer argued that the theory of evolution existed universally in all areas of life (Spencer, 2009, pp. 17-24). This idea was quite popular in the second half of the 19th century and the first half of the 20th century. Legal science and policies were also affected by this.

Social Darwinism was an important factor in shaping legal systems between the two world wars, particularly serving as the basis for legal regulations that legitimized discrimination based on race, disability, and social class. The economic and political crisis that emerged in Europe after World War I encouraged the search for "scientific" methods of social solutions. In this context, Social Darwinism provided an ideological framework that shaped legal regulations for the "improvement" of societies (Weikart, 2004, pp. 15).

One of the first instances of social Darwinism finding its counterpart in the legal sphere occurred in France in 1878. Two young men, one studying economics and the other medicine, brutally murdered a woman named Madame Gillet, a milk seller, for her money. This murder and the trial process had a significant impact in France at the time. This was no ordinary case. The reason for the murder was explained by the education the young men had received. The medical student had recently given a lecture on Darwinism and Religion, arguing that food was scarce in the world and that it was therefore the natural right of the strong to take from the weak in order to survive. In court, the defense attorneys argued that their clients' commission of this crime was influenced by Darwinism (Clark, 1984, pp. 47-50). On this occasion, Darwinism entered into heated debate in the legal arena, spreading widely with both favorable and unfavorable opinions.

Legal theorists influenced by social Darwinist views argued that social progress would occur through natural selection and that the law should support this process. In his work *The Riddle of the Universe* (1899), German thinker Ernst Haeckel emphasized that law must be consistent with biological laws and defended legal regulations that supported the elimination of the "unfit" (Weikart, 2004, pp.102-103). The theory of evolution, explained by the ideas of natural selection and survival of the fittest, claims to have solved the laws of nature, and thinkers from different scientific disciplines who defend it have begun to produce works emphasizing the penetration of this view into related fields.

Oliver Wendell Holmes Jr. was one of the most important representatives of social Darwinist views in American legal thought. In his study *The Common Law* (1881), Holmes argued that law developed through an evolutionary process and was shaped according to social needs. Holmes' views were highly influential in the decisions of the US Supreme Court during the interwar period (Thomas, 2001, pp. 45-47). For a long period, this Supreme Court issued supportive rulings in the process of prohibiting interracial marriage so that the "purity" of the white race would not be compromised (Sohoni, 2007, pp. 587-588).

Hans Kelsen, one of the pioneers of legal positivism, argued in his study *Pure Theory of Law* (1934) that law is a normative science, asserting that the content of legal norms is independent of moral values. This approach facilitated the reflection of social Darwinist ideas in legal regulations, as the understanding that legal norms could be accepted without moral evaluation paved the way for the

legitimization of racist and discriminatory laws (Paulson, 1992, pp. 325-326). These and similar ideas eventually became a source of legitimacy for authoritarian leaders, leading to the emergence of race-based laws and the defense of imperialism as a natural state of affairs.

The social Darwinist concept that found the most ground in law during the interwar period was eugenics. Translated into Turkish as ‘ırk ıslahı’ (racial improvement) this concept formed the social Darwinist basis for legal regulations that led to numerous practices, from abortion laws to sterilization laws, from marriage prohibitions to the killing of individuals. The eugenics movement, as an understanding that aimed to eliminate “undesirable” genetic traits in order to improve the “quality” of society, was one of the most concrete manifestations of social Darwinism (Ergün, 2023, pp. 111-114). This movement, pioneered by Francis Galton, formed the basis for legal regulations in many Western countries during the interwar period (Kevles, 1985, pp. 3-4). The eugenics theory formulated by Francis Galton in 1883 represents the practical application of social Darwinist thought. Galton, Darwin's half-cousin, argued that “scientific” methods should be used to “improve the human race” (Kevles, 1985, pp. 12). Under these laws, hundreds of thousands of people were sterilized, killed, restricted in their marriage choices, and subjected to many forms of social coercion.

Eric Hobsbawm defined a long period of time, including the interwar period in Western societies, as “the age of catastrophe” (Hobsbawm, 1995, p. 19). This period is also known as a time when non-Western societies, particularly Türkiye, underwent a process of modernization by following the example of the West. Therefore, understanding this period becomes even more important. One of the areas that modernizing societies most frequently drew upon and adopted from the West in order to divide their social space was law. Zafer Toprak explains the Turkish example in this regard as follows (2019, p. 5): “Between the two world wars, during the catastrophic era of the West, Türkiye would experience its own ‘new’ and its own ‘enlightenment’.” In this context, this study aims to reveal the social Darwinist influence on legal systems in Western countries during the interwar period. It also aspires to pave the way for other studies that will explain the extent to which non-Western societies that modernized by following the West's example were also influenced by social Darwinism during the same period.

2. Methodology

This study examines the influence of social Darwinism on the Western legal system during the interwar period, specifically between 1918 and 1939. While adhering to this temporal framework, the study also references earlier periods in the context of the historical roots of this phenomenon. The research was conducted using both primary and secondary sources: laws of the period, court decisions, government reports, political speeches, periodicals, and academic publications were utilized as sources. First, the manifestations of social Darwinism in England, the country where it originated, were examined. Subsequently, legal texts and practices in Nazi Germany, where social Darwinism was adopted as state policy, were discussed. After discussing its manifestations in the United States, another key country of the era, examples from other Western nations were provided. Additionally, the study briefly touched upon its influence in non-Western countries such as Turkey and Japan.

The study employed the documentation method, one of the qualitative research methods. This method aims to obtain information through the systematic analysis of existing written, visual, or digital documents (Yıldırım & Şimşek, 2021, p. 189). Data was obtained from various sources, including laws of the period, court decisions, government reports, political speeches, periodicals, and academic publications (Bowen, 2009, p. 27). The documentation method is a qualitative research method aimed at extracting meaningful data from existing documents. Merriam (2009, p. 150) defines this method as “the process of systematically examining documents related to the research topic.” In this process, documents are linked to the research’s conceptual framework and interpreted in terms of themes. The objective is to uncover the meanings within the documents, understand historical processes, or assess the social impacts of existing policies (Bowen, 2009, p. 30). These sources were examined using the documentation method to understand how social Darwinist thought was translated into legal norms, through which concepts it was legitimized, and what the social consequences were.

3. Social Darwinism in England: The Adaptation Of Natural Selection To Society

Towards the end of the 18th century, a law to protect the poor was proposed in England. This proposed law was met with opposition from the wealthy classes. They asked Thomas Robert Malthus to explain

why they believed this situation was wrong, and he wrote his work *An Essay on the Principle of Population* (Lewontin, 2015, p. 21). In this work, Malthus argued that helping the poor would encourage population growth and lead to the depletion of resources (Malthus, 1798, p. 15). Therefore, he was “scientifically” opposed to helping the poor. With this work, Malthus indirectly introduced the idea of social Darwinism into the English legal system. When Darwin proposed the idea of natural selection, he explicitly stated that he was influenced by Malthus (Darwin, 1975, p. 87).

Social Darwinism and eugenics found a strong following in British intellectual circles at the turn of the 20th century and became an institutionalized movement, particularly through the work of Francis Galton. The interwar period was the peak of eugenic thinking in England. The Eugenics Education Society (later the Eugenics Society) directly influenced academic, political, and legal circles (Paul, 1995, pp. 150–155).

In England, the eugenics movement spread so widely that it ceased to be a scientific debate and became a matter of policy-making. Galton's concept of “hereditary genius” produced a framework that could legitimize legal interventions by arguing that social order should be shaped according to hereditary abilities (Galton, 1869, pp. 34–41).

The influence of eugenics among British lawyers in the 1920s and 1930s was particularly evident in three areas: Mental Health and Guardianship Law, Family and Marriage Law, Immigration and Citizenship Regulations. Throughout this period, eugenic arguments were discussed under headings such as “protection of society” and “maintenance of racial capacity” (Soloway, 1990, pp. 95–98).

One of the important texts in which the social Darwinist approach found its legal counterpart in England is the Mental Deficiency Act. Although the law came into force before World War I, it became the basis for eugenic practices during the interwar period. The law made it possible for individuals defined as “mentally defective” to be placed under state supervision. Although the law did not include sterilization, amendments in this direction were debated repeatedly in parliament (Thomson, 1998, p. 70).

In addition, the 1929 Royal Commission on Lunacy and Mental Disorder report in England contained sections arguing that mentally disabled individuals posed a threat to “racial quality” (Royal Commission, 1929, pp. 112–118).

The first regulations drafted within a truly “racial” framework were laws such as the Aliens Restriction Act 1919 and the Special Restriction (Irish Free State) Act 1925. In parliamentary debates, the justification for protecting the “British stock” was explicitly linked to eugenic discourse (Gould, 1981, pp. 239–240).

Between the two world wars, the Eugenics Society was the institution that openly advocated social Darwinism and eugenics, one of its most prominent manifestations, in England. The Eugenics Society was an influential organization at the beginning of the 20th century, known today as “The Galton Institute.” It was an organization founded in England in 1907 to promote eugenic thinking scientifically, socially, and politically. The organization aimed to spread Francis Galton's eugenic ideas, which included a controversial and ethically problematic approach such as “encouraging the reproduction of people with desirable traits and preventing the spread of undesirable traits.” The Eugenics Society prepared reports, parliamentary presentations, and expert witness reports to influence the legal system. The 1931 Sterilisation Bill was drafted directly by this society but did not become law due to public opposition (Kevles, 1985, p. 98).

Although sterilization legislation was not enacted in Britain, local authorities carried out de facto, medically based sterilization practices, which were conducted in legal gray areas (Macnicol, 1989, p. 545).

4. Social Darwinism in Germany: The Law of Eugenics

When social Darwinism is mentioned in literature, Germany is the first country that comes to mind. The most important reason for this is the adoption of Social Darwinism, and one of its most important concepts, eugenics, as state policy during Hitler's era. However, Germany's legal exposure to social Darwinism dates back to before Hitler's era. During the Weimar Republic (1919-1933), Social Darwinist ideas were widely accepted in academic circles and legal literature in Germany. Karl Binding and Alfred

Hoche's study, *Permission for the Destruction of Life Not Worth Living* (1920), provided a legal framework advocating for the termination of lives defined as "worthless." This study was later used as legal justification for human killing (social rehabilitation) programs such as *Aktion T4* euthanasia during the Nazi era (Proctor, 1988, pp. 177-178).

Social Darwinist trend reached its peak during the Nazi era. The 'Law for the Prevention of Seed Containing Hereditary Diseases', enacted in 1933, systematized compulsory sterilization. *The Nuremberg Laws*, adopted in 1935, prohibited marriages between Jews and Germans in order to preserve racial 'purity'. Nazi legal theorist Carl Schmitt legitimized the racially based understanding of law by arguing that law was "the rule of life of the people" (Stolleis, 1998, pp. 237-239). Evaluating these and similar legal theories, legal regulations, and practices, Hodgson pointed to the "scientific" legitimacy provided by social Darwinism as the most important reason for the atrocities committed during the Nazi era (2004, p. 428). Adolf Hitler, who came to power in 1933 when he was elected Chancellor of Germany, ended both his rule and his life with his suicide at the end of World War II, and left unforgettable memories and suffering in German, European, and world political history for a long time, applied the laws of nature by adapting them to law. In his study *Mein Kampf*, he argued that he was acting according to the dictates of the laws of nature and "science" (Hitler, 2007, p. 254). Hitler argued that the offspring formed by the union of living beings that were not equivalent in many ways would not be healthy, and that such a situation was contrary to the laws of nature, since the laws of nature were designed to elevate living beings. Hitler believed that in such a situation, the roles of the strong and the weak would be confused, arguing that the role of the strong was to rule, and that any contrary action would deprive the strong of their rightful role (Hitler, 2007, pp. 254-257). Hitler was determined to accept the social Darwinist understanding of natural laws as truth and to apply this approach to both legal and social policies. Grounding his theoretical foundation in the social Darwinist 'scientific' approach of the time, Hitler based his social life ideals on power-based inferences he claimed existed in nature. Hitler believed that innate inequalities existed in nature due to differing abilities and traits, and he opposed the transformation of this 'natural' state into a compassionate one. According to him, it was impossible to find a cat compassionate towards mice or a fox 'kind-hearted' towards geese in nature. Believing that social life should be this way, Hitler believed in preventing combinations that would undermine the power of the Aryan race and preventing the defeat of the sick and weak. Hitler openly argued that nature only allows the survival of the strong and healthy, and that this adaptation to social life was a requirement of 'science' (Hitler, 2007, p. 255).

In Germany during Hitler's era, social structure was constructed according to a social Darwinist perspective, which Hitler interpreted in favor of his own Aryan race. During this period, many legal issues in Germany, from property ownership and acquisition to equal opportunity and quality of life, were divided according to those who met political and racial criteria (Geary, 2000, p. 59). Hitler deemed the extermination of Jews and Gypsies insufficient for racial hygiene and resorted to various "legal measures" to redesign society. Legal regulations were also introduced to prevent the reproduction of individuals of Aryan German origin, including those who were sick, disabled, psychologically ill, at risk of genetic instability, homeless, asocial, or morally problematic. Consequently, the 'Sterilization Law' was enacted in 1933. Under this legal framework, approximately 400,000 people were sterilized by 1939. Again, for the same reasons, 'Health Courts' were established, and people identified as hereditarily ill were forced to have abortions up to six months old by state force (Geary, 2000, p. 60; Friedlander, 1995, p. 118). Hitler adopted social Darwinism as his guiding principle and organized the social and legal structures accordingly. Social Darwinism, generally associated with Hitler and described for his practices, was not limited to Germany at the time; every country, depending on its own circumstances, applied this approach to its legal and social structures in different ways.

5. Immigration and Racial Laws in America: The Social Darwinist Division of Private Life

The Johnson-Reed Act, passed in the United States in 1924, introduced a quota system that restricted the entry of immigrants of certain national origins. This law was shaped by social Darwinist works such as Madison Grant's *The Passing of the Great Race* (1916) and reflected the notion of "Nordic" racial superiority (Spiro, 2009, pp. 208-210). This law is known to have included non-white races and the Japanese. This law sought to protect the white race in America from other races abroad (Fairchild 1924, pp. 662-664). Jaffe states that this situation was perceived as an indication of the "scientific" support

given to racist theory, and therefore was subject to considerable criticism (1956, p. 362). This was because racial discrimination played a decisive role in this law (Lee, 2010, p. 250). American whites began to be explicitly "protected" from other races through legal regulations.

Another legal regulation also sought to protect American whites from other races of color within the country. The first example of this was the "Anti-Miscegenation Laws," enacted in 1861. First implemented in Nevada, this legislation continued until 1967 and was implemented in a total of 14 states. This law aimed to prevent people of other races from marrying whites and thus "deteriorating" the bloodline (Sohoni, 2007, p. 587). Various fines and imprisonment penalties were stipulated for those who violated this law (Barnett, 1964, p. 95). This legal regulation was implemented until it was overturned by the Supreme Court in 1967, and numerous people were sentenced to prison terms and fines (Sohoni, 2007, pp. 587-589).

In America, while the immigration ban attempted to protect the white race from other races abroad, marriage bans within the country aimed to serve the same purpose. However, this was deemed insufficient, and the social Darwinist influence in legal regulations expanded even further. Another regulation in this regard, as in Germany, is sterilization laws. Contrary to popular belief, sterilization laws did not originate in Germany. The first legal regulation occurred in the United States. Mandatory sterilization laws, which began in America in 1907 and reached their peak in the 1930s, can be considered a direct reflection of Social Darwinist thought in the legal system. In 1907, Indiana became the first state to implement compulsory sterilization for individuals with mental disabilities and criminals. The constitutionality of this law has been the subject of serious debate in the United States. In 1927, in a court case known as "*Buck v. Bell*," the Supreme Court of the United States upheld the constitutionality of compulsory sterilization (Lombardo, 2008, p. 281). The statement in the decision, penned by Justice Oliver Wendell Holmes Jr., that "three generations of imbecile in a person's or family's history is sufficient to warrant sterilization" is quite striking, reflecting the legal understanding of the time (Lombardo, 2008, pp. 174-175). According to the judge, sterilization of a family with three generations of mentally disabled individuals was in the best interest of society. It is known that approximately 60,000 people were compulsorily sterilized in the United States between 1907 and the 1970s (Reilly, 2015, p. 56). Furthermore, the *Plessy v. Ferguson* (1896) decision, which affirmed the doctrine of "separate but equal"—that is, the recognition that races other than white are different from whites even if they are considered equal—was still in effect at the time and provided the legal basis for racial discrimination. Legal discrimination was legalized not only on the basis of race, but also on the basis of disability and social status (Whitman, 2017, pp. 34-35).

There are numerous examples illustrating the influence of social Darwinism in the American legal system. In particular, whether human ontological reality derives from creation or emerges through evolution has been a hotly debated issue. This debate has been the subject of American courts, as in *Buck v. Bell*. *The Scopes Trial*, which took place in Dayton, Tennessee, in the summer of 1925, is considered one of the most controversial legal proceedings in American history. This case, in which 24-year-old biology teacher John Thomas Scopes was tried for teaching the theory of evolution in his classroom in violation of the Tennessee state's "Butler Act" (a law prohibiting the teaching of evolution in schools), went beyond mere legal proceedings; it became a symbol of the social, cultural, and intellectual changes of the period (Larson, 1997, p. 89). During the Scopes Trial, both sides presented different approaches to Social Darwinist thought. While the defense argued that scientific progress and intellectual development were part of the process of social evolution, the prosecution argued that the preservation of traditional values was essential for social stability (Larson, 1997, p. 156). Social Darwinist thought formed not only the social application of biological evolutionary theory but also the theoretical framework for the political, economic, cultural, and legal changes of the period.

6. The Expansion of Eugenics: Examples from Different States

The most significant impact of Social Darwinism on the legal landscape manifested itself in eugenics and racism, the most popular of which were sterilization laws. Compulsory sterilization laws and practices, which numbered up to 400,000 in Germany and around 60,000 in the United States, also found their way into the laws of other countries. Eugenics laws were enacted during the interwar period and

even after 1945 in some countries. These laws aimed to improve the 'quality' of society by preventing the reproduction of individuals deemed 'socially unfit' (Broberg & Roll-Hansen, 1996, pp. 109-110).

Sweden was one of the countries that subjected its society to racial reform through sterilization laws. Sweden initiated a long-term program by enacting a sterilization law in 1934. Between 1934 and 1975, approximately 63,000 people were sterilized in Sweden. The Swedish eugenics program was characterized by its presentation by social democratic governments as part of their "welfare state" policies. The target groups in the Swedish program were the mentally disabled, individuals with "social problems," epilepsy, and other categories (Broberg & Roll-Hansen, 1996: 77-79). Denmark, which enacted a sterilization law in 1929, sterilized approximately 11,000 people between 1929 and 1967. The Danish program specifically targeted women, and 75% of those sterilized were registered as female (Koch, 1996, p. 145). Norway is another Scandinavian country with a sterilization law. Norway passed a similar law in 1934, sterilizing approximately 41,000 people between 1934 and 1977. The Norwegian program was characterized by targeting the Sami people, thus assuming the dimension of ethnic cleansing (Haave 1996, p. 134). Finland, with its sterilization law passed in 1935, sterilized approximately 8,000 people between 1935 and 1970 (Seeman, 2007, pp. 60-63). In Canada, systematic sterilization programs were implemented in two provinces, Alberta and British Columbia. The Alberta provincial government passed the "Sexual Sterilization Act" in 1928, sterilizing 2,834 people between 1929 and 1972 (Grekul et al., 2004, p. 358). In British Columbia, a similar law was passed in 1933, sterilizing approximately 400 people between 1933 and 1973 (Dyck, 2013, p. 89). A characteristic of Canadian programs is their systematic discrimination against Indigenous peoples. Twenty-five percent of those sterilized were of Indigenous descent, yet their proportion in the population was 2.5% (Chapman, 1977, p. 123). Sterilization laws were implemented in Western countries as well as in the Far East. Japan is the most well-known example. Japan initiated a sterilization program in 1940 by enacting the "National Eugenics Law." The program was expanded after World War II with the "Eugenics Protection Law" enacted in 1948 (Otsubo, 2008, p. 201). Between 1940 and 1996, approximately 25,000 Japanese people were compulsorily sterilized. Of this number, 70% were mentally disabled, 16% had hereditary diseases, and 14% were individuals with other illnesses (Suzuki, 2004, p. 267).

Sterilization laws are the most radical example of the transformation of the fundamental principle of Social Darwinism, 'survival of the fittest', into social policy. This approach argued that social "progress" could be achieved by dividing society into 'fit' and 'unfit' and preventing the reproduction of the 'unfit' (Leonard, 2016, p. 156). Social Darwinist thinkers used developments in biology, psychology, and sociology to give sterilization policies a scientific basis. By developing 'objective' criteria such as intelligence tests, craniometry, and family genealogy studies, they attempted to provide a scientific basis for discriminatory practices (Gould, 1981, p. 234). Social Darwinism, by presenting existing social hierarchies as natural and immutable, served as an ideology that maintained the existing order. In this context, sterilization laws were used as tools to reinforce the hegemony of the 'upper' classes over the 'lower' classes (Hofstadter, 1944, p. 201).

7. Eugenics and Anthropology Debates in Türkiye: The Search for a Sound Mind and Body

During the interwar period, as legal theories and practices in the West, influenced by the Social Darwinist paradigm, were moving in this direction, it was impossible to expect the new state, which took the West as its model and intended to modernize along these lines, to remain aloof from this. As Hobsbawm put it, the West was experiencing the 'age of catastrophe' during this period. In Toprak's words, the basin of civilization to which the young republic turned and embraced as its guide while searching for its own "new" was experiencing a catastrophe. This situation would be debated by the young state's intellectuals and, in some cases, find its reflection in practice. Therefore, examining the debates on eugenics in Türkiye, particularly in the legal context, during the interwar period will provide a better understanding of the subject.

It is particularly important to note that the debates surrounding social Darwinist arguments, particularly eugenics, in Türkiye during the interwar period have their historical roots in developments that took place during the late Ottoman period (Doğan, 2012, pp. 263-269). This study will examine the

discussions of social Darwinism and anthropology during the early Republican period, but within a limited legal framework.

One of the first studies on eugenics in Türkiye during the interwar period was Mustafa Rahmi Balaban's work, *Islâh-ı Irk*, published in 1923. In this work, Balaban argued that the scientific validity of eugenics in the West had been proven, that the laws of nature supported it, and that it was the most accurate method for ensuring the rapid evolution of the human race. He argued that the eugenic methods developed by Galton should be implemented by the state for the spiritual and physical perfection of humans and for social progress, and that social and legal policies should be developed in this regard (Balaban, 1923, cited in: Kalaycıoğulları & Akgündüz, 2019, pp. 93-95).

In her book *Medeni Bilgiler ve M.Kemal Atatürk'ün El Yazıları*, Atatürk's adopted daughter, Afet İnan, advocated for the state to enact policies and legal regulations to support the strong, not the weak, in the development of society. İnan argued that a society should protect those who possess the strength to work to live and provide the necessities of life. According to her, "the doors to parasitic existence must be closed." Otherwise, "a class of lazy people and beggars who find ways to appropriate the earnings of their workers is likely to emerge." According to İnan, the disadvantaged in society are humanity's "disgraces, unworthy of pity." Therefore, social laws should be designed accordingly (2010, p. 48). İnan completed a doctoral dissertation titled "L'Anatolie, le Pays de la "Race" Turque" (Anatolia; Homeland of the Turkish "Race") at the University of Geneva under the supervision of Prof. Dr. Eugène Pittard. İnan's involvement in this process was at Atatürk's behest and request (Toprak, 2012, p. 106). As part of this study, 64,000 women and men in Anatolia were surveyed and subjected to anthropological measurements (İnan, 1947, pp. 1, 69). In Pittard's words, this study is unprecedented in its scope, especially considering its Western counterparts (İnan, 1947, p. 5). This study, according to İnan, was made possible thanks to Atatürk's significant contributions and the use of state resources (İnan 1947, p. 5-6). The study was later translated into Turkish and published as *Türkiye Halkının Antropolojik Özellikleri ve Türkiye Tarihi* (The Anthropological Characters of the People of Türkiye and the History of Türkiye) by the Turkish Historical Society Printing House (Toprak 2012, p. 98). İnan advocated for the reorganization of society based on the anthropological findings he obtained and the need for legal regulations to be implemented in this context (İnan, 1947, pp. 10-11).

Besim Ömer Akalın, a prominent professor of medicine at Darülfünun and a former dean and rector, published a book in 1938 titled "How Should the Turkish Child Be Kept Alive?" This work comprehensively addressed the issue of eugenics, presented eugenic legal and social practices in the West as 'scientific' truth, and recommended that Türkiye take urgent steps, particularly in the legal arena. He advocated, in particular, for the eugenic policies implemented by Germany to be taken as examples for the reform of society (Akalın, 1938, as cited in: Eryücel, 2017, p. 136). Similarly, in a 1939 lecture titled "Eugenics," Mazhar Osman Uzman, Distinguished Professor of Mental Diseases at the Faculty of Medicine, suggested that the state take decisive steps for the biological reform of society, that legal regulations for this situation be implemented urgently, and that the practices of the contemporary Western civilization be adopted verbatim (Uzman, 1939, p. 4-5).

Hüseyin Cahit Oğuzoğlu, Professor of Civil Law at Ankara University's Faculty of Law and the university's fifth rector, stated in a 1939 conference titled "The Importance of Lineage in Civil Law" that lawyers, as well as doctors, had important responsibilities regarding racial renewal. Oğuzoğlu argued that those with genetically unstable conditions posed a significant social threat, that the reproduction of these individuals should be urgently prevented for the sake of social improvement, and that the state should immediately implement legal regulations in this regard (Oğuzoğlu, 1939, p. 65). Similarly, during the same period, numerous scientists in various fields advocated, with similar justifications, for the implementation of eugenics (racial renewal) practices implemented in the West in Türkiye and the establishment of legal regulations along these lines (Ergün, 2023, pp. 284-294). In Türkiye, in 1926, Turkish Penal Code No. 765, enacted under the title "Miscarriage and Crimes of Inducing Miscarriage," made miscarriages and abortions without state permission a serious crime (Turkish Penal Code 1926, pp. 468). An amendment to the relevant law in 1936 changed the name to "Crimes Against the Integrity and Health of the Race" (Eryücel, 2017, p. 138). For similar reasons, *Physical Education Law* (Beden Terbiyesi Kanunu) was enacted in 1938, making sports mandatory for

all segments of society, from villages to cities, through state intervention (Beden Terbiyesi Kanunu, 1938, p. 4-6).

While the title of this study refers to the Western world, the reason for including Turkey in the title and providing a relatively lengthy explanation is that Turkey's history over the past two centuries has been marked by attempts at "Westernization," and this process intensified particularly during the interwar period. Indeed, during the interwar period, Turkey turned its focus toward the West and sought to develop its social sphere—particularly its legal system—with the West as its center. Furthermore, Turkey ranks among the states that have experienced Westernization most intensely among non-Western societies. Staying true to the subject of this study, efforts have been made to convey the current debates. It is evident that serious scientific debates and research were conducted during this period, with various academics working on this topic and demanding legal practices similar to those in the West. While social Darwinist influences were partially reflected in the legal sphere in Turkey, efforts have been made to convey that the academic debates reached significant proportions.

8. Discussion and Conclusion: International Law and Imperialism: From Social Darwinism to "Human" Rights

From the second half of the 19th century onward, with the definition of humans reduced to their biology, the development of anthropology, the acceptance of eugenics as "scientific" truth, and the spread of racism, Western societies, which viewed themselves as superior to other races, viewed colonialism, also known as imperialism, as their natural right. By fundamentally dividing world societies into civilized and barbaric, Western countries, in this context, created "scientific" legitimacy for imperialism on an international scale. Britain was the country where imperialism conceptually emerged. Although imperialism entered literature in this country in the 1870s, the concept did not become popular until the 1890s (Hobsbawm, 1999, p. 71). Western countries, especially Britain, viewed exploiting societies other than themselves as their natural right. Moreover, from the second half of the 19th century onwards, Western countries had a habit of bringing dark-skinned indigenous people from the countries they colonized to their own countries and exhibiting them. They exhibited them in "human zoos" and described these Africans as "domesticated freaks" and "human monsters." It is also known that countless experiments were conducted on these people without their consent (Sánchez-Gómez, 2013, pp. 2-5).

Understanding what the concept of "human rights," frequently mentioned today, corresponds to and the historical contexts upon which it was founded will significantly contribute to a holistic understanding of this international concept. Because of their belief in the Social Darwinist paradigm, Westerners viewed these and similar practices as their own rights. Because they did not consider them "human," they never even considered them to have rights.

International law during the interwar period was also influenced by Social Darwinist thought. The Treaty of Versailles (1919) and the Covenant of the League of Nations established a hierarchical distinction between "civilized" and "backward" nations, ensuring the continuation of colonialism through the mandate system (Anghie, 2005, pp. 115-116). The concept of the "sacred trust of civilization," which appeared in the founding documents of the League of Nations, was used to legitimize the dominance of European powers over other societies. During this period, international law reflected the Social Darwinist understanding of the "hierarchy of civilization" (Mazower, 2009, pp. 66-67).

Following World War II, the influence of Social Darwinist thought on legal systems began to wane. The Nuremberg Tribunals revealed that the Nazi regime's racially based legal system led to crimes against humanity and encouraged a return to the concept of "natural law" (Priemel & Stiller, 2012, pp. 240-241). The "Universal Declaration of Human Rights," adopted in 1948, emphasized the principle that all people have equal rights and laid the foundation for a new legal paradigm that rejected Social Darwinist discrimination (Lauren, 2011, pp. 135-136). It does not seem possible to understand the meaning of legal concepts such as "human" rights and "equality" without knowing what the social Darwinist policies and legal regulations implemented in the period between the two world wars led to.

9. Final Notes

This study demonstrates that Social Darwinism, emerging from the transfer of Darwinian evolutionary principles into the social sphere, became one of the most influential intellectual paradigms shaping

Western legal systems during the interwar period. The belief that society could—and should—be regulated according to alleged “natural laws” enabled the legitimization of discriminatory, exclusionary, and coercive legal reforms across a wide geographical spectrum. From the institutionalization of eugenics in the United Kingdom to the racialized legal architecture of Nazi Germany and the restrictive immigration, marriage, and sterilization policies of the United States, Social Darwinism provided a powerful ideological foundation that reshaped the relationship between law, science, and state power.

The comparative analysis conducted in this study shows that the impact of Social Darwinism was neither episodic nor confined to a single political regime. Rather, it constituted a transnational intellectual matrix that penetrated legal thought, public policy, and social governance. The spread of compulsory sterilization programs across Scandinavia, Canada, and Japan further illustrates that the paradigm of “social improvement through biological regulation” operated as a shared legal rationality in the early twentieth century. By naturalizing social hierarchies and presenting inequality as biologically predetermined, Social Darwinist thinking allowed legal systems to assume an interventionist role in defining which individuals or groups were deemed “fit” to participate in society.

The study also highlights that non-Western modernizing states, including Türkiye, were not isolated from these global intellectual currents. Although the extent of legal implementation remained limited compared with Western countries, early Republican intellectuals and policymakers engaged seriously with eugenic discourse, reflecting its influence on broader debates surrounding modernization, public health, and social organization. This finding underscores the necessity of situating Türkiye’s early legal and intellectual reforms within the wider context of interwar scientific and ideological transformations. While the manifestation of social Darwinism in the West—particularly in the form of eugenics—has been intensely debated in legal circles and widely implemented, the limited scope of its application in Turkey, a country undergoing rapid Westernization, can be explained by the small size of its population. This is because, when the new state was established, the existing population had been decimated by various wars over the previous fifty years, and the remaining population was not subject to the same kind of eugenic measures as in the West; instead, priority was given to population growth. While the health of the population was considered important, it is noteworthy that the priority was on population growth.

The legal legacy of Social Darwinism provides critical insights for contemporary understandings of human rights, equality, and state authority. The atrocities of the Nazi regime—enabled in part by the legal codification of biological hierarchy—revealed the dangers inherent in grounding law on pseudo-scientific determinism. The post-World War II human rights framework, culminating in the Universal Declaration of Human Rights, emerged largely as a normative repudiation of the Social Darwinist worldview. Thus, grasping the historical interplay between Social Darwinism and law is essential for recognizing both the fragility of legal protections and the importance of maintaining ethical constraints on state power.

Ultimately, this study demonstrates that legal systems are highly susceptible to the ideological currents of their time. When law aligns itself uncritically with claims of scientific authority, it can become a vehicle for systemic discrimination and violence. For this reason, ongoing vigilance, critical reflection, and robust normative safeguards remain indispensable for ensuring that contemporary legal institutions uphold human dignity rather than reproduce hierarchies rooted in misappropriated scientific theories. The interwar experience serves as a lasting reminder that the legitimacy of law must rest not on biological determinism but on universal principles of justice, equality, and human rights.

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Derleme Makale

The Impact of Social Darwinism on the Western Legal System in the Interwar Period

İki Dünya Savaşı Arası Dönemde Batı Hukuk Sisteminde Sosyal Darwinizmin Etkisi

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Genişetilmiş Özet

19. yüzyılın sonlarında şekillenen sosyal Darwinizm, Darwin'in doğal seleksiyona dayanan evrim teorisinin toplumsal alana uyarlanması olarak ortaya çıkmıştır. Herbert Spencer'in "en uygunun hayatta kalması" (survival of the fittest) kavramı etrafında şekillenen bu düşünce akımı, 20. yüzyılın ilk yarısında Batı toplumlarında geniş kabul görmüştür (Hofstadter, 1944, s. 6-7). Sosyal Darwinizm her ne kadar Darwin'in teorilerinin sosyal bilimlere ve alanlara uyarlanması olarak tanımlansa da Spencer'in bu düşünceye oldukça fazla katkısı olmuştur. Zira Spencer, evrim teorisini evrensel bir biçimde yaşamın bütün alanlarında var olduğunu öne sürmüştür (Spencer, 2009, s. 17-24). Bu düşünce 19. yüzyılın ikinci yarısı, 20. yüzyılın da ilk yarısında oldukça popüler olmuştur. Hukuk bilimi ve politikaları da bundan nasibini almıştır.

Sosyal Darwinizm, iki dünya savaşı arasındaki dönemde hukuk sistemlerinin şekillenmesinde önemli bir faktör olmuş, özellikle ırk, engellilik ve sosyal sınıf temelli ayrımcılığı meşrulaştıran yasal düzenlemelere temel teşkil etmiştir. Birinci Dünya Savaşı'nın ardından Avrupa'da ortaya çıkan ekonomik ve siyasal kriz, toplumsal çözümlerin "bilimsel" yöntemlerle aranmasını teşvik etmiştir. Bu bağlamda, sosyal Darwinizm, toplumların "ıslahı" için yasal düzenlemeleri şekillendiren bir ideolojik çerçeve sunmuştur (Weikart, 2004, s. 15).

Sosyal Darwinizmin hukuki alanda karşılık bulduğu ilk vakalardan birisi 1878 yılında Fransa'da yaşanmıştır. Biri ekonomi, diğeri tıp eğitimi alan iki genç, Madame Gillet isminde süt satıcısı olan bir kadını parası için vahşice öldürmüştür. Bu cinayet ve duruşma süreci dönemin Fransa'sında oldukça geniş bir etki yaratmıştır. Bu olay vaka-ı adiyeden değildir. Zira cinayetin sebebi gençlerin almış olduğu eğitim ile açıklanmıştır. Gençlerden tıp öğrencisi olanı cinayetten yakın zaman önce Darwinizm ve Din konulu bir konferans vermiş, konferansında dünyada gıdanın az olduğunu, bu yüzden güçlü olanların güçsüz olanlardan hayatta kalabilmek adına elindekilerini almalarının doğal hakkı olduğu fikrini savunmuştur. Mahkemede savunma avukatları müvekkillerinin bu cinayeti işlemelerinin sebebi olarak Darwinizm'den etkilenmelerini gerekçe olarak göstermiştir (Clark, 1984, ss. 47-50). Bu vesileyle Darwinizm hukuk alanına da yüksek perdeden tartışmaya giriş yapmış, lehte ve aleyhte görüşler ile geniş bir tabana yayılmıştır.

Sosyal Darwinist görüşlerden etkilenen hukuk teorisyenleri, toplumsal ilerlemenin doğal seleksiyon yoluyla gerçekleşeceğini ve hukukun bu süreci desteklemesi gerektiğini savunmuşlardır. Alman düşünür Ernst Haeckel, Evrenin Bilmecesi (1899) adlı eserinde, hukukun biyolojik yasalara uygun olması gerektiğini vurgulayarak, "uygun olmayanların" elenmesini destekleyen yasal düzenlemeleri savunmuştur (Weikart, 2004, s. 102-103). Doğal seleksiyona, en uygun olanın hayatta kalması fikirleri

ile açıklanan evrim teorisi, tabiat kanunlarını çözümlediğini iddia etmekte ve onu savunan farklı ilmi disiplinlerdeki düşünürler de bu görüşün ilgili alanlara sirayetini vurgulayan çalışmalar yapmaya başlamaktadırlar.

Oliver Wendell Holmes Jr., Amerikan hukuk düşüncesinde sosyal Darwinist görüşlerin en önemli temsilcilerinden biri olmuştur. Holmes, *The Common Law* (1881) adlı eserinde hukukun evrimsel bir süreç içinde geliştiğini ve toplumsal ihtiyaçlara göre şekillendiğini savunmuştur. Holmes'un görüşleri, iki dünya savaşı arası dönemde Amerikan Yüksek Mahkemesi kararlarında oldukça fazla etkili olmuştur (Thomas, 2001, s. 45-47). Bu Yüksek Mahkeme uzun bir dönem beyaz ırkın “saflığı bozulmasın” diye ırklar arası evliliğin yasaklanması sürecinde destekleyici kararlar almıştır (Sohoni, 2007: 587-588).

Hukuki pozitivism akımının öncülerinden Hans Kelsen, *Saf Hukuk Teorisi* (1934) adlı eserinde hukukun normatif bir bilim olduğunu savunurken, hukuki normların içeriğinin ahlaki değerlerden bağımsız olduğunu öne sürmüştür. Bu yaklaşım, sosyal Darwinist düşüncelerin yasal düzenlemelere yansımaları kolaylaştırmıştır, zira hukuk normlarının ahlaki bir değerlendirmeye tabi tutulmaksızın kabul edilebileceği anlayışı, ırkçı ve ayrımcı yasaların meşrulaştırılmasına zemin hazırlamıştır (Paulson, 1992, s. 325-326). Bu ve benzeri fikirler zamanla otoriter liderlerin meşruiyet kaynağına dönüşmüş, ırk temelli yasaların doğmasına ve emperyalizmin doğal durum olarak savunulmasına sebebiyet vermiştir.

İki dünya savaşı arası dönemde hukukun içinde kendine en çok yer edinen sosyal Darwinist kavram öjenizm olmuştur. Türkçeye “ırk ıslahı” olarak tercüme edilen bu kavram, kürtaç yasalarından kısırlaştırma kanunlarına, evlenme yasalarından kişilerin öldürülmesine kadar pek çok uygulamaya sebep olan yasal düzenlemelerin sosyal Darwinist alt yapısını oluşturmuştur. Öjeni hareketi, toplumun “kalitesini” artırmak amacıyla “istenmeyen” genetik özelliklerin eliminasyonu hedefleyen bir anlayış olarak, sosyal Darwinizmin en somut yansımalarından biri olmuştur (Ergün, 2023, ss.111-114). Francis Galton'un öncülüğünde gelişen bu hareket, iki dünya savaşı arası dönemde birçok Batı ülkesinde yasal düzenlemelere temel oluşturmuştur (Kevles, 1985, s. 3-4). Francis Galton tarafından 1883'te formüle edilen öjeni teorisi, sosyal Darwinist düşüncenin pratik uygulamasını temsil etmektedir. Galton, Darwin'in yarı kuzenidir ve “insan ırkının iyileştirilmesi” için “bilimsel” yöntemlerin kullanılması gerektiğini savunmuştur (Kevles, 1985, s. 12). Bu yasalar çerçevesinde yüzbinlerce insan kısırlaştırılmış, öldürülmüş, evlilik tercihleri kısıtlanmış ve pek çok toplumsal cebre muhatap olmuşlardır.

Eric Hobsbawm Batı toplumlarının iki dünya savaşı arası dönemini de kapsayan uzun bir zaman dilimini “katastrof çağı” (the age of catastrophe) yani “felaketler çağı” olarak tanımlamıştır (Hobsbawm 1995, s. 19). Bu zaman dilimi aynı zamanda Türkiye başta olmak üzere Batı dışı toplumların Batı'yı örnek alarak modernleşme serüveni yaşadığı bir zaman dilimi olarak da bilinmektedir. Bu nedenle ilgili dönemin anlaşılması daha da önemli hale gelmektedir. Modernleşen toplumların içtimai alanı taksim etmek için Batı'dan en çok örnek alıp, iktibas ettikleri alanlardan birisi de hukukları olmuştur. Zira Zafer Toprak bu konuda Türkiye örneğini şu şekilde izah etmiştir (2019, s. 5): “İki dünya savaşı arası Batı'nın katastrofik çağında Türkiye kendi “yeni” sini, kendi “aydınlanma”sını yaşayacaktı” demektedir. Bu bağlamda bu çalışma iki dünya savaşı arası dönemde Batılı ülkelerdeki hukuk sistemlerindeki sosyal Darwinist etkiyi ortaya koymasının yanı sıra Batı'yı örnek alarak modernleşen Batı dışı toplumların da aynı dönemde hangi oranda sosyal Darwinist etkide kaldığını izah edecek başka çalışmaların da önünü açma iddia ve idealini taşımaktadır.

Bu çalışmada yapılan karşılaştırmalı analiz, Sosyal Darwinizmin etkisinin ne geçici ne de tek bir siyasi rejimle sınırlı olduğunu göstermektedir. Aksine, bu etki, hukuk düşüncesine, kamu politikasına ve sosyal yönetime nüfuz eden ulusötesi bir entelektüel matris oluşturmuştur. İskandinavya, Kanada ve Japonya'da zorunlu kısırlaştırma programlarının yayılması, “biyolojik düzenleme yoluyla toplumsal iyileştirme” paradigmasının yirminci yüzyılın başlarında ortak bir hukuki rasyonalite olarak işlediğini daha da açık bir şekilde ortaya koymaktadır. Sosyal hiyerarşileri doğallaştırarak ve eşitsizliği biyolojik olarak önceden belirlenmiş bir durum olarak sunarak, Sosyal Darwinizm düşüncesi, hukuk sistemlerinin hangi bireylerin veya grupların topluma katılmaya “uygun” olduğu konusunda müdahaleci bir rol üstlenmesine olanak sağlamıştır.

Çalışma ayrıca, Türkiye dahil olmak üzere Batı dışı modernleşen devletlerin de bu küresel entelektüel akımlardan izole olmadığını vurgulamaktadır. Yasal uygulamanın kapsamı Batı ülkeleriyle

karşılaştırıldığında sınırlı kalmış olsa da, erken Cumhuriyet dönemi entelektüelleri ve politika yapıcılar, modernleşme, halk sağlığı ve sosyal örgütlenme etrafındaki daha geniş tartışmalar üzerindeki etkisini yansıtacak şekilde, öjenik söylemle ciddi bir şekilde ilgilenmişlerdir. Bu bulgu, Türkiye'nin erken dönem hukuki ve entelektüel reformlarını, iki savaş arası dönemin bilimsel ve ideolojik dönüşümlerinin daha geniş bağlamı içinde ele almanın gerekliliğini vurgulamaktadır.

Sosyal Darwinizmin hukuki mirası, insan hakları, eşitlik ve devlet otoritesine dair güncel anlayışlar için kritik içgörüler sunmaktadır. Kısmen biyolojik hiyerarşinin hukuki kodifikasyonu sayesinde mümkün olan Nazi rejiminin zulümleri, hukukun sahte bilimsel determinizme dayandırılmasının doğasında yatan tehlikeleri ortaya çıkarmıştır. İnsan Hakları Evrensel Bildirgesi ile doruğa ulaşan İkinci Dünya Savaşı sonrası insan hakları çerçevesi, büyük ölçüde Sosyal Darwinist dünya görüşünün normatif bir reddi olarak ortaya çıkmıştır. Bu nedenle, Sosyal Darwinizm ile hukuk arasındaki tarihsel etkileşimi kavramak, hem hukuki korumaların kırılabilirliğini hem de devlet iktidarı üzerinde etik kısıtlamaların sürdürülmesinin önemini anlamak için esastır.

Bu çalışma hukuk sistemlerinin kendi dönemlerinin ideolojik akımlarına son derece duyarlı olduğunu göstermektedir. Hukuk, bilimsel otoritenin iddialarına eleştirel bir bakış açısı sergilemeden uyum sağladığında, sistematik ayrımcılık ve şiddetin bir aracı haline gelebilir. Bu nedenle, çağdaş hukuk kurumlarının, yanlış yorumlanmış bilimsel teorilere dayanan hiyerarşileri yeniden üretmek yerine insan onurunu korumalarını sağlamak için sürekli uyanıklık, eleştirel düşünme ve sağlam normatif güvenceler vazgeçilmez olmaya devam etmektedir. İki savaş arası dönemdeki deneyim, hukukun meşruiyetinin biyolojik determinizme değil, adalet, eşitlik ve insan hakları gibi evrensel ilkelere dayanması gerektiğinin kalıcı bir hatırlatıcısıdır.