Ethnic Identities and Minority Protection in International Area and European System With Regards to European Union

Yüksek Lisans Tezi

Müfit Yapıcı

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ÖZET

Aydınlanma çağıyla birlikte Kant başta olmak üzere bir çok düşünün dinsel ideolojiler üzerine temellenmiş olan önceki çağın tersine, evrensel akıl sayesinde insanlar arasındaki ilişkiler genel geçer bir biçimde düzenleyerek huzur ve barış dolu bir dünyanın temellerinin atılabileceğini düşünmüştür. Fakat bu rasyonalist görüşe dayalı yeni dünya düzen içerisinde önceki dönemin amaçlarına yönelik olarak araçsallaştırılmış dinsel ötelemeler tamamen ortadan kaldırılamadığı gibi onlara ek olarak en az onlar kadar ayrı edici olan ulusal, etnik, ve dilsel ötelemeler ortaya çıkmış ve arzu edilen dünya barışı yine ertelemiştir.


Tezde bu süreç sistem içerisindeki ilk sekülerleşme çabalarından başlanarak sembolik anlamlandırma sistemleri içerisinde kimlik olgusunun çağlar içerisinde uluslararası ilişkiler içindeki yeri -ilk kurumsallaşma sürecinden başlararak incelenmiştir. Bu süreçlere etki eden somut koşulların biçimlendirdiği düşünce sistemlerimiz içerisinde gelişen, yorumlama ve anlamlandırma pratiklerimizin etnik kimliğe ilişkin temel kavramları dönüştürerek kimliği toplumsal yaşamımıza nasıl
eklemlediğini ve bu eklemlemenin politik ve hukuki süreçlere yansımasını göreceğiz.

Etnik kimlik olgusu uluslararası sisteme eklemlenirken bu olgunun yorumlanması sürecinde görülen ideolojik değişimlerin ve dirençlerin oynadığı belirleyici rolün sistemin kurumsallaşmasına etkilerini inceleyecek son olarak da bu yeni anlamlandırma sistemi içerisinde etnik kimlik olgusunun toplumsal yaşama yerleştirilmesine örnek olarak Avrupa Birliği süreci incelenecektir.
With Enlightenment age, many thinkers beginning from Kant were believed a project of perpetual peace in a rational world order which is contrary to world order of previous era which was based on religious dogmas and superstitions. However the instrumentalized religious otherness of previous era could not be abolished and also new notions of otherness -such as national, ethnic and linguistic- were articulated in to the system of exclusion and postponed the perpetual peace.

While this period including I. and II. World Wars and Cold War came to an end all indicators were showing the Western democracies as the victors of previous era and founders of next generation world order. However at the end of this displeasing period criticisms over Western reason, and aims and consequences of conceptualizations lying beneath were began to question. Thus a new world order, which would be able to analyze and respond newly emerging solid conditions of Post-Cold War era, based on a new way of thinking and system of values began to construct.

The thesis aimed to analyze the evolution process of ethnic identity in interpretation system of institutionalized international relations beginning from the efforts of secularization. Articulation of evolving basic concepts of ethnic identity with regards to effects of solid conditions of contemporary times in to our social lives and their projections to political and juridical processes will be viewed.

The role of ideological transformations and resistances due to the articulation process of re-interpreted forms of ethnic identity fact in to institutionalized international system will be evaluated and lastly articulation of ethnic identity in to
social life in European Union will be analyzed as a sample formation in international system.
**LIST OF ABBREVIATIONS**

<table>
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<th>Abbreviation</th>
<th>Description</th>
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<tr>
<td>AAP</td>
<td>Associated Allied Powers</td>
</tr>
<tr>
<td>CCD</td>
<td>Copenhagen Concluding Document</td>
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<tr>
<td>COE</td>
<td>Council of Europe</td>
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<tr>
<td>CSCE</td>
<td>Conference on Security and Cooperation in Europe</td>
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<tr>
<td>CSO</td>
<td>Committee of the Senior Officials</td>
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<tr>
<td>EC</td>
<td>European Community</td>
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<td>ECHR</td>
<td>European Convention on Human Rights</td>
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<td>EHRC</td>
<td>European Human Rights Commission</td>
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<td>EMNM</td>
<td>Experts Meeting on National Minorities</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>HCNM</td>
<td>High Commissioner on National Minorities</td>
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<td>HFA</td>
<td>Helsinki Final Act</td>
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<tr>
<td>ICCPR</td>
<td>International Convention on Civil and Political Rights</td>
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<tr>
<td>MEDA</td>
<td>Mediterranean Development Assistance</td>
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<tr>
<td>OCT</td>
<td>Overseas Countries and Territories</td>
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<tr>
<td>PCIJ</td>
<td>Permanent Court of International Justice</td>
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<tr>
<td>TACIS</td>
<td>Technical Assistance for the Commonwealth of Independent States</td>
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<tr>
<td>TEEC</td>
<td>Treaty establishing the European Community</td>
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<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
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<tr>
<td>UN</td>
<td>United Nations</td>
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<td>UNCHR</td>
<td>United Nations Commission on Human Rights</td>
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<tr>
<td>VCD</td>
<td>Vienna Concluding Document</td>
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<td>WWI</td>
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INTRODUCTION

“Ethnic Nationalism, within and across established political boundaries, is a new ‘problem’ because of changes in the global political order. The ethnic nationalisms that are part of the civil wars in the Balkans and elsewhere occurred because of a change in the international system. Whether they are new or old, their manifestations will probably the last roars of groups claiming the status of a nation and the right to a state.” (Opening statement to the ISA Symposium in Toronto, March 1997)

The politics of the world has moved from that of empires and tribes to an international system of states, to a global system with states as one of several essential parts. Lots of political discourses were claimed during this long period but no single of them had played a more prominent role than nationalism. An end product of chain of events following each other since French Revolution gave way to the idea of a new kind of society holding its own sovereignty and destroying multinational empires. This new form of society ‘nation (myth)’ emerged from the ‘universal sense of in group superiority’ was being used to legitimate the situation of nation as the sole source of authority at the end of power play between bourgeoisie and aristocracy (Riggs 1998 p: 276), and spread around the ethnic groups of the world easily as a ‘reasonable’ and ‘just’ option that will enable the promised rewards of modernism –industrialism and democracy. This superiority of in group feeling made membership to the hegemonic ethnic group –nation– a prerequisite to take place in political society as a citizen. The new political organization form of nation; ‘nation state’ claiming citizenship transcending ethnic and religious differences, encapsulated the world’s entire territory with normative claims, never attained, to sovereignty and singularity of loyalty (Teune 1998 p: 231).

This new sacred entity became the basis for legitimacy since than ‘people’ were increasingly being defined in terms of nationality. In this context distinctiveness of
ethnic identities emerged as a problem where marginalized non nationals were excluded from political society of nation; thus their demands for their own sovereign state became an increasingly supported idea among those groups. As a consequence of this mutual ‘engagement’ each group became one as another thought about, xenophobia and racism being experienced through the period which nationalism was at the stake.

First attempt of affording the situation of ethnic groups in international area was at the end of WWI under the leadership of Woodrow Wilson. His novel attempts through establishment of world well being that concluded in fourteen principles including self determination –however his efforts could not– form desired political conditions and cartography of ethnically homogeneous nation states in Europe and around the World. Because those attempts of ethnically homogenizing political cartography, which were driven from most primitive ideas of Enlightenment, employed most primitive ways of engagement, such as assimilation and population transfers.

Two decades later with the beginning of WWII hopes on a world of well being had been abandoned for a long time. The peace (which was based on conservative power politics perception) that ending peace had flourished the war in its own consistency. At the end of war a new political era designed by old motives, which were enforced by the fear of much more developed mass destruction abilities of weapons, security and stability became the key concepts of world order that had never been before. During the Cold War period victims are the ones who were blamed by big powers’ unconscious approaches and mostly ulterior motives of conscious manipulations –as seen in USSR– towards the fragile balances of ethnic structures.

And finally end of Cold War; the new era that did not bring an end to history or beginning of a world of peace and democratic capitalism. But a new era which the
The decline of state hegemony gave way to transition from ‘multi-’ to ‘trans-‘, ‘supra-’ phases in definition of international institutions and organizations raised ethno-nationalisms and increase in violent conflicts as Brubaker argued:

Lacking the rationally regulative ego of self-regulating civil society, the communist regimes repressed the primordial national id through a harshly punitive communist superego. With the collapse of the communist superego, the repressed ethnonational id returns in full force, wreaking vengeance, uncontrolled by the regulative ego. (1998 p: 285-6 cited in Özkırmılı 2000 p: 4)

While the world society was preparing itself for the promised era of wealth and democracy of Enlightenment since 19th century, neither 20th nor 21st century could give the desired designs of tolerance and democracy. Especially for those people who left to live under the discretionery of dominant ethnic groups. They can only attract the attention in international area as destroyers of the stability of world order (indeed coherence of demographically homogeneous states system) while demanding their rights driven from being an existing community.

The situation of ethnically distinct groups remained same without fluctuating during various periods of history. They always accused of being disloyal and traitor, before secularization of state, even after they always have to challenge the same ancient motives of suspension.

While modernity became the political language of melting heterogeneity in to unity using the ‘universality’ and ‘impartiality’ as Iris Marion Young argued (1990 p: 96-121, 1995). Its claim of using moral reasoning, which has been defined as universal, was self-legitimating its positivist and reductionist approaches to political community both in state and global levels as nations and states. However analyzes on facts, driven from modernist interpretations which determines inclusion and exclusion of facts in world system by its theory, had shown that its
consequences were not far from representing interests of certain hegemonic group or groups, and being largely criticized in both its theory and implementations.

In this context thesis will attempt to address the relation between fact and system of interpretation under various hegemonic structures by reviewing three interdependent transformations in international area; first, national transformation of Westphalian state system, second, demise of Westphalian legacy, third, the situation of ethnic non-national groups in accordance with those transformations. The case that main argument implied on is ‘redefinition of ethnic identity fact through the changing system of values which are directly related to the solid conditions’ such as we witnessed in cases of rise and decline of national hegemony. Thesis is aimed to explain the process of redefinition of ethnic identities in international relations with regards to legal documents which were concluded by the influences of theories of those ages.

The study entitled “Ethnic Identities and Minority Protection in International Area and European System With Reference to EU” is made up of three chapters as explained:

1. Social political order, its components and their evolution will be analyzed together from the different perspectives of anthropology, philosophy, political science and sociology disciplines.
2. The first appearance of ethnic identity fact and synchronic evolution of approaches to issue in international area with regards to dominant theories of early modern age, inter-war, and cold war eras will be reviewed.
3. The reasons and consequences of rise in ethnic consciousness will be analyzed in accordance with international documents concluded by international institutions and organizations in Post-Cold War Era.
CHAPTER I

I. Politics of Culture and Identity

I.1. Introducing Society and Identity

The term ‘existence’ expresses the challenges of survival for all kind of living entities; but for human being it also expresses situation of being conscious of its own existence. Essence of human existence is being identical to something, a landmark or etc. If the condition of being social became intrinsic to human nature —contrary to existentialism— at the end of conflict among ‘human and nature’, and ‘human and human’
$^1$ would probably make societal landmarks the primary determinant of identification process of human.

Those two conflicts are the cause of human evolution. During those conflicts human evolves its organic and social materials of survival such as habits, tools, organizational structures. Human evolved its very own materials as an integral part of its social and physical environment and complicated its relations in its sphere of life by inventing new symbols that created.

Evolution of human behavior should not be understood as a mechanical process of meeting the basic needs of survival. Human beings are not just after survival; they also form societies. Collective being of human which could emerge from solid necessities as well as moral preferences, was always there as the victor. Thus human would be able to differentiate itself from other living organisms in the fact that homo-sapiens is a social creature.

While creating society, human evolved its surrounding physical environments in accordance with the series of ideas, cultural and ideological [c]onstructions. Since

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$^1$ See Kongar (1981) *Toplumsal Değişme Kuramları ve Türkiye Gerçeği* İstanbul: Remzi Kitabevi p: 21-23
the human being recognized its ability of constructing its life sphere sole mean of construction began to dominate ‘each and every’ part of objective world “by virtue of their existence in the ‘inter-subjectivity’ of relevant groups of people” (Cox 1992 p: 138).

While its ability of social construction differing it from other living organisms, on the other hand they differed themselves from rest of humanity in a spatiotemporal context with regards to conditions of survival. This spatiotemporal differentiation – culture– is a mark of being exist, an apparent declaration of presence –identity– that constitutes an important part of human history.

I.2. Culture

Many definitions were made during long debates on the nature and function of culture and many random definitions were made such as; a series of norms and values produced during economic, political and social activities of human being. Whether random or specific, those definitions always put question of interpretation of production and re-production of society in terms of relations of human being with its social and physical environment.

The construction of society would go further to a hegemonic dimension in relations with social environment and nature. During this process they don’t cause only evolution of concrete environment (nature) they also produce a series of ways of thinking, cultural and ideological fictions in order to regulate relations among the components of their environment. Human use these structures of thinking for defining their daily lives in their interpretation systems and burdening meanings to events. As Sahlins pointed (1976 p: 21) ‘facts’ of world are neither the solid truths for human understanding nor having the same effects or importance in human understanding. Their values of were always been determined by the interpretation systems of humans, their relation between the circumstantial fact and already established order in interpretation system can only make sense.
Interpretation systems are social productions of human being; they are the main determinants of our social practices. Human use these means of interpretation - language and symbolization- to regulate its relations with its environment.

Interpretation systems, which is surrounding each ‘special' social re-production forms which contains human-human and human-environment relations define a suitable other world for themselves. Nature is shapeless, meaningless, and senseless without cultural interpretation of human. Sensibility of social and physical environment lies in the very hearth of human culture differs in each man and group from another.

Each human group has evolved a culture for interpreting facts of their environment including their social relations. Thus having a culture becomes a general characteristic of human specie. Mankind has cultural capacity. Every human society has ability of symbolizing, and creating a culture and maintain it. But people live in different cultures because they have different acculturation processes. All people live in a certain cultural rules that transferred from generation to generation.

I.3. Identity

Identity is psychological dimension of human quest of being exist. Determining ourselves became a quest that had priority in our lives. Who am I? How should it be answered, according to what?

Our identity should be determined by the way that defines our qualities as a human being. We all have some kind of institutional indicators that shows our relations with those public institutions. If we had a look on those we can see that
they are defining our relations, i.e. student ID is the proof of being identical in your relations with that education institution.

This is what we are; our identity is a symbolic reference in establishment of relationship with every kind of others. After using such a concrete example a more definitive explanation about identity is required. We have to make a distinction between our individual and personal identities to avoid a false assumption about the wholeness of identity.

As Güvenç cited, real persons’ sense of own identity or perception of self existence requires inclusion of more complementary information rather than written on their ID cards (Quest for Cultural Identity in Turkey). Personal identity includes social, public, and general aspirations that positing human in his or her relationships with others.

Discourses of human existence, both in philosophy and literature which is inherited its perception from philosophy (from Hegel), in definition of identity is; a struggle that appears by confrontation of two human objects of identification (Skirbekk and Gilje 2004 p: 562-563).

According to Heidegger: “when we say ‘A is A,’ ‘A belongs to A,’ or ‘A equals to A,’ ‘A’ is no longer ‘A’ itself. His equation requires the intervention of thought; it is a leap upward onto the Ge-stell, a frame set up by the historical conditions” (Heidegger 1969, p: 23-27). It means being self is the matter of being only having its own identification, not identifying by another's self/other. When we applied this condition in to identity, being identified as self requires isolation.

This isolationist approach is coherent but it does not fit/meet the characteristics of human identity; because excludes complexity and interaction factors of social life and identity construction. In Derrida’s text “DifferAnece in Speech and Phenomena”
he is creating a counter argument “There is no culture or cultural identity which does not have its ‘other’ of the ‘self’” (1992, p: 129). Doubtless he is influenced from Hegel and his definition that reflects the otherness dimension.

According to Derrida, identity is a conjectural description of existence of two different entities according to their situation in other words situation of two other that are defined, determined and nominated by other. So we can say that identity consists of two pillars: identifier and identified (Eralp 1997, p: 19). As an identifier individual is subjected itself as ‘self’ and components of its social environment as ‘other’.

Defining self identity in solely otherness dimension brings us to a very fragile point that distinctive features of identified is emphasized and common points are disregarded. According to Young (1997, p: 161) such a group identification that depends on ‘negation of other’ becomes especially a fragile and relatively empty condition in society as it often ‘violently insist on maintaining the purity of its borders’ by excluding other.

Young had proposed a conception of difference to emphasize the heterogeneity and interspersion of groups in society. Young’s conception of difference emphasizes the dynamism of society and points that “a group exist and is defined as a specific group only in a social and interactive relation to others” (ibid p: 161).

In an interview Derrida emphasizes the progressive nature of identity by suggesting that:

“… it is impossible for one to be ‘one with oneself’ … we must be attentive as much as possible to the ‘plurality’ of people, language, cultures, ethnic groups, persons, and so on and so forth” (1 June 1996).
Also Hall defines a way of thinking for identity ‘as a production, which is never complete, always in process, and always constituted within, not outside, representation’ (1990 p: 222). From this point of view the phenomena of ‘authenticity’ gain prominence, which was defined by Taylor as ‘the right of people to be acknowledged publicly as what they really are’ (1991). The multidimensional nature of identity derived from complexity of society had met the necessary requirement; ‘plurality’, that enhances the interaction among identities -self and other- to be redefined in accordance with conjuncture. Individuals tend to have more than one identity and multiplies it a variety of identities –use to gaining benefits in some cases– during their socialization process.

I.3.1. Enculturation and Identity

Social roles are the outputs of social culture that identifies persons as the members of a social group. Human learns about its environment and perceive his or her relations with social and physical environment in the cultural frame of the society that grown in.

Tylor defines culture as “a complex aggregation of information, belief, traditions, artistic affairs, law, ethics, and other abilities and habits that gained by a human as a member of a society” (1871/1958, p:1). In Tylor’s definition emphasize on human as ‘a member of a society’ is a significant point for defining the culture transfer between society and its new members, generations. This transfer process is called ‘enculturation’.

In fact culture is a quality that belongs to a group that transfers it to the persons who belongs to them, not independent individuals. People learn their culture by observing, listening, talking, and interacting with other members of their group. Shared cultural beliefs, values, memories, expectations, and sort of thinking and
acting minimize the differences between people. Enculturation process provides shared experiences and unifies people.

Cultures are not only consisting of basic acts, and social norms and values; also they are integrated with themes, values, and the general aspects of its age and groups. Although cultures are integrated with general values and norms of their ages, they can be differenced by centralizing different symbols and integrate with it, and educate its own people to share personal characteristics as well as their key values that integrated with. From this point of view culture is the intermingling element that creates the consciousness of group formation which allows people to define as existing beings.

I.4. Ethnicity

I.4.1. Etymology of Ethnicity

The word comes from the ancient Greek ‘ethnos’, which seems to have referred to a range of situation in which a collectivity of humans lived and acted together (Østergård 1992, p: 32). The first use of term in ancient Greek was for describing large, undifferentiated groups of either animals or warriors which are standing out of Greek society mostly defined as barbarous and un-civilized. In Rome, Romans writing in Greek under empire used the term to describe provinces that are not Roman. During Byzantine and Medieval period the term continued to be used for the ‘gentiles’ to define a grouping of religious ‘otherness’ in Europe dominated by Church Latin (Tonkin, et al, 1997 p: 20, 21). In the modern Romance languages and in English, is a rich and complex moral vocabulary, laid out along dimensions of inclusion and exclusion, dignity and disdain, familiarity and strangeness-gentle, Gentile; popular; tribe; nation, national; polite; barbarous; civil, civilized, and so on (Autenrieth, 1958; Liddell and Scott, 1958; Cunliffe, 1924; Balsdon, 1979; Rankin,1987 cited in Tonkin et al 1996 p: 20).
From about the mid 19th century, however, scholars has made of ‘ethnos’ a word meaning something like ‘group of people of shared characteristics’ and used to derive many terms which are still in academic use, term of ethnos itself was not needed in a sense, since all these terms relate to discourses built around the idea of ‘race’\(^2\), for which ethnos would have been no more than a redundant synonym (Tonkin et al, 1997 p: 20, 21).

However the term ‘ethnicity’ tends to include all national and sub-national units of collective identities, such as minorities and also majorities, the term ‘race’ which has a dubious descriptive value is much more related to a pseudo-scientific status –for social sciences except physical anthropology– that serves racist and anti-Semitic politics. Today, while ‘race’ refers to the categorization of people, ethnicity has to do with group identification, ‘ethnicity is generally more concerned with the identification of ‘us’, while racism is more oriented to the categorization of ‘them’ (Banton 1983 p: 106).

As a ‘new’ term ethnicity, as an abstract noun meaning, first used in records of The Oxford English Dictionary in 1953. After recognition of general conceptual usage of term ‘race’ did not meet the ‘us’ and ‘them’ distinction, ‘ethnicity’ term employed with its strong and familiar bias towards ‘difference’ and ‘otherness’.

I.4.2. Ethnic Identity

Today the term ‘ethnic’ means, connecting with or related to different groups of people in terms of cultural distinctions. An ‘ethnic group’ can be assumed as a cultural category which has some continuous behaviors and cultural markers that constructs their boundaries which has been internalized and transferred from

\(^2\) Race term had been widely employed during the modernist age in order to exclude non-white peoples, as well as women, from social strata of life on the basis of social morality –also will be discussed later- see Iris Marion Young, ‘Justice and the Politics of Difference’ Princeton: Princeton University press p: 110-111.
generation to generation by its members. The most pervasive of these markers is kinship. According to Nash kinship, commensuality, and religious cult are a single recursive metaphor which are symbolizing the existence of the group while at the same time they constitute the group (1996 p: 25). Also, there are other boundary markers like language, dress, diet, and some special practices in ways of life which constitute visible part of cultural boundaries -Nash emphasizes these as surface pointers in his same article.

These elements and practices are the core ‘elements of ethnicity’ they construct the nexus among the individual and ethnic group. They have a double meaning, identification of self, and emphasizing on ‘us’ and ‘them’ difference. According to De Vos’ definition ethnicity is consisting of the subjective, ‘symbolic or emblematic use’ by ‘a group of people … of any aspect of culture, in order to differentiate themselves from the other groups’ (De Vos 1975, p: 16).

Jenkins had proposes a model of ethnicity to summarize the characteristics of ethnicity which he called ‘basic social anthropological model of ethnicity’ (Jenkins 1997, p: 13-14):

- Ethnicity is about cultural differentiation – although, to reiterate the main theme of Social Identity, identity is always a dialectic between similarity and difference;
- Ethnicity is centrally concerned with culture – shared meaning – but it is also rooted in, and to a considerable extent the outcome of, social interaction;
- Ethnicity is no more fixed or unchanging than the culture of which it is a component or the situations in which it is produced and reproduced;

According to Cohen there are two elements are required for emergence of ethnic identity these are; the phenomenon of ethnicity made up by the ‘objective criteria’,
‘elements of emotional coherence’ derived from its existence such as rituals and ceremonies (1974 p: 403). Thus any ethnic group and members ‘sharing the common models in the norms of attitude and appreciation and having a net of distinctive internal relationship’ would be able to distinguish themselves from other collectivities (ibid p: 404).

It is a fact that identification of self and exclusion from others is an obvious statement of ‘self consciousnesses’ of being a group. As a self conscious entity, ethnically identified communities will have some claims like status and recognition in its relations between others.

I.4.3. Theories of Ethnicity

The formation of this self conscious entity subjected to questions about the origins of this group formation, the quality of ties among the members of group, and its functions. Especially after its emergence as a legitimate base of claims to status and recognition of groups the debates on explanation of formation of ethnic group gained more importance. Basically, three kinds of answers have been suggested to this question; primordialism, instrumentalism, and ethno-symbolism.

I.4.3.1. Primordialism

According to a general thought the term primordial first used by Shils in his article (1957) ‘in reference to relationship within the family’ (Özkırımlı 2000 p: 65). This argument which is first formulated to explain the origins and the strength of ethnic identities has been used by both Geertz and Shils to describe the nature of ethnic attachment.

Social scientists who adopt the primordialist view tend to attach high value to historical continuity, group sanctions, and social solidarity as determinants of
human behavior. Shils argues that (1957 p: 142) the strength of the attachments one feels for his/her family members does not stem from interaction but from “a certain ineffable significance … attributed to the tie of blood”. For Shils these attachments could only be described as primordial (Özkırımlı 2000 p: 65). Geertz defines primordial attachment:

“By a primordial attachment is meant one that stems from the ‘givens’ – or more precisely, as culture is inevitably involved in such matters, the assumed ‘givens’ – of social existence: immediate contiguity and kin connection mainly, but beyond them the givenness that stems from being born into a particular religious community, speaking a particular language, or even a dialect of language and following particular social practices. These congruities of blood, speech, custom, and so on are seen to have an ineffable, and at times overpowering, coerciveness in and of themselves.” (1993 p: 259)

This argument which is first formulated to explain the origins and the strength of ethnic identities has been used by both Geertz and Shils to describe the persistent nature of ethnic attachment. However there is an important gap in this definition it lacks at the point of persistence of ethnic identity in interaction with other groups. This explanation does not take group interactions in to account, it isolates groups from the rest of the world in the name of preserving the given quality of being exist.

This gap had been filled by Frederik Barth in his edition of a collection of articles about 'Ethnic Groups and Boundaries' (1969) which can be accepted as a revolutionary study in ethnicity; it suggests existence of an alternative indicator of ethnic belongingness ‘boundary’ concept. This approach is an alternative mean preserving and determining ethnic identity and also takes human choice factor in to account, his work also give way to instrumentalist theory.
1.4.3.2. Instrumentalism

Conversely, instrumentalists argue that ethnicity is not a historically given at all, but in fact adaptive and ‘highly malleable political phenomenon’ (Esman 1994 p: 10) which were supported by ‘economically motivated, informally organized interest groups’ (Cohen 1974 p: xviii). In fact that ethnicity is a ‘dynamic’, not fixed and immutable element of social and political relations; in response to changing conditions, ‘the boundaries of an ethnic community can expand or tighten’, individuals move ‘in’ and ‘out’ and even may have more than one ethnic identity (Esman 1994 p: 10-11) and multiplies it in their each interaction and tend it to use one instead of other.

Those theories adopting instrumentalist view of ethnicity are mostly influenced by the liberal theory of enlightenment which regards the individual as the main unit of social value and predicts (ibid p: 11). People who are equally treated in spite of their different parochial bonds with different collectivities, will participate and compete as self determining individuals in the society that foreseen by liberal theory. In these theories rational individual takes central position instead of ethnic solidarity.

Another instrumentalist Michael Banton takes up this individualistic approach and adapted the theory of games developed in economics to the study of ethnicity and created the rational-choice theory. According to his theory, society is not ‘based upon the sharing of ultimate goals and values, but on individuals trying to maximize their own profit’ (1983 p. 109).

In his later work (1997) he advocates that ethnic definitions can weaken if self-interest is allowed greater legitimacy at the expense of social obligation (p: 101) and also extends the boundaries of rational choice theory from ‘economic
definitions’ to ‘social definitions’ of individual -such as religion, class, nation or friendship (p: 101).

Change in ethnic relations often comes about not because people change the value they place upon association with co-ethnics, but because they change their ideas about which relationships are to be governed by ethnic norms (Banton 1997 p: 101).

According to instrumentalists, ethnicity is either an ideology that elites construct or deconstruct for opportunistic reasons or a set of myths calculated to mobilize mass support for the economic or political goals of ambitious minorities (Esman 1994 p: 11).

I.4.3.2. Ethno-Symbolism

Anthony D. Smith who is one of the leading figures of this approach defines the term “is used to denote the theory that aim to reveal the symbolic legacy of pre-modern ethnic identities for today’s nations” (1998 p: 224). He thought that, neither extremely primordialist nor extremely instrumentalist theories are right approaches to the phenomenon of ethnicity. He is cautious of approaching the ethnicity phenomenon by overstating "the mutability of ethnic boundaries or the fluidity of their cultural contents", according to him, "ethnicity exhibits both constancy and flux side by side", indeed, "the central paradox of ethnicity is the coexistence of flux and durability" (1991 p: 24, 25, 38).

Although Smith’s main focus is nationalism phenomenon and the preconditions and emergence of nation-states, the analysis of ethnicity is central to his argument, because he sees ethnicity as a precondition of ‘forging’ a nation “... nations always require ethnic elements” (1991: 40), but not the other way round, because ethnicity has existed long before nationalism, though the two are very similar in structure and quality.
Smith defines the ethno-symbolist approach as a ‘different reading’ of the historical records than the modernist approaches which were totally focused on search for power (1999 p: 9). The “memories, traditions, and symbols of ethnic heritages gives nationalism its power” as they have been “rediscovered and reinterpreted” those also form the “basis of competing claims to territory, patrimony and resources”. (ibid p: 9)

I.5. Ethnic Groups

One of the early and influential sociological references to ethnic groups was made in Max Weber’s work “Economy and Society” (first published in 1922). In his work he defines the motives of creating a group that acts collectively in the bases of structural functionalism. In his words:

“... ‘race’ creates a ‘group’ only when it is subjectively perceived as a common trait: this happens only when a neighborhood or the mere proximity of racially different persons is the basis of joint (mostly political) action, or conversely, when some common experiences of members of the same race are linked to some antagonisms against members of an obviously different group.” (1978 p: 385)

Another significant argument of Weber is the role of ethnicity as a medium in collective group action:

“... ethnic membership does not constitute a group; it only facilitates group formation of any kind particularly in the political sphere. On the other hand it is primarily the political community, no matter how artificially organized that inspires the belief in common ethnicity.” (1978 p: 389)

In his arguments Weber defines the solidarity and group feelings in the bases of rationality concept. His cause for collective actions is rationally determined
common goals not sense of common ancestry, he defines the role of shared cultural staff in collective action is definition of group closure of which people believe that belonged.

There is another important contribution to ethnicity from Chicago sociologist Everett Hughes who wrote a short paper in 1948 (re-printed in 1994). In his paper ethnic group described as:

> “An ethnic group is not one because of the degree of measurable or observable difference from the other groups: it is an ethnic group, on the contrary, because the people in it and the people out of it know and that it is one because; both the ‘ins’ and the ‘outs’ talk, feel, and act as if it were a separate group.” (1994, p: 91)

He involves the bilateral relations of two groups of people in the definition of identity; identity concept became a matter of ‘ins’ and ‘outs’. From this point of view, ethnic groups became what people believe or think them to be. Markers of ‘group-ness’ were not the sole cause or indelibly characteristic of ethnicity. Mutual recognition phase of cultural differences had opened in identification of ethnicity with in interaction between groups.

Although stresses and researches on ethnicity concept increased, a detailed and healthy ethnic group model including group interactions could not develop until the end of 1960’s.

Fredrik Barth’ work (1969) ‘Ethnic Groups and Boundaries’ which had influenced by Weber’s and Hughes’ works emphasizes the role of cultural features as the emblems of differences used in relations that are matter of politics, decision-making, and goal orientation with others for defining individual identity. He focused not upon the cultural characteristics of ethnic groups but upon relationships of cultural differentiation; specifically upon contact between collectivities thus differentiated ‘us’ and ‘them’ (Eriksen 1997, p: 10-12).
Ethnicity as a social identity is collective and individually, *externalized* in social interaction and internalized in personal self-identification (Barth 1969 p: 9-10). Ethnic distinctiveness endures even identical distinct cultural practices of group associated with particular groups. Ethnic groups were no longer thought of static groups defined by objective criteria, but as defined by their own dynamism - subjective criteria. According to this new, dynamic definition (Barth 1969 p: 14):

“The features that are taken into account are not the sum of 'objective' differences, but only those which the actors themselves regard as significant. ... some cultural features are used by the actors as signals and emblems of differences, others are ignored, and in some relationships radical differences are played down and denied”

Thus an ethnic group is acknowledged as such, as long as its members think of themselves as a community with a collective identity, regardless of whether the criteria put forward to them by outsiders in short an ethnic group became a group which defines itself as such. In Barth’s study primary emphasis had given to the ascription and identification of ethnic group categories by social actors themselves in order figure out the characteristics of organizing interaction between people. “As an ascriptive and exclusive group, the nature of continuity of ethnic units is depended on the maintenance of a boundary” (Barth 1969 p: 14) which allows the observation of continuity of interaction ascribed and excluded groups even they were transformed. Also emphasizes the unfixed and situational nature of ethnicity and the role of economic activities in ethnical identification process according to their niches that occupied by a group in his work.

Last claims emphasized in Barth’s work are also grave challenges against individual’s will of being assimilated pointed in liberal thought. It is a declaration of dialect in ethnicity formation which also pointed by A.D. Smith as ‘coexistence of constancy and flux’ in ethnicity. Although he had taken the issue as a paradoxical
situation the works of Shils and Geertz were already pointed this situation as an affinity by carrying the nature of ethnic bonds as a facilitating element of group formation pointed in the works of Weber further.

I.5.1. Ethnic Groups as Minorities in Political Realm

Today definition of ethnic groups is still a hot debate to handle with, especially after it took its political status as minority that recognized as a demanding group for preservation of its distinct identity in international politics far from the universe of moral obligations.

I.5.1.1. Ignorance of Minor Ethnic Groups in International Area

As will be pointed in historical development part of next chapter, since Treaty of Westphalia (1648) on the issue of minorities – which were defined as distinct communities in terms of religion, race, language and etc. – a tradition began to emerge and evolved through the ideals and principles of Enlightenment. However significant consequences of emergence of nationalism in the late 19th century also affected the situation of minorities and led to the eventual demise of East European multiethnic empires. However it is not possible to talk about an innovation for creating legal bases in international area, only particularistic arrangements were made in the context of some peace treaties when borders were changed. Even in post WWI era League of Nations failed to establish a general system for protection of minorities because of objections made by several sovereign states during sessions on definition of term for establishment of a universal system.

The lack of a definition of the term ‘minority’ has been troubling the international community for a very long time. As early as 1930 the Permanent court of
international Justice (PCIJ), in its advisory opinion in connection with the issue of emigration of the Greco-Bulgarian ‘communities’, defined such a community as:

“A group of persons living in a given country or locality having a race, religion, language and tradition in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, ensuring the instruction and up bringing their children in accordance with the spirit and traditions of their race and mutually assisting one another.” (PCIJ, Interpretation of the Convention between Greece and Bulgaria, Advisory opinion of 31st July 1930)

In spite of all the efforts made, there is today no accepted general, universal definition or regional definition of the term. Alfredsson describes this failure to formalize a definition as a ‘tactical device’ of States (1990), and adds that, in most cases, states show little real desire to find a definition since they intend to delay the adoption of international documents, or they wish to narrow the scope of any definition and to exclude groups ‘making trouble’ in their own territory. Alfredsson concludes that (ibid p: 13) it is probably worthwhile to look for an alternative to a comprehensive and globally applicable definition, and he suggests that it would be wise to have ‘either no definition of the term minority or else a minimum definition, with only a few exclusions and with reliance on self-identification’.

States may sometimes tend to define minorities according to their own interest, which legitimate their claims and actions towards them, or may neglect to define them and in this way avoid the logical step of recognizing their existence. This cannot be an escape clause as Thornberry points:

“The lack of a binding definition of minority is a lacuna but not a fatal obstacle to progress. States will doubtless continue to be evasive as previously on the existence of groups. …While it is possible to deny the existence of minorities, this may only deflect the operation of particular treaties for a time; the definitions have rationality, which is cumulative. The failure to define and recognize is normative,
not cognitive. It may be felt that ‘recognition ‘fuels demands: minorities are always likely to want more than States will concede’. (Thornberry 1989 p: 4)

According to Article 27 of UN Covenant on Civil and Political Rights:

“In those States in which ethnic, religious, or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

In 1992 the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was finally adopted, without including any definition. No definition is either to be found in the Human Rights Committee General Comment on Article 27 of the ICCPR.

“The terms used in Article 27 indicate that the persons designed to be protected are those who belong to a group and who share in common a culture, a religion / or a language. Those terms also indicate that the individuals designed to be protected need not be citizens of the state party. … A state party may not, therefore, restrict the rights under Article 27 to its citizens alone. Article 27 confers rights on persons belonging to minorities, which ‘exist ‘in a state party. Given the nature and scope of the rights envisaged under that article, it is not relevant to determine degree of permanence that the term ‘exist’ connotes. Those rights simply are that individuals belonging to those minorities should not be denied the right, in community with members of their group, to enjoy their own culture, to practice their religion and speak their language. Just as they need not be nationals or citizens, they need not be permanent residents. … Thus migrant workers or even visitors in a state party constituting such minorities are entitled not be denied the exercise of those rights …The existence of an ethnic, religious or linguistic minority in a given state party does not depend upon a decision by the state party but requires to be established by objective criteria.” (6 April 1994, Document CCPR /C/21/Rev.1/ Add.5, at paragraph 5.1 and 5.2)
I.5.1.2. Widely Accepted Definitions of Term

Although the lack of a general definition of term caused some complications during decision making sessions of committees which are working on the issues of minority protection, the issue was referred to some social scientists and international lawyers to overcome these complications.

According to Capotorti and Deschenes minorities are communities which are numerically inferior to the rest of society, politically non-dominant, differing from the rest of society in terms of ethnicity, race, language, religion, and etc, and having a sense of solidarity and will of preserving their existence and differences, differing from Capotorti, Deschenes adds the will of living with the majority in equality in fact and law (Thornberry 1991 p: 7).

Another contribution comes from Mello Toscano who is a prominent international lawyer. Toscano adds ‘historical and traditional links to a determined portion of territory’ (cited in M. G. Smith 1987 p: 341). J. Fouques – Duparc emphasizes the psychological dimension of minority definition which constitutes their feeling of solidarity and preservation that may cause the exclusion of minority from certain rights as ‘their most sacred intellectual and moral patrimony’ (cited in Laponce 1960 p: 4-5).

I.5.1.3. Criteria of Being Minority

According to the given definitions above, definition of minorities have certain characteristics which are expressed as objective and subjective criteria. Objective criteria of minorities are easily identifiable cultural features of a community that distinguishes it from another one such as, religion, language or dialect distinctive diets or customs which grant the recognition of community as a minority, states do
not and should not have a say on the recognition of groups. Unlike objective criteria subjective criteria are not easily identifiable but also they are subjects of group consciousness.

Objective criteria which allow ethnic communities to enjoy the protection in context of minority are:

1. Distinct Attributes: A minority group should have different attributes like religion, ethnicity and language, which differs community from the remaining part of the society with clearly definable social boundaries.
2. Numerical Factor: Denotes the numerical inferiority of minority as a self pertaining unit.
3. Non-Dominant position: This criterion is constituted to point the cases that ethnic communities which are numerically in the majority major but politically passive/non-dominant like South Africa. So an ethnically distinct community which is holding the political power and numerical majorities which are non-dominant can not be defined as minority. They may enjoy protection with in the context of general human rights (Nas 2000 p: 40).
4. Being Nationals/Citizens of a State: Members of the ethnic group should be the citizens of the state that they reside in order to acquire the minority status. Also states can not prevent them from enjoying minority protection by denying their citizenship.
5. Traditional or Historical Links to a Portion of Territory in Host State: The reasoning of this criterion is the need to prevent the formation of new minorities and discourage the nurturing of minority consciousness in groups that are already integrated with the society and that have lost their determination to preserve their separate identity (Shaw 1992 p: 27).

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3 See paragraph 5.2 of General Comment No: 23 of Human Rights Committee
Subjective criteria are:

1. Sense of Community and Collective Will to Preserve Group Identity: This criterion denotes the solidarity and we feeling of minority which allows preserving their distinct attributes. Minorities which were afraid of being oppressed by majority abstain themselves from projecting their senses of solidarity, but knowing this reality Capotorti (1979 p: 96) claims that existence and maintenance of distinct attributes in community is an implicit demonstration of group solidarity that is why criterion takes place in the subjective criteria part.

2. Goal of Being Free from Discrimination/Achieving Equality with Majority: This criterion expresses the aim/motive of minorities to have equality with the other groups of society. Although the emphasis of this criterion is on equality among the groups of society when the case is related to preservation of distinctive attitudes and if it is not possible by equality than positive discrimination may implement.

In her article Henrard (2001 p: 45) claims that in cases which a strong emanation towards minority from the dominant group exist states would be obliged to take positive measures to protect the other group/groups so as to abide by the requirements of substantive equality.

However the case is not clear, on the basis art 27 of ICCPR itself it is not clear whether states would have positive obligations to protect or promote languages or merely a negative obligation to abstain from interfering with language use in the private sphere. On the other hand the need for positive discrimination was highlighted by the Permanent Court of International Justice in its ruling on the Minority Schools in Albania Case in 1935: Equality in law precludes discrimination of any kind, where as equality in fact may involve the necessity of different
treatment in order to attain a result which establishes an equilibrium between different situations (PICJ 1935 Ser. A/B/No.64 p: 19)

Criteria above put the necessity of protection of numerically minor ethnic communities of a society in a wide ranged context. Although their definitions are the most widely accepted used ones they do not respond to the situation of legal aliens like immigrants and refugees who are not sharing the same situation with existing communities. Such groups although they are ethnically different from the host society are not defined as minorities since they do not fulfill the criterion of living in the respective territory since ancient times. Moreover it is generally assumed that immigrant communities have a basic desire to integrate to the society rather than to keep their distinct identity. However, it should also be mentioned that the existence of immigrant communities who preserve their distinct character and wish to integrate into the society while preserving their distinctiveness complicates this differentiation.

I.6. Nation and National Identity

I.6.1. Etymology of Nation

The story of word nation in world politics is rather new but very evolutionary. The word ‘nation’ which comes from Latin used to convey the idea of common blood ties used to refer to peoples and tribes who were not yet politically organized in the form of state. In its classical usage nation refers to communities of people of the same descent, who are integrated geographically in the form of settlements and are sharing common language, customs, and traditions.

In early 17th century -it is noted by an etymologist- that word had been used to define the inhabitants of a country, regardless of that population’s ethno national composition and also word ‘nationem' was used in some medieval universities as
the sector of the country where student came from (Connor 1994, p: 94). But until
the age of revolutions terminological usage word nation has been used to explain
common blood relations and particular territory as father land.

Hobsbawm argues that (1995 p: 15) until the end of 18th century word nation
indicates origin and descent which are attached to a body of men, it could hardly
be those who formed a state and insofar attached to territory, it could only be a
fortuitously a political unit never a very large one.

But in 1884 the thought and concept of nation had made a significant progress
towards being a definition of politically organized community by taking place in the
dictionary which is prepared by Spain Royal Academy. In this dictionary, ‘Lengua
Nacional’, is defined as a formal and literary language of a country and the one
that generally spoken in that country, as distinct from dialects and the languages
of the other nations (Hobsbawm 1995, p: 14). The word nation which derived from
common blood ties, referred for non-politicized societies, and limited in a particular
territory now given as ‘a State or political body which recognizes a supreme centre
of common government’ and also ‘the territory constituted by that state and its
individual inhabitants, considered as a whole’ (ibid p: 14).

I.6.1.1.Formation of Nation

Linguistic transformation of a concept in social science always runs with its
transformation in the political realm and there is always a relation between the
past and contemporary meaning and the word nation is not an exception. The
entity that called nation has some elements that project the past meaning of the
word like some common sharing in particular.

In short although the nation is a modern construct, modern nations have their roots
in the pre-modern eras and the cultures. Today each nation has some items of
distinction –myths and symbols– entitled to politics of ethnicity which are providing the basis of claims of group legitimacy. In this context, Aydın concludes and explains the requirements of ethnic foundations of modern nation (1998 p: 22), in addition to a unit of population, a territory, central economic and education system and legal code to itself, in order to ‘mobilize the integrate and often diverse cultural and social elements’.

In his ethno symbolic approach Smith distinguishes in to two basic kinds of ethnic core that forge nations; ‘lateral’ and ‘vertical’ ethnics (1989 p: 349-350):

1. Lateral ethnics; tends through a process of bureaucratic incorporation of outlying regions and lower classes in to the ethnic culture of the upper classes and compose territorial/civic nations.
2. Vertical ethnics; are often religiously defined and passive communities which transform to ethnic nations through process of cultural mobilization that turn them in to an active politicized nation.

Transition from demotic ethnie to civic nation requires several conditions (ibid p: 350):

1. A movement from subordinate accommodation and passivity of a peripheral minority to an active, assertive and politicized community with a unified policy.
2. A movement towards a universally recognized ‘homeland’ for the community
3. Economic unification of all members of the territorially demarcated community with control over its own resources, and movement towards economic autarchy in a competitive world of nations
4. Turning each members into legal citizens by mobilizing them for political ends and conferring on each common civil, social and political rights and obligations

5. Placing the people at the center of the moral and political concern and celebrating the new role of the masses, by re-educating them in national values, myths and memories.

Starting point of this process was absolutism claims of monarchs in Western Europe. Transition from agriculture economy to national market economy with industrialization and capitalism had enlarged the interaction among people who are taking place in this economic system. Development of absolutist state in England and France had played a significant role in transformation of politic society. During 16th century every figure that constitutes solidarity and fidelity of individuals’, even churches had been centralized under the authority of monarch. Anderson claims that “Aforementioned absolutist establishment expresses the consensus and balance between the feudal nobility and newly established bourgeois” (1974 p: 15-16).

As a rising class bourgeois came in to power by using the rapidly spreading doctrine of sovereignty that identifies the people as the font of all political power. Thus bourgeois legitimated its political power in France. After the French revolution, French political thought developed the philosophic and ideological basis of transition from absolutism to constitutionalism and republic; a new understanding of legitimacy which threatens the absolutist monarchies of Europe has flourished. The revolution imposes the idea that the sovereignty belongs to the nation and approves the ‘self-determination’ and the ‘right of resistance’ or changing the regime incase of the violation of the social contract acted between the state and the citizen as vested interests (Kedourie 1998 p: 4). The emphasized key word is naturally nation.
“The source of all sovereignty resides essentially in the nation; no group, no individual may exercise authority not emanating expressly therefrom” (The French Declaration of Rights 1975).

The word *nation* referred in declaration consist of all ethnics residing inside the borders of French Republic but those people who were referred in new nation concept were unaware of being Frenchmen. Block has argued that the French Revolution ‘was completely foreign to the principle or feeling of nationality; it was even hostile to it’ (M. Block, p: 939). French revolution had inserted a new sense of belongingness which is far from associating the senses of words ethnic or nation -of its age-; *citizenship*. A product of modernist thought that tries to universalize everything but first beginning by man, who has been abstracted from all of its emotional relations labeled as irrational – such as sentimentalities towards religion, community. Man re-defined with regards to new rational mediums of society construction and its role defined as a citizen before state, thus man as a citizen could be able to rightfully demand respect for their rights as it serves its loyalty and fulfills its obligations towards state (Ercan 2001 p: 32).

For the revolutionaries of 1789, the nation was the only legitimate source of political power (Baycroft 1998 p: 5). Here the concept ‘nation’ expressed ‘the idea of a shared, common, equal citizenship, the unity of the people’: hence the motto of the French Revolution, *liberte, egalite, fraternite* (liberty, equality, brotherhood) (Halliday 1997 p: 362). Thus French ideologues and practitioners were able to get rid of monarchy and ancient dynamics of the social structure by applying the idea of sovereignty belongs to nation. The French thinkers tackled the chance of settling their own nation states with this new understanding of nationalism. But the previous developments of progress require a distinction and research on two different nation constructions.
I.6.1.2. Civic Nation

“According to Renan, the nations are not created by language, geography, race, or religion but they are creations of the human will, the desire to live together, the will to constitute, to value the heritage which all hold in common; and the existence of a nation is an everyday plebiscite” (Tamir 1995 p: 574). In political nation the claims of the state -political extension of people- its people constitute a nation because they have willing to come together to form a community of equal citizens by reducing their other identical elements -like ethnic origin- to secondary rank; nationhood defines in the terms of equal rights, duties and status of all citizens (Brown 1996 p: 307).

“The equation state = nation = people applied to both, but for nationalists the creation of the political entities which would contain it derived from the prior existence of some community distinguishing itself from foreigners, while from the revolutionary-democratic point of view the central concept was the sovereign citizen-people = state which, in relation to the remainder of the human race, constituted a nation” (Hobsbawm 1995 p: 22).

“Origins of this equation comes from the far reaching of ethical and epistemological dualism that developed by Kant” (Smith 1983 p: 31-32). Kant has separated the man’s world as inner, and external that is phenomenal world-consists of things-in-themselves- which constitute our source of knowledge. But the Phenomenal world was a world of “inexplicable contingencies’ and ‘iron necessities’, and if our morality were also derived from this kind of knowledge ‘then we could never be free but always the slave either of contingency and either of blind personal laws’ (Kedourie 1994 p: 14 cited in Özkırımlı p: 16). According to Kedourie Kant’s equation of virtue with free will is a revolutionary definition (Özkırımlı 2000 p: 16). Kedourie formulated as “the good will which is the free will, is also the autonomous will” (1994 p: 16 cited in Özkırımlı p: 16). According to Smith principle of self-determination which conceptualize the individual the centre
and the sovereign of the universe makes republicanism the sole possible form of
government, “for only in a republic can the laws express the autonomous will of

Johan Gottlieb Fichte controversially argued that external world and things-in-
themselves are both the product of a universal consciousness and an Ego which
embraces everything within self thus Kant’s ‘inexplicable contingencies’ or ‘iron
necessities’ eliminated and external world became comprehensible (Özkırımlı
2000 p: 17). According to this view, the world is coherent whole since the
manifestation of the Ego (Smith 1983 p: 32).

A world takes on reality and coherence because it is the product of a single
consciousness, and its parts can exist at all and share in reality only by taking their
place within this world (Kedourie 1994 p: 29). This became the idea of superiority
of whole over its parts is related to many dimensions of social life as well as
politics. Knowledge of the parts is illusory; no parts can be known by themselves,
since they cannot exist on their own, outside a coherent and ordered whole (ibid p:
30). This idea is the origin of the organic theory of state that Kedourie sums as:

“… individuals, as such, are phantoms; they gain reality in so far as they have a
place in whole. Consequently, the freedom of the individual, which is his self
realization, lies in identifying himself with the whole … Complete freedom means
total absorption in the whole … From this metaphysics the post-Kantians
deduced a theory of the state … The state therefore is not a collection of
individuals who have come together in order to protect their own particular
interests; the state is higher than the individual and comes before him. It is only
when he and the state are one that individual realizes his freedom” (ibid. p: 30).

This organic notion reminds organic existence of City-states of antique Greece
man -zoon-politikon- without a state is not a man; because without its political
extension man is not much different than an animal. After French revolution re-
discovery of human existence as the measure of everything and re-positioning in the centre of universe brought back the idea that emphasizes on political nature of man.

Although the word nation is historically very young, its conceptual sense in politics had evolved very rapidly in accordance with political conjuncture of the 19th century; the old meaning of the word envisaged mainly the ethnic unit -points out 1908-, but recent usage rather stressed ‘the notion of political unity and independence’ (Oxford English Dictionary, p:30).

I.6.1.3. Ethnic Nation

However after the French Revolution nation became the aggregation of all individuals, are politically equal citizens sharing the equal rights and duties does not constitute necessary requirements to create the consciousness of being the part of same civilization. Some additional elements required to characterize Frenchman identity. All peoples living in the borders of France became equal citizens, once they accepted the conditions of French citizenship which naturally contains French language. The French insistence on linguistic uniformity is an important aspect of acquiring French citizenship that brings other liberties and rights as a Frenchman.

According to Weber this insistence on linguistic uniformity is the most important element of formation of sense of nation (1986 p: 173). He claims that linguistic uniformity plays a more determinist economic role for social masses except feudal and bourgeoisie property owners; because these classes are able to speak foreign language, at least in language zones of similar cultures (ibid. p: 173).

“Contrary to this little bourgeoisie and proletarians need to be close to people who are speaking the same language, and the most significant feature of linguistic
uniformity is preparing the bases for acculturation of masses in literature which he had seen as easiest cultural sharing” (ibid. p: 173).

As a German thinker who influenced by the rise of Reich, Weber is not alone in his laterally developed romantic senses. Also earlier generations of German romantics had developed the idea of each nation which is more than the sum of total of all citizens, should establish its own state: ‘the fatal equation of language, state, and nation which is the cornerstone of the German version of nation was thus formulated (Smith 1983 p: 33).

Another important contribution to nationalism comes from historicism. According to historicists, history is the major form such understanding took: it is the only way of apprehending the spirit of a community (Özkırımlı 2000 p: 18). A brief review of the German thinker Johann Gottfried Herder (1744-1803) can help us understand the main arguments of this school of thought (Breuilly 1993 p: 56-64). Herder’s point of departure is quite simple: only language makes man human. The concept of ‘pre-linguistic’ man is meaningless for Herder since man is defined by his language capacity. Moreover, ‘language can only be learnt in a community. It is synonymous with thought’. And ‘every language is different from every other’. If language is thought and if can only be learnt in a community, ‘it follows that each community has its own mode of thought’ (ibid p: 57).

“When a state claims to constitute such a cultural nation it is seeking to arrogate to itself the power of the kinship myth by portraying the whole society as an ethnic community.” (Brown 1996 p: 307)
I.7. Nationalism

Definition of nationalism as a concept derives from its practices, having controversial elements that make a clear definition of it nearly impossible/hard. “No single universal theory of nationalism is possible” (Hall 1993 p: 1) and adds ‘as the historical record is diverse, so too must be our concepts (ibid p: 1).


The ambiguity on what nationalism is debates derives from the conceptual misuse of key concepts such as ethnicity, ethnic group, etc. which are having kindred relationship with notion nation and nationalism (Connor 1994 p: 90-113) another contribution to conceptual confusion comes from Balibar; he claims that nation concept is dysfunctional when used by its own because it takes place as a circle in a series of chain with terms -like citizenship, patriotism, populism, ethnics, ethnocentrism, xenophobia, chauvinism, imperialism, … - which are having controversial meanings (2000 p: 62).

In fact beyond conceptual confusion there are more serious problems which are directly related to world politics. As Calhoun remarks “the notion of nation is so deeply inbricated in modern politics as to be ‘essentially contested', because any definition will legitimate some claims and delegitimate others” (1993 p: 215). Mutual affection between scholars and political conjuncture is inevitable - especially while epistemic communities' views are gaining prominence-. Breuilly points the relation clearly “the sheer universality and apparent power of
nationalism has created a vast range of cases and vested interests which make it difficult to agree upon basic approaches to the subject” (1985 p: 65).

Although conceptualization of nationalism is some conflicting issue, there is a general agreement on the aim of nationalism and the nationalist practices of populations. Aims of nationalist practices mainly towards are (Ergil 1983 p: 73):

1. To create a national economy.
2. To constitute autonomous, national, legislative and executive organs and to collect all separatist relations such as regional loyalties and community ties under the control and integration of this organ.
3. To create a national culture (the system of common values and expectations) and define an identification depending on the newly created culture. (Ergil 1983 p:73)

Creating a nation formation from capitalist production relations seems impossible. Because the characteristics of capitalism flow of money and goods and exploitation of labor tend to be cross boundarial do not want to stuck in a limited area. But Balibar claims that we can overcome on this condition by revising Braudel’s and Wallerstein’s view of nation construction in their concrete historical context instead of capitalist market abstraction (Balibar & Wallerstein p: 112). This concrete historical formation is a world economy formation which is corresponding to a hierarchical-ized and organized one around a center periphery which is having unequal barter and domination relations and various capital and labor exploitation (Braudel 1979, Wallerstein 1980).

National economic units starting from a global economic structure and constitute themselves through their roles in world economy. In short they constitute themselves as the competitor mediums of center to dominate the periphery, that’
why a nation is always a product of exploitation notion, sometimes exploiter, sometimes exploited, and both in rare cases.

The constitution of autonomous legislative and executive organs which became national, pointed above as the products of modern processes and principle of self-determination and the loyalty transfer from regional and community ties given by nation, people, and the state equation formulas as the cornerstone of German and French nationalisms.

Creation of a national culture is the most difficult phase of nationalist movement through the creation of nation. Gellner distinguishes this phase in to two situations ‘awareness of own self’ and ‘invention of nations by nationalism where it is not possible to talk about a nation (1964 p: 169). Anderson claims that Gellner should use the term ‘invention’ with imagination or creation instead of fabrication and forgery in order to prove that nations are artificially designed; according to this definition some nations may claim their reality by comparing themselves with other nations and try to legitimate their claims (1993 p: 20-21).

Anderson claims that all communities, except based on informal relations (and even them), are ‘imagined’. In his book Imagined Communities (1993) he explains nations as imagined communities which are based on artificially created common national culture by using past myths, symbols, and emblems. But the real success of this phase is to constitute a national solidarity by using the myths of past and leading the nation towards a common future.
I.7.1. Theories of Nationalism

With regards to multi-dimensional character of nationalism each theorist defines nationalist movements from different perspectives. Karakaş categorizes these theories into three according to their ways of explanation (2000):

I.7.1.1. Modernism

This theory is argued by Ernest Gellner and Eric Hobbsbawm. According to this theory nationalism is an expression of modernization and transition from traditional community to industrialized society. In this perspective, both -nation and nationalism- are appeared in last two centuries, which is in the wake of the French Revolution, and they are the products of specifically modern processes like capitalism, industrialization, emergence of bureaucratic state, and urbanization and secularism (Smith 1995a p: 29). From this point of view nationalism becomes the inevitable consequence of the political and cultural frontiers.

I.7.1.2. Ethno Symbolism

Benedict Anderson is one of the prominent authors of this approach. In his work, Imagined Communities, underlines the psychological dimension of nationalism and points the preparation of conditions for the emergence of nationalism. Smith finds this approach very useful especially in definition of some cases and recovery of some neglected elements in modernist approach.

“In their determination to reveal invented or constructed nature of nationalism, these scholars argued, modernists systematically overlooked the persistence of earlier myths, symbols, values, and memories in many parts of the world and their continuing significance for large numbers of people” (Smith 1996 p: 361).
According to Smith this approach, helps to explain the conditions and the content of nationalist movements of populations, recognizes the importance of memories, myths, values and symbols, and explains the pursuit of nationalisms symbolic goals such as education and having a TV channel in particular language, explains the popular support for nationalism (ibid p: 358-365).

I.7.1.3. Primordialism

This approach is the earliest paradigm of nations and nationalism -primordialism-, indeed formulated for explain the origins and the strength of ethnic identities. So we can not think primordialist accounts of nationalism independently from ethnicity. According to a general thought the term primordial first used by Shils in his article (1957) ‘in reference to relationship within the family’. This approach explains nationalism with the feeling of belongingness; most important leading figure is Elie Kedourei. Kedourei explains this theory as follows:

“the doctrine holds that humanity is naturally divided in to nations, that nations are known by certain characteristics which can be ascertained, and that the only legitimate type of government is national self-government” (1994 p:9).

Another important contribution to primordialism comes from Geertz, defines primordialism ‘a given of social existence which being born into’ (1993). This argument which is first formulated to explain the origins and the strength of ethnic identities has been used by both Geertz and Shils to describe the nature of ethnic attachment.

I.7.1.4. Post Modernism

According to Karakaş this is not a category of nationalist theories and Özkırımlı himself give this theory a place in ‘New Approaches to Nationalism’ chapter of his
work (2000) and emphasized the impossibility of summarizing all debates on postmodernism only in a chapter of a book-it requires a volume for own.

We can start our study on postmodernist nationalism approach by offering a working definition of the concept:

“Postmodernism emerged as a way of thinking as a consequence of value and confidence crisis of hybrid groups which are living in societies with similar and other” (Doltaş D. May 2004 p:22).

In interview she explains the situation as an inevitable consequence of rapidly globalizing communication channels ‘inevitably globalizes information, our daily lives and cultures while societies which are having very different values and norms adopting similar behaviors on the other hand they are embracing their local identities chauvinistically’ (ibid p: 22). Under these conditions it is not possible talk about a unified national identity or homogeneous national culture.

Another theme explored by postmodernist scholars, notably Homi Bhabha, is the ‘forms of contestation inside nationalism’s dominant frame’ (Eley & Suny p: 29). Bhabha emphasizes the role of ethnic minorities -such as foreign workers and immigrants- in processes of definition of national identities. According to Bhabha ‘hybrid’ populations contest the dominant construction of nation by producing their counter narratives, which he argues ‘disturb ideological maneuvers through which “imagined communities” are given essentialist identities’ (1990 p: 300). The resulting conflict among competing narratives, on the other hand, increases the ‘porous-ness of national boundaries’ and intensifies the ambivalence of the nation as a cultural and political form (Özkırımlı 2000 p: 197).
1.7.2. National Identity

Definition of national identity is no more promising than ‘nationalism’, its is multidimensional too. According to Smith national identities are fundamentally multidimensional but it is composed of analytically separable components—ethnic, legal, territorial, economic, and political—(1974 p: 324). Every theorist defines and explains this concept by emphasizing different perspectives of nationalism.

The blood relation, which is also used as the earliest nationalist approach, is the most concrete mark of belongingness. “The nation to which one belongs is predetermined, ‘naturally fixed’; in other words one is born into a nation the same way s/he born in to a family” (Smith 1995b p: 31). Lieven carries the debate on the bases of culture “the division of humanity into different groups with ‘different cultural characteristics’ is the part of the natural order and these groups will tend to exclude others” (1997 p: 12). Breuilly makes clearly defines the exclusive character of national identity and its dimensions which is based on culture content: “...to the degree that the culture of nationalism is rigidly exclusive and defines its membership in terms of narrowly based common culture, nationalism tends to be xenophobic, authoritarian, and expansionist” (1993 p: 270).

On the other hand Smith developed a counter argument by distinguishing nations as Western and Eastern models and emphasized the inclusive character of Western model on the bases of civic culture: “The Western model of nation tended to emphasize centrality of a national territory or homeland, a common system of laws and institutions, the legal equality of citizens in a political community, and the importance of a mass civic culture binding the citizens together” (1997 p: 324). Here he claims that national identity is inclusive to the degree that moves close toward being democratic.
Güvenç goes further and claims that ‘national identity is a feeling of belongingness which emerges in any group at the end of acculturation process’ (1985 p: 27) here the source of acculturation process towards a feeling of belongingness is a little bit ambiguous. “It is the ‘we feeling’ which is shared by all individuals living within the certain geographical frontiers, in governing of the nation-state and with the creation of a national culture dependent on the historical and cultural perspective” (ibid p: 28).

Another point of view claimed by Yurdusev which is pointing the source of national identity oriented acculturation seems more useful. In his argument Yurdusev distinguishes the process into two levels: “first of all the rise of nation state and the second one is the dominance of ideology” (1997 p: 22). In his definition the role of nation state as a functional tool for the self realization in spreading process of national ideology and ‘we feeling’ awareness of society.

Predications of national identity in humans mind is not limited with culture and ethnicity elements. National identity’s another emphasized dimension is time, common future/destiny (Connor 1994 p: 93). “When one aves that he is Chinese, he is identifying himself not just with the Chinese people and culture of today but with the Chinese people and their activities throughout the time” (ibid p: 93).

“We know that in order to transform the glorious future into a new China, independent, free and happy, all our free countrymen, every single zealous, descent of Huang-ti (the legendary first emperor of China) must determinedly and relentlessly participate in the concerted struggle. ..... Our great Chinese nation, with its long history unconquerable” (ibid p: 93).

Claims on national identity also contain more oppressive approaches in civic based participation to structures of power that organize aspects of social, political and economic aspects of community life. Gilroy is one of the authors who express this aspect of nationalism as “a notion of citizenship and patriotism that
subordinates ethnic, racial, and cultural differences to the assimilating logic of a common culture, or, more brutally the 'melting pot' (1993 p: 72).

However sharing common cultural figures by a group members is always the mostly emphasized cases of nationalism that required for establishment and maintenance of national identity, is not sufficient by itself. The loss of one’s native cultural figures does not cause the demise of one’s national identity, but national self consciousness may rise against a forcible assimilation process.

I.8. Coherence in Multi Ethnic Societies

Nationalism which we discussed above is not the only way of maintaining unity of a state, but remained very strong since the absolutist era, however today there are several different methods that can be implied in order to achieve coherence in multi ethnic societies. Ethnic unification of communities is the projection of the idea which claims that legitimating state and maintaining unity can only be achieved in homogeneous societies.

But today with the increase in movement of labor and capital, the immigration of people and rise of new ethnic groups makes it impossible to assume a homogeneous society residing in the borders of a state. These developments caused the emergence of multi ethnic societies which described by Yürüşen as “the existence of sociological categories proving the ongoing cultural differences in a society” (1996 p: 27-28) and required the constitution of new policies to maintain legitimacy of state and unity of society.

Emergence of debates on multi ethnic societies coincides the age of withdrawal of colonial powers from their Asian colonies. After their withdrawal emerging situation – establishment of new states in multi ethnic societies – attracted the attention of social anthropologists, they focused to develop a new model, but they couldn’t and turned to political science (Jenkins 19997 p: 26).
The origin of terminology of new studies has taken from J. S. Furnivall’s studies (1944) on Eastern colonies of Western powers (Cottak 2002 p: 69). Authors who are influenced by his analyses used the term pluralism as “the institutional incorporation of different ethnic groups or collectivities in to one societal state system” (Jenkins 1997 p: 26).

Jenkins distinguishes notions of pluralism in to two categories as old and new /ibid p: 27, 29:

1. The first (old) notion of pluralism is ‘merely profound, descriptive, going no further than the extensive cataloguing of concrete situations by reference to a classificatory scheme of ideal ideal-typical plural societies’.
2. The second (new) notion of pluralism which is ‘quasi – analytical and normative model, has enjoyed a vague under the sign of various strands of post-modern critique’.

Furnivall’s and M. G. Smith’s conception of plural society defined as a social order consisting of institutionally segmented cultural groups “side by side, yet not ‘mingling’ in one political unit” one cultural section monopolizes power, controls the state apparatus, and dominates over other cultural groups who are admitted to participation in their own governance in a limited way (Brass 1985 p: 6).

Although Furnivall’s analyses were only on colonies, M. G. Smith extended the definition to both post – colonial and some contemporary industrial societies and claimed that because of ‘cultural incompatibility’ it is impossible for the members of different culture groups to act as citizens in a common political enterprise, therefore, it is inevitable that the stronger group would use state as an instrument and dominates others (ibid p: 6).
In short his model that derived from colonial analyses of Furnivall is nothing more than theorization of ‘despotism’ of one strong minority over others.

The new discourse of ‘pluralism’ notion – however may not always be used – is a celebration of difference as the site of resistance to Eurocentric and Andocentric meta – narratives of history and ‘progress’; as a bulwark against fundamentalist images of the world; as an assertion of the rights to autonomous (co-) existence of peripheralized, marginalized, minorityized, peoples; as the inspiration of ethics and the politics of representation and diversity which challenge the centralization, the integration, and the domination of the nation or more particularly nation state (Jenkins 1997 p: 29).

Re-reading attempt for re-discovering the humanitarian perspectives of intellectual project of Enlightenment is a confession of reasons of being incomplete situation of modernism project, which we will discuss later, sourced from falseness of its own application components.

However this perception seems very satisfactory in humanitarian terms, Jenkins points its problematic issues by citing Stuart Hall (ibid p: 29):

“Since cultural diversity is, increasingly, the faith of modern world, and ethnic absolutism a regressive feature of late-modernity, the greatest danger now arises from forms of national and cultural identity – new or old – that attempt to secure their identity by adopting closed versions of culture or community, and by the refusal to engage with the difficult problems that arises from trying to live with difference”.

It is not possible to draw a global threshold for translation from first perception to second one; it is a matter of time; as far as post-modernist thought spread around our world, the transition from first pluralist model to second one will be achieved,
but it depends on the resistance of societies and states according to their identity policies.

I.8.1. Approaches to Multi Ethnicity in Contemporary State Politics

The ethnically homogeneous nation state is a rare phenomenon in societies of our modern world. Today by referring to Connor (1994 p: 29)\(^4\) we can say that each society includes some sub-groups which are ethnically more or less distinct from the rest of the society. At the end of WWI --- the demise of empires --- expectations towards establishment of new nation states whose borders were perfectly fitted with the culturally and ethnically homogeneous societies became the dream of ethnically homogeneous nation states system. However those dreams evaporated after Wilsonian principles of self determination experienced.

Undeniable reality of plurality of society structures in our modern world brought some difficult questions to deal with, such as passionate of preserving ethnic identities, and fear of being dominated by more fertile and larger communities having distinct identity. Those problems first beginning with employment of softer measures in private sphere by ethnically distinct groups of societies may lead to violent conflicts in public sphere; especially in developing countries –and also some certain population in developed societies - which were suffering from the effects of negative living conditions the tendencies towards militant/violent conflicts, is much greater\(^5\). In the age of cultural diversity samples of discord in plural societies are seem not to be exhaustible. Ethnic conflict during human history is not exclusive to a certain period or space, those are repetitive events of multi ethnic societies which requires establishment of a wide scoped solution

\(^4\) First published in ‘Nation Building or Nation Destroying?’, World Politics No: 24, April 1972, p: 319-355.
formulations for maintaining political unity in cohesive methods rather than oppressive ones.

Strategies are mostly depends on the national identity perspective of state elites whose sole concern to provide a credible base for nation building processes – civic or ethnic. Outcomes desired by elites either promote the deplurization (homogenization) or accept ethnic pluralism (accommodation) as a permanent and legitimate reality (Esman 1994 p: 255).

Esmann makes a useful distinction between management of multi ethnic situation in societies, according to elites’ perception of nation and their methodological approaches to the issue:

1. Table *Patterns of Conflict Management*

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<tr>
<th>Methods</th>
<th>Coercive</th>
<th>Consensual</th>
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<td>Goals</td>
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<tr>
<td>Homogenization</td>
<td>Genocide</td>
<td>Induced assimilation</td>
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<td>Expulsion, “cleansing”</td>
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<td>Population transfer</td>
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<td>Forced assimilation</td>
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<td>Accept Pluralism</td>
<td>Exclusion</td>
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<td>Ethnic coalitions</td>
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<td>Reducing political</td>
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Source: Esman 1994 p: 259
I.8.1.1. Coercive Homogenization

Homogenization processes are inheritance of modernist nationalist perception that sees coincidence of cultural and political boundaries as a necessity for formation of a properly working democratic representative government as an extension of a cohesive society. In such societies that see cultural plurality as an undesirable and avoidable fact; measures of deplurization can be easily employed. We had witnessed such coercive and draconian measures throughout history like genocide, mass expulsion (ethnic cleansing), and population transfers.

The classic approach to deplurization is assimilation of individuals –also more moderate- (Esman 1994 p: 255); this goal can be achieved by banning minority languages and nationalizing – here it may mean employment the dominant minority’s cultural figures – education, in order to gather all individuals of society under the ‘high culture’ as Kellas (1991 p: 42) argued. But restrictions are not enough; also positive incentives like promotion and rewards in social status and economic terms were employed to encourage ethnic minorities to join the national mainstream.

In situations that ethnic pluralism accepted as undesirable and unavoidable reality by state elites, they may decide to exclude the minor ethnic communities (Esman 1994 p: 256) from their very own modern national cities like Gypsies of Rumania and apartheid of South Africa.

The more common process of nonconsensual conflict management is subordination (ibid p: 256). Subordination is, unlike exclusion, generally offers the ethnic minorities some rights, but lesser than the dominant ethnic group has; like Chinese citizens of Malays and Palestinian citizens of Israel.
I.8.1.2. Consensual Accommodation

Unlike homogenization, consensual accommodation accepts ethnic pluralism as a legitimate and permanent situation of society which could be managed peacefully with various methods such as territorial federalism/regional self-government, cultural pluralism, electoral coalitions, or consociational/power sharing systems.

The term federalism employed here does not mean a demand for separation, Lenin (1998 p: 117) defines it as only a “consistent expression of struggle against all national oppression”. However, as we will be discussed in third chapter after the secessionist dimension of autonomy crippled -in practice- by Stalin “National Cultural Autonomy” program of Communist Party has provided an accommodative solution for ethically distinct communities of USSR. But after its collapse, former communist countries were suffered from its consequences. Regional self government is a very fragile system even for states who’s having well developed democratic institutions.

Consociationalism is another formulation that refers to group autonomy –including many rights within existing states- rather than sovereignty (Lijphart 1995 p: 275). In his article Lijphart has emphasizes on four principles for establishment of a consociational democracy, which can be applied in various methods in with regards the exclusive facts of the states (ibid p: 277-279):

Primary principles:

1. Grand coalition; can be applied in a parliamentary system or a coalitional arrangement of a president and other top office holders in a presidential system of government.

2. Segmental autonomy; the geographic settlement of ethnically distinct groups avoids application of regional autonomy choice than right to
autonomy can be granted to those geographically intermixed segments of the society.

Secondary principles:
1. Proportionality
2. Minority veto; can be applied either all decisions or limited for only certain specified kinds of decisions which constitutes a direct concern on preservation of ethnic identities.

It refers to an internal self-determination of ethnically distinct groups of a society which is contrary to self determination. In Lijphart’s terms re-discovery and re-invention of consociationalism casts a light on the idea of settling democratic representative governments in heterogeneous societies as a “response for the thinkers who decides at least a minimum level of homogeneity and consensus for establishment of a working democratic representative government” (Mill 1958 p: 230).

I.9. Ethnic Identities in Political Realm of Nations

Those subjects viewed above are the products of historical process of human collectivity that gave way to clashes and conflicts between groups of people at the end. The earliest records of ‘tribes’ and ethnic groups were found in the Middle East in the third millennium B C those groups have been lived for a long period of time under the jurisdiction of multi ethnic empires by enjoying varying degrees of autonomies as passive but recognized communities in society (Hutchinson and Smith 1997 p: 10-11).

The minority majority struggle is the last dimension of clash among human collectivities to assert greater control over their own lives in contemporary political realm of nation states. With the appearance of modern bureaucratic state and
capitalism from the beginning of 19th century accompaniment of ‘state’ with ‘nation’ as the source of authority ethnic communities take on a new political importance. After French Revolution and Napoleonic Wars the people notion of Age of Empires had been transformed from aggregation of multi ethnic autonomous communities in to an ethnically homogeneous national society of brothers and this notion excludes adopted brothers of inherited societies. In this interplay of nationalism and republican state there was no room for an ‘ethnic autonomy’ that conflicts with the idea of republic in manners of ‘political and cultural unity’ (Brubaker 1997 p: 168-169).

This notion of nationalism is called civic nationalism which is opposing to ethnic conception of nationalism. Idea of civic nationalism emerged from French Revolution emphasizes on the citizenship concept and its right which were bounded to obligations towards state –intrinsic to nation- which is extremely ‘state-centered and assimilationist’ (ibid p: 169). Sole politically defined citizenship could be the best solution for state formations under the conditions of contemporary world demographics6, if the source of jurisdictional authority did not take the legitimacy in to account as unitarity of one and indivisible community.

This alternative conception of citizenship that also brought alternative nation model called ‘political nation’ (Brown 1996 p: 307). Brown defines this alternative form of nation ‘accommodates the idea of a community comprising ethnic components’ that enjoying equal status, power, and access to resources as a ‘unity in diversity’ formulated in consociationalism and federalism (ibid p: 307).

However ‘Fraternité’, which had originally been a cosmopolitan appeal, became an ‘ethnocentric’ and ‘nationalistic’ rallying cry (Rohtschild 1981 p: 12) that lead world towards succession wars and series of ethnonational questions during last two centuries and even far.

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6 See Connor 1994 p: 29
CHAPTER II

II. INSTITUTIONAL DEVELOPMENTS BETWEEN 1648-1989

II.1. Ethnicity in International Arena

In historical and institutional development chapter of our study we are going to start our analysis with emergence of ethnically distinct communities question in international arena by Treaties of Osnabrück and Münster – were concerning the religious distinction which was the strongest sentimentality of its age. Recognition of ethnically distinct groups of societies around the historical re-awakening of Machievellist reel politics, and interpretation of group sentimentalities around the question of territorial integrity later becomes a threat perception during 1648 – 1989 periods. We are going to review, how ethnically distinct groups of the societies are being perceived, and the evolution of politics towards them.

According to Vieytez (2001 p: 5-6), the period of time since the end of the so-called Thirty Years' War and today can be divided into five historical periods:

1. First phase; is beginning from the second half of 17th century protection of minorities was fully integrated into international treaties. These treaties incorporated clauses to protect communities whose religion or worship was different from that of the majority of the population of the state in which they lived. This is the case, for example, of the Treaty of Oliva in 1660 with regard to the Roman Catholic communities of Eastern Livonia, which were thereby incorporated into the Swedish kingdom.

2. Second phase; had been developed since 1812, in which international treaties also included clauses in favor of national minorities, beginning with references to Serbian autonomy in the Treaty of Bucharest (1812) and to Polish populations in clauses drafted at the Congress of Vienna (1814–15).
3. The third stage; started at the end of the First World War, when the Peace Treaties signed in Paris in 1919 set up a system to protect certain minorities in Central and Eastern Europe under the supervision of an international organization with universal scope: the League of Nations.

4. Fourth period; in which part of the role of the League was undertaken by the new international organization of the United Nations. This new phase added to the existing levels the protection given by a regional organization, the Council of Europe, whose brief was to ensure the protection of human rights and democracy throughout the continent.

5. Finally; the fall of the Berlin Wall signaled the start of the most recent period, characterized by new juridical developments at both bilateral and regional levels, including the protection provided by the Organization for Security and Co-operation in Europe (OSCE). This period is, of course, still ongoing.

II.1.1. The Basis of International System: First Attempt for Tolerance and Heterogeneity in Europe

Reform movement against Roman Catholic Church and Church’s Counter Reformation, along with sovereignty disputes, rocked Europe for a century. The wars of this era had ended by Treaty of Westphalia (Münster and Osnabrück Treaties). It is a coincidence that both two of principles state sovereignty and first attempts of abolishment of discrimination, in terms of religious sentimentality, are emerged from the same treaty. Which also constituted the bases of contemporary international system; signed in 1648 at the end of 30 Years Wars has two important consequences:

1. Secularization of Europe
2. Acceptance of the state as territorial sovereign
With the treaty the modern notion of ‘territorially sovereign state’ constituted by freeing the state rulers from the Catholic Church jurisdictions (Luubers & Koorevaar 1998 p: 2) and made an important step through acceptance of ethnic heterogeneity by guaranteeing the rights to both Catholic and Protestant minorities to privately practice their religion without interference from the king (state sovereign) and public discrimination based on religion was prohibited within all realms (Cronin 2003 p: 2).

The situation explained above is the first attempt of constituting tolerated multiethnic society. However the system itself was largely an attempt to institutionalize heterogeneity after a period of religious wars, Westphalian legacy in Europe was to foster the homogeneity within the units making up the system (Kraus 2003 p: 671).

“Political theories influenced by the Westphalian tradition usually take it to granted that states possesses an indivisible source of sovereignty which is the expression of a uniform collective identity, and presuppose societies that are culturally homogeneous” (ibid p: 669-670).

After Treaty of Westphalia numerous treaties were made to protect the religious minorities residing in redistributed territories between states. These treaties are: Treaty of Olivia (1660), Treaty of Nijmegen (1678), Treaty of Hubertusburg (1763) and Warsaw (1772), Treaty of Ryswick (1697), Treaty of Utrecht (1731), Treaty of Dresden (1745), and Treaty of Paris (1763).

II.2.2. Nationalist Era and Myth of Homogeneity

From the beginning of 19th century under the effect of American and French Revolutions and Napoleonic wars, a new era had begun in Europe. The new era was dominated by the notions of nation and nationalism. Separation of societies,
of Eastern and South Eastern Europe from empires, as newly established independent nation states, the situation of minorities which are not sharing the common culture, ethnicity, language and etc. with the dominant majority of these newly established states became a problem. During this period numerous military operations and treaties were made among the parties to struggles and their allies who were in particularly concerned with the situation of minorities.

Paralleling these developments, in the Final act of Congress of Vienna (1814–15) two important decisions were made: first, minorities were defined as national groups rather than religious communities, and second, protection of minorities expanded to cover the civil and political rights for peoples being transferred from one rule to another (Nas 2000 p: 7).

Later in Treaty of Berlin (1878), as condition of their international recognition, successor states of Ottoman Empire in Balkans had to demonstrate a willingness to comply with a ‘standard of civilization’ which went beyond the traditional, minimalist criteria for establishing sovereign independence that historically concerned only the effective control of territory and people (Preece 1998 p: 62). However as emphasized above minorities have been issued in many previous treaties, as McCartney (1934 p: 166) and Krasner (1999: 86-87) stipulated Treaty of Berlin as the treaty that prohibited ‘exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employments, functions and honors’, was the most important gathering that tackled the question of national minorities before the Minorities Treaties concluded after WWI.

II.2. Ethnic Identity in Interwar Era

The peace conference ending the World War I (WWI) met in Paris with 5 great powers; France, Britain, United States (US), Italy, Japan, and representatives of
smaller countries and certain ethnic groups which are looking for lobbying for their interests.

There were three important personalities who challenged to influence the decision making process during the conference these are Woodrow Wilson, president of US; Lloyd George, prime minister of Britain; Georges Clemenceau French Premier. During the congress participants witnessed the clash of two approaches trying to dominate other; idealist approach and realist approach (Eralp 2004 p: 61-68).

Woodrow Wilson as an academic – previous president of American Association of Political Science and Director of Princeton University – represents the idealist approach that also called ‘liberal internationalists’ (Donnelly 2000 p: 26). Idealists were advocating the organization of national systems around principles of democracy, and association of international system around ‘open diplomacy’ and a new international organizational framework that foresees the establishment of League of Nations to ensure the implementation of these principles. According to idealists League of Nations will be based on a new notion – collective security –, which will eliminate the old balance of power notion and lead to a perpetual world peace by making wars impossible, thus international area will be based on a ‘rational’ ground and ‘progress’ will be achieved.

II.2.1. Clash of the Politics

The principles that advocated by Wilson are however noble and respectful, the other part of the allied powers are not sharing the same ideas because they prefer conservative ideas in order to maintain the post-war status quo, which is more beneficial for their national interests. Especially in Eastern Europe, territorial adjustments which were carried out in the process of dissolutions of empires created beneficiaries organized under the leadership of France, who are trying to
exclude the defeated countries and became the main defenders of post-war status quo. That’s why Wilson’s project was already still born.

The League of Nations attempts to replace power politics, secret diplomacy, system of rival alliances, and military aggression with a machinery for peaceful settlement of disputes and arbitrations, because the methods which were employed towards these aims were seem inept and discriminatory and there fore such a project could not provide solid foundations for stability and peace (Thomson 1966 p: 622-626). The fear of repetition of previous devastating war sourced from failure of balance of power diplomacy turned focus towards a new horizon which was committed to using human reason and organizational ingenuity to replace the old order of national interests with a new order of common interests (Donnelly 2000 p: 26). However in states front the case was reverse, states act involuntary to reduce their freedom of maneuver by transforming ‘anarchic’ nature of international environment to a ‘constitutional’ order (Burchill 2001 p: 47).

Hobbsbawm argues that allies accepted Wilsonian principles because of their fear from Bolshevik’s program, they required something to mobilize masses and preferred national self-determination instead of social revolution (1995 p: 131):

“Against conflict among bourgeois parties because of reasons like language and etc. problems, proletarian democracy asserts the will of absolute unification of labors of every nation in each kind of cooperation, consumption, and education and etc. organization against bourgeois nationalists” (Lenin 1998 p: 21).

However victorious AAP know that Wilsonian principle of self determination is not possible to imply, because the frontiers of states do not coincide the frontiers of nationality and language, nothing prevented them to insert those provisions in the peace treaties of defeated states (Hobsbawm 1995 p: 132-133). Impossibility of Wilsonian self determination in the principle of ‘one nation, one state’ for each and
every ethnic group, created discontent ethnic groups and nations which became a serious threat to security and stability in post-war Europe (Nas 2000 p: 95).

The logical implication of trying to create a continent neatly divided in to coherent territorial states each inhabited by a separate ethnically and linguistically homogeneous populations became the mass expulsion or extermination of minorities (Hobbsbawm 1995 p: 133). The Wilsonian system also created some other significant and not entirely foreseen results like re-formulation of nationalism in small nations, which are impatient of minorities, and re-description of ‘national idea’ by its official champions what Lenin called ‘great nation chauvinism’ (Hobbsbawm 1995 p: 134). Not only limited in Europe but also spread the world.

Under these conditions several documents proposed for solution of minority problems in Peace Conference which was convened at the end of the war. American government, under the leadership of Woodrow Wilson, proposed three drafts which were including specific provisions on the protection of minorities as a part of Covenant of the to-be-established League of Nations, but British government was against the inclusion of any clause on the protection of minorities in the Covenant according to their opinion protection of minorities should be dealt with on a country by country base and should not be dealt on a universal base because the situation and the demands of each minority is different (Nas 2000 p: 95-96).

II.2.2. Treaties of Minority Protection

Because of the perception that early 20th century warfare in Southeastern Europe largely stemmed from animosities between ethnic and religious groups, minority rights agreements were incorporated into most peace treaties signed with all Central and Eastern European states in the aftermath of World War I (Cobban 1969: 85-90) however a general system of minority protection did not constituted.
Those treaties made with only a small number of States, mainly in Central and Eastern Europe. Unlike the treaties of the 19th century, the interwar agreements were quite detailed and often explicitly guaranteed minority protection as regards distinctions of language, birth, race, nationality and religion (Krasner 1999: 90-91)

II.2.2.1. The groups covered by the Treaties

Newly established and enlarged states accept and agree to embody in a treaty with Principle Allied and Associated Powers such provisions as maybe deemed necessary by the said powers to protect the interests of inhabitant who differ the majority of population in race, language or religion (Capotorti1979 p: 17-18).

These countries are Austria, Poland (including upper Silesia), Serb-Croat-Slovene State, Czechoslovakia, Bulgaria, Romania, Hungary, Greece, free City of Danzig, Aaland Islands, Albania, Estonia, Lithuania, Latvia, Turkey, Memel and Iraq. Mutual treaties concluded between Greece and Bulgaria, Greece and Turkey, and relating to Memel and Danzig, and lastly treaty between Germany and Poland, but Allied Powers; Italy and Germany -except for upper Silesia- were immune from the applications of the regime (Nas 2000 p: 99).

The regime that was established by the treaties mainly aimed at protecting the principle of equality of treatment before law and court and enjoyment of civil and political rights, the right to exercise one’s language and religion freely in public or in private – without undermining the public order or public morality –, right to establish, control and manage their own institutions and foundations which are related to education or religion. From this point of view as the equal citizens of state like the majority they have rights to access public employment and exercise of professions and industries, and public funds under State, municipal or other budgets for educational, religious or charitable purposes by minorities in towns or districts where a considerable proportion of population, which is determined as 1/5
of population, is made up of persons belonging to minorities (Nas 2000 p: 100-102). Also minorities who were granted a right of option in citizenship and were residing in transferred territories of newly established or enlarged states could automatically acquire the state’s citizenship – after the treaty came in to power – or could acquire citizenship of another state if they were ready to migrate to that state (ibid p: 100).

The implementation of the principle of national self determination in central Europe, where a mosaic of different ethnic groups lived inter-separated with each other, required a strengthened system of minority protection. The States, which did participate in such agreements eventually refused to apply them, as they increasingly, became the subjects of popular displeasure. Thus, no general minority protection system was established.

II.2.3. Guarantor Role of League of Nations

The Council of League of Nations had accepted its role as guarantor for the national minority treaties by passing a resolution for each of the treaties – Germany and Poland January 1920, Austria, Bulgaria October 1920, Czechoslovakia and Yugoslavia November 1920, Hungary and Romania August 1921, Greece and Turkey September 1924 – (League of Nations Resolutions and Extracts, 1929, p: 165-166).

Upon accepting its role as guarantor of the Polish treaty, the Council of the League thought it advisable to determine the nature of this guarantee and the manner in which it should operate. The resulting Tittoni report summarized the League’s role as it was explicitly defined in the treaties themselves. According to Tittoni guarantee of League of Nations grants an inviolable situation for the provinces, so that can not be modified –in terms of violation- without the approval of majority of the League Council (Preece 1998, p: 79).
Thus Council empowered for implementation of the guarantee, from 1920 to 1929
Council developed an operating procedure to bolster and maintain the League of
Nations credibility as an impartial guarantor. The form of procedure and required
amendments were (ibid p: 78-83):

1. Any minority group, organization, state or person could submit the violation
of the provisions on minority protection in relevant treaties and declarations
to the Minorities Section of Secretariat of the League of Nations. However
this action retained the nature of a petition did not have the legal effect of
putting a matter before the League Council or calling upon it to intervene.
On the other hand Article 11 of the Covenant of the League of Nations each
member of the League had granted the right ‘to bring the attention of
Assembly or the Council whatever affecting international relations which
threatens to disturb international peace depends’. But this granted right
had been invoked many times by certain states in accordance with their
national interests because of this, Council made a decision on 9 June 1928
to the effect that minority cases should be brought under Article 11 only in
2. When a petition was addressed to the League, the Secretary General was
obliged to communicate it to all members of the League Council. But upon
the request of Czechoslovakia and Poland the procedural rule amended in
1923 and five conditions determined to acceptance of petition with regards
to protection of international dignity of state concerned and League of
Nations. According to this amendment petition must: have had in view the
protection of national minority in accordance with the treaties; not have
been submitted in the form of a request for the severance of political
relations between the national minority in question and the state of which it
was a part; not have emanated from ant anonymous or unauthenticated
source; have abstain from violent language; not have contained information
or referred to facts which had recently been subject of a petition submitted to the League.

3. In 1921 after the appeal of Czechoslovakia and Poland the League Council resolved that all petitions that received by the Secretariat General immediately communicated to the concerned state which was allowed to answer the petition in two months -in 1923 after five conditions for petitions amended this period had extended to four months-. After the reply of the concerned state received by Secretariat General, her reply and the petition will be communicated to the all members of the League; but in urgent circumstances the right of Secretariat General to simply inform the concerned state was resorted.

4. If the case under consideration was unfounded, and to chose deal with the matter by informal negotiations with the concerned state or may decide that the case deserved examination by the Council.

5. If the petition was passed onto a special committee will be known as Committee of Three which was composed of president of the Council and two –in some cases four– appointed members of the Council. In 1925 an amendment made on the appointment of other members and the League President’s membership in the committee. According to this President of the Council could not appoint the representative of the treaty bounded state in question or a neighbor of that state or the kin-state of the affected national minority. According to amendment that regulates the mandatory of the President of the League Council’s membership, if the acting president was a representative of the state in question, a neighboring state, or a kin-state then the President immediately preceding him would serve on the committee in his place. If the committee which investigated the petition with the assistance of the Minorities Section of the Secretariat, and decided that the case should be dealt with by the Council, the decision of the Committee on the petition can be placed in the league Council’s agenda without asking but the rest of the League Council have to be informed with a written
decision. Than one or more of the Council members investigate the case with the one representative of the accused state.

6. After The Council decided on the case with the approval of accused state, the Council sought to reach a compromise settlement on the issue. In cases that could not be resolved were submitted to the Permanent Court of International Justice (PCIJ).

The League Council was dependent upon the moral approbation of international public opinion, the prestige of the League itself, and the power of diplomacy to induce the accused state to adopt the obligations imposed by the treaties. As the League was faced with the question of national sovereignty League could not force a solution to the State concerned. A limited judicial component was included in this process. Only if a case was submitted to PCIJ by a member of the League Council, the courts decision was binding. But these judicial implementations were rarely used because of primary concerns of the State rights (Preece 1998 p: 83 Capotorti 1979 p: 23).

II.2.4. Failure of League of Nations System

The ultimate goal of new world order was establishment and maintenance of liberal democracies, that’s why in each action towards the regulation of each element of order aimed to settle the main principles of liberal democracy. In this context Protection of Minority Rights Treaties were seen as an important mean towards the desired World/European order because: first, this was the primary mechanism that will lead the successors of empires to adopt liberal democratic institutions in their policy making traditions, second, because of their multi ethnic populations these newly established states had seen as the most vulnerable compounds of new world order, third, the potential discontent groups of these states should be united with in the population in accordance with the most suitable method.
In accordance with promotion of liberal democracy aims the minority protection regimes were constituted on the bases of protection of individual, which had been evolved since the republican idea of citizenship.

The recognition of collective rights for national minorities was not wholly accepted, because recognition of minorities as distinct groups can be harmful for state sovereignty and fictitious equations nation-state which of being emphasized in the first chapter. Also there is another important point that expressed by Mr. Briand in the League Council:

“the process (the League) should aim for … (is) a kind of assimilation which will increase the greatness of nation as a whole without in any diminishing the importance of the smaller (national minority) family” (League of Nations, Official Journal, April 1929 p: 529)

In his words ironic situation of League of Nations reveals; as Burchill pointed (2001 p: 47) “the League of Nations was an alternative means of legitimating national sovereignty, not an alternative to national sovereignty” which is contrary to the noble idea of constitutional world order. Also the failures of the League to prevent Japan’s invasion of Manchuria and Italy’s occupation of Abyssinia shows the reluctance and ineptitude of adjectives employed for defining acts of the League - such as ‘common’ and ‘collective’, which were far from getting in to action in order to reverse even in these crucial acts of aggression. According to Howard7 “the failure of the League can be applied to a general reason of a lack of a degree of mutual confidence, a homogeneity of values and a coincidence of perceived interests” (p: 132 cited in Burchill p: 47).

II.2.5. General Assessment

The regime was established on an unequal base; states, which were seen as sole actors vs. national minorities. It was certain that states were having a more advanced situation.

Because of this the acceptances, mechanisms, definitions and limited roles of national minority groups were largely criticized by minorities. According to Inis Claude (1955 p: 25), minority groups wished the mechanism to be altered in the following way:

1. They wished to be recognized as collective groups,
2. They wished to argue their cases throughout their own chosen representatives,
3. They wished to participate the negotiations carried out by the Committee of Three,
4. They wanted the decisions of the Council to have a judicial base, instead of being based on merely political considerations.

Some of these minorities acted by themselves, but some of them were leaded by their kin-states to disturb the new established or enlarged states which benefited from the new order that they excluded of. That’s why AAPs did not apply the protection regime instruments for themselves in treaties; believing that this would represent direct interference into their own internal affairs (Stavenhagen 1989 p: 4).

In cases that minority protection clauses became a mean of ‘direct interference’ to their own internal affairs treaty-bounded states used each mechanism to prevent minority groups or kin-states from becoming parties in minority questions by blocking contact between petitioners or minority organizations, and the League
Secretariat and the League Council (Nas 2000 p: 112). However efforts of treaty-bounded states for preventing regular working of mechanism was known by the League itself, league was too thoroughly devoted to the principle of sovereignty to approve the pluralistic principle that a group within the State might haul its government before a tribunal and engage as a party on equal terms with the state in litigious proceedings (Claude 1955 p: 27).

As an unsatisfactory regime, for both national minorities and minority states, it had failed. The first withdrawal state was Poland, which could not handle the demands of German speaking minority that backed by Nazi Germany. Poland denounced its minority obligation on 13 September 1934. Colonel Beck of Poland expressed this act as follows:

"Pending the introduction of a general and uniform system for the protection of minorities, my Government is compelled to refuse ... all cooperation with the international organizations in the matter of supervision of the application by Poland of the system of minority protection" (League of Nations, Official Journal, 1934 p: 2)

According to Claude this was the blow that left League of Nations’ system ‘inoperative and ineffective’ until WWII (1955 p: 29-30). League of Nations International Protection of Minorities Regime had failed. But as an attempt that carried out in its age, the Regime was including certain achievements as progress in the minority protection issue:

1. It was the first attempt at the protection of minorities in a ‘regularized and institutionalized’ multilateral framework (ibid p: 21).
2. Previous system was treaty based and only parties of treaty could enforce the implementation so the League of Nations’ guarantee is an important step in international supervisory. Nevertheless international guarantee and multilateral supervisory are preferable and effective methods of protection, but could not be carried out effectively (ibid p: 29).
3. The Regime invoked a moral consciousness in international society concerning the protection of minorities (ibid p: 29).

4. The idea of absolute sovereignty reshaped with the inclusion of the notion of an international legal order (Nas 2000 p: 118).

II.3. Upsurge of Power Politics and Re-emergence of Realism

From the beginning of 1930s international system faced with grave challenges. First, in 1929 economic crisis, which was began in United States’ (US) economy and rapidly spread to global economy, reinforced nationalist protection tendencies of bourgeois nation (Hobbsbawm 1995 p: 131-132). Second, rise of nationalist tendencies in defeated states of WWI led them to seek an opportunity to change the international system which they were excluded of. In addition to these developments, failures in Idealism’s project – institutionalization of international system and League of Nations – increased the amount of criticisms on Idealism.

Detailed analyses of this period by Olson and Groom had shown that agreement among international relations thinkers had disappeared and very distinct ideas were emerged. Most significant study of this period was Schuman’s book named ‘International Politics’ (1933). In his book (like Morgenthau\(^8\)) Schuman opposes the influences of international law and history on international relations. He advocates the idea of settling international relations on the bases of political science, but with a new approach which strongly recommends replacing power concept with judicial and historical approaches. (Eralp 2004 p: 69)

Another significant work of this period was E. H. Carr’s book named ‘The Twenty Years Crises: 1919-1939 (1939). In his book serious criticisms of Idealism takes place. He defines Idealism as utopism, according to him Idealism was a necessary process that international relations studies has to live, as a crawling

\(^8\) see Eralp 2004 p: 72-78
period like all other disciplines, before maturing. He claims that in new period – Realist period – studies should be focused on ‘positive’ aspects of international relations such as ‘power’ and ‘history’ rather than normative aspects. He inspired from 19th century Liberalism (Smithsonnian perception) and foresees an international relations system that constitute of coherence of interests of nation states.

II.3.1. Approach to Minorities After WWII

However minority rights had received ‘some’ recognition in international system under the Minority Protection of League of Nations, at the end of the WWII Minority Protection issue had been abandoned under the United Nations system.

To understand the reasons of this abandonment we have to look at the beginning of post-WWII/cold-war era. US who remained/became the champion of liberal democratic Western world made its influence felt. The practices and traditions that developed in US’s very own history – liberal conception of citizenship – had been applied as the main principle for protection of minorities. Citizenship encompasses and overrides social, ethnic, cultural and other differences; therefore there was no need to provide international protection of minorities, universalization of human rights would be sufficient to protect the well-being of minorities. In the light of this approach provisions on preservation of ethnic identities were excluded in treaties ending the WWII.

In one hand we have US which had argued liberal citizenship concept instead of protection of national minorities. This was very own reason of US because this system was already its historically designed society formation (Hobbsbawm 1995 p:20). On the other hand we have a Europe – community of European nation states – which had shaken by the consequences of minority protection regime of
post-WWI era. Except their distinct tradition on society formation US and Europe were sharing a series of reasons:

1. The general agreement on national minorities as destabilizing elements of the international system; memories of German speaking minorities, which were became a pretext for Nazi aggression towards neighboring states in the late 1930s, and Nazi’s occupation of Poland and Czechoslovakia by reasoning violation of these national minorities rights. Similarly certain non-German minorities in Central and Eastern Europe – Slovaks and Croats – had also cooperated with Nazi’s towards their own national aspirations. These developments led the spread of feelings of suspicion and aversion towards minorities. (Preece, 1998 p: 98).

2. The priorities of Allied Powers after WWII; the most urgent problems were re-organization of Europe and establishment of political and economic stability. In parallel of these urgent problems the race between US and United Soviet Socialist Republic (USSR) in delimitation of spheres of influence raised military and security concerns and pushed the issue of minorities back. (Claude 1955 p: 54-55)

3. Military and security concerns were the most important factors in re-drew of frontiers after WWII. Creation of new minorities or dealing with the problems of minorities was not taking place in the agenda. (Preece 1998 p. 102-103)

4. Another important reason was self determination principle that given by minority protection. Providing minority rights were seen as a threat that would lead to demands towards independence by ethnic groups may cause harm on territorial design that constructed towards military and security concerns that’s why self determination of ‘people’s was only possible for some minorities. (Thornberry 1995 p: 18)
In accordance with the realist perception on nation state, peoples were imagined as the citizens of a state and the national self determination principle was reduced to popular sovereignty of the entire population with in a state. Such considerations led a distant approach to the international protection of minorities.

II.3.2. Proposals for National Minority Issue

Aftermath of WWII several were proposed for national minorities issue:

1. National Minority Guarantees: We can distinguish this group in to two parties; claims of the first party was towards regional solutions. In 1940 Max Laserson proposed an arrangement that would bind those states associated with league system, but territorially extended one, including Germany, Italy and Spain. He suggested a system that holds these states under international supervisory; also he proposed intervention as a deterrent against abuses of minorities (Preece 1998 p: 98-99). Another regional solution proposal was federalism in Central and Eastern Europe, Oscar Jankowsky was one of them. According to his plan all members of a minority regardless of place of residence would be included in the cultural authority of that minority (ibid p: 99).

The party which advocates a universal system of national minority protection was a group of American and Canadian lawyers. According to this party an international executive agency should be established to consider instances of national minority mistreatment and should have the power to order remedial action whenever necessary (ibid p: 99).

2. Human Rights: This group also can be distinguished in to two parties. First party believed that implementation of human rights would be sufficient to fulfill demands of national minorities. According to them enjoyment of human rights without discrimination which is based on irrelevant characteristics such as ethnicity or religion would realize demands of
members of minority groups in their political and social participation process. (ibid p: 100)
Second party argues that human rights would not be sufficient for the protection of minorities but were more likely to succeed than regional minority rights. They proposed to extend the implementation of human rights into universal level to overcome the objections of minority states on grounds of sovereignty (ibid p: 101).

3. Frontier Revisions: Another approach towards solution of minorities was to use frontier revision, but could not find a large support. According to this approach borders should once again re-drawn with respect to minorities residing on. But there were two important problems that this approach has to face; first, according to US and her allies, economic and politic stability that depend on military and security issues were more important than territorial distribution of ethnic demography; second, recognition of impossibility of creating a tidy ethnic division in Central and Eastern Europe. (ibid p: 102)

4. Population Transfer: This approach advocated by victorious powers of WWII and widely used. It was argued that civil and political rights of transferees would still be respected and as they were no longer be a minority so those individuals would be less likely to experience inequality and discrimination. In 1945 Postdam Protocol Article XIII called for transfer of German populations from Hungary, Poland and Czechoslovakia; the 1946 Paris Conference provided for transfer of ethnic Italians, Croats and Slovenes between Italy and Yugoslavia. In 1944 Poland and Belarussia; in 1945 Lithuania and USSR; in 1946 Yugoslavia and Poland, Czechoslovakia and Hungary were signed bilateral population exchange agreements. (ibid p: 103-104)

5. Assimilation of Minorities: According to this approach that embedded the fundamental elements of realist thought nation state and national minorities are totally incompatible, stability and security in a society requires
homogenization of populations. To achieve the ultimate goal of homogenous national populations for nation states the previous two proposals were too problematic, so the idea of assimilation was considered the only feasible alternative. Nevertheless assimilationist proposals did not go unchallenged; certain groups were opposed this approach and claimed that assimilation is violation of self-determination principle and were often resulted opposite of intended. (ibid p: 104-105)

II.3.3. Situation of Minorities

The methods which were considered as more feasible in accordance with the realist thought were used. According to this minority protection provisions were excluded from treaties ending the WWII.

Minority Protection Regime of the League of Nations was abandoned and the provisions on minorities were excluded from the treaties. United Nations declared the Charter (1945) and the Universal Declaration of Human Rights (1948). However these two documents were not including any provision that could have direct effect on minorities but were including some particularly related provisions supplemented in protection of human rights. Wight expresses the emerging situation of national minorities as:

“Such (national minority) provisions did not survive in to the peace settlement of 1946. Their formal place has been taken by the Universal Declaration of Human Rights, which the General Assembly adopted in 1948. But this tends to assert the rights of individuals, as the irreducible units of humanity, rather than of national groups or minorities, and there is not even the rudimentary machinery for international supervision that the League developed for minority treaties. The result is that individual is left confronting the state.” (M. Wight 1997 cited in Preece 1998 p: 95)
In accordance with her liberal society tradition, the approach to minority issue in the bases of individualism and human rights mostly advocated by US. But there was an important difference between the minorities of US and Central and Eastern Europe that Americans failed to realize, except indigenous populations of US ‘ethnicity existed without territorial associations’ (Preece 1998 p: 101) unlike in Central and Eastern Europe where ethnic nationalisms may give way to territorial secessions. Thus by neglecting some undesired differences, human rights champions declared the needlessness of minority protection system. According to them universal human rights would be sufficient to guarantee the protection of national minorities, until they reach their ultimate goal entire assimilation of minority in to the larger society (Nas 2000 p: 131).

The reasons of this minority scenario which had been determined earlier lies in the very hearth of realist thought that assumes nation states as the sole actor of international system. Reducing nation states to an indivisible/whole, sovereign unit which is having no internal division, of international system provides some important advantages while analyzing and legitimizing behaves of the nation states. Thus each state can be easily standardized and by the way transition from national level to international level could be easily achieved. On the other hand this reduction served the aims of politicians and diplomats who were trying to maximize national interests in international area. (Eralp 2004 p: 72-79)


Under the political conditions of cold war world the UN was clearly less concerned to achieve international solutions for national minority problems but did ‘not totally discarded’ them (Thornberry 1991 p: 242). In 1947 during a discussion of the UN General Assembly of a draft article on minorities which had been submitted in the Universal Declaration of Human Rights, Mrs. Eleanor Roosevelt addressed the ‘encouragement of respect for human rights’, which was also determined as the
purpose of UN Charter (Art. 3, 55.c, 56), as the best solution for the problem of minorities (UN Doc A/C 3/SR 161, 726).

The UDHR was characterizing the UN age. However Universal Declaration contained no specific articles on minorities, the minority issue was not neglected but was expressed through universal principles of respect for human rights. Those are ‘equal treatment’ to all human beings without distinction as to ‘race, sex, language or religion’ (Art.2). The other articles related to minority protection in particular are; right to freedom of movement and residence (Art. 13), freedom of the religion and belief (Art. 18), freedom of opinion and expression (Art. 19), the right to freedom of association (Art. 20), the right to education (Art. 26), and the provision of cultural rights (Art. 27). Those wide ranged human rights protection provisions than can be implied for minority protection encouraged some of the opponents to the inclusion of minority rights in the UDHR. The representative of United Kingdom argued that the rights of all minorities were already fully protected in the proposed Declaration and that there was therefore no need for any of the proposed draft provisions on minorities (Yearbook of the United Nations 1948-49, p.544).

The Universal Declaration of Human Rights which had been prepared in such a political environment made no mention for minority protection. The Draft of Universal Declaration of Human Rights included a clause on national minorities which has later removed by UNCHR:

“In all countries inhabited by a ‘substantial number’ of persons of a race – term ethnic employed in 1960s –, language or religion other than the those of the majority … minorities shall have the right to establish and maintain out of an equitable proportion of public funds … their schools, cultural institutions, and to use their language before Courts, organs of the State and in press, and public assembly.” (UN, E/CN.4/Sub.2/384/Add.2, p: 44)
Although this proposal was giving an important tool to determine minority status, i.e. ‘substantial number’ to the state by not determining a clear number or percentage eliminated from the draft (Preece 1998 p: 111). On the same day General Assembly referred the minority protection issue to the economic and social committee by ‘The Fate of Minorities’ resolution [Resolution 217 C (III)] for further studying. In this resolution General Assembly acknowledged that:

“The General Assembly could not remain indifferent to the faith of minorities but because it was difficult to adopt a uniform solution to this complex and delicate issue which has special aspects in each State in which it arises, decided not to deal with the question and instead to refer it to the UNCHR and Sub-Commission for the Prevention of Discrimination and Protection of Minorities for further study.”

(UN E/CN.4/Sub.2/41)

In the Universal Declaration provision were referred to non discrimination and equal treatment, in the enjoyment of human rights and freedoms were particularly pertinent to minority protection. As Thornberry has explained:

“The minority right to an identity was omitted from the Declaration because of the negative repercussions of the League regime, cold war politics, and a rather euphoric belief that the ascription of rights to individuals qua individuals, without setting them in their full cultural or religious group contexts, was necessary and sufficient to meet post-war conditions.”(1991 p: 242)

II.4.1. Developments with regard to protection of minorities

In 1947 a Sub-Commissions on the Prevention of Discrimination and Protection of Minorities was established under the UNCHR. Nevertheless this development also was not an attempt to recognize the minority rights in their full cultural or religious group context as Thornberry expected⁹. The emphasis on studies of the

Sub-Commission concluded towards the general individualistic approach that approved by UN. In 1947 the Sub-Commission submitted some definitions to the UNCHR that drew a distinction between prevention of discrimination and protection of minorities or non-dominant groups (Preece 1998 p: 110):

“protection of minorities or non-dominant groups which, while wishing for general equality of treatment with the majority, wish for a measure of differential treatment with the majority, wish for a measure of differential treatment in order to preserve basic characteristics which they proposes that distinguish them from the majority of the populations”.

The UNCHR accepted the first statement but refused the second (UN, E/CN.4/Sub.2/214, p: 8).

After the proclamation of the Universal Declaration, the Sub-Commission mostly dealt with the problems that emerged and effected the decade in international politics. For example during 1950s, the Sub-Commission’s agenda was dominated by discrimination in education, employment, immigration, and travel; in 1960s, discussions were focused on apartheid in South Africa; in 1970s, human rights violations in South Africa and rights of migrant workers and refugees; in 1980s, abolition of death penalty, use of child labor and the rights of indigenous people were mostly dominant issues of the Sub-Commission’s agenda (Preece 1998 p: 112).

It was only during the following years and periods that the question of national minorities were included in the Sub-Commission’s agenda: 1947-54, 1971, 1977-78, and 1985 (ibid). During the first period several reports and studies published, in 1954 the General Assembly decided to cut off the funds of these studies which were having 'no appreciable results' (UN, E/CN.4/Sub.2/384/Add.2, p: 49-50 cited in ibid p:112).
In 1971 Francesco Capotorti was asked to prepare a report on the concept of minority – to overcome the difficulties in the Sub-Commission studies – and prepared a report that is still regarding as a leading study. This ‘insightful and detailed treatise’ (in Preece’s words) which was submitted in 1977 resulted by the formation of an open ended working group to ‘help stimulate an interest in drafting a minorities declaration. Unfortunately this working group couldn’t achieve appreciable results too -because of lack of consensus on the meaning of minority. Jules Deschesnes ultimate verdict was ‘to postpone consideration of the question’ until a ‘later stage’. (UN, E/CN.4/Sub.2/1989/43, pp: 3-4 cited in ibid p: 113)

II.4.2. International Covenant on Civil and Political Rights


However the Covenant was prepared for guaranteeing the civil and political rights of all persons it is especially important as the only UN convention incorporated a specific minority rights clause. The first article of Covenant which reaffirms the right of ‘self determination’ is universal, and calls upon all States to undertake two obligations: to promote the realization of the right of self-determination in all their territories, and to respect that right. Minority protection clauses of the Covenant and debates on them will be largely analysed in previous section.

Except those the remaining articles were; article 3, States Parties undertake to reaffirm the principle of equality of men and women as regards human rights, and to make this principle a reality. The Covenant elaborates further the civil and political rights and freedoms identified in the Universal Declaration of Human Rights which include: the right to life (Article 6); the right to privacy (Article 17); the
right to a fair trial (Article 2); freedom of expression (Article 19); freedom of religion (Article 18); freedom from torture (Article 7); equality before the law (Article 16).

The Covenant is legally binding. States are thus obliged to respect the procedures for its implementation, including the submission of periodic reports on their compliance with their obligations under the Covenant. The implementation of the instrument is monitored by the Human Rights Committee which was established under Article 28 of the Covenant.

Moreover, the Covenant defines the admissible limitations or restrictions on the rights which it sets forth. It provides that the rights and freedoms with which it deals should not be subject to any restriction except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others (Article 22).

II.4.2.1. Article 27 of ICCPR

Article 27 of International Covenant on Civil and Political Rights (1966) stipulates that:

“In those States in which ethnic, religious or linguistic minorities exist, persons (later amended as ‘citizens’) belonging to such minorities shall not be denied the right, in community with other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

Thornberry lays particular emphasize on Article 27 as (Thornberry 1991 p: 142):

“The only expression of the right to an identity in modern human rights conventions intended for universal application. It is in fact the first real attempt in the history of international law to provide such an universal right.”
Although such novel features were made on Article 27 there were some ambiguous points that require interpretation.

First; however the Article 27 intended to recognize the claims of groups or communities within a state, the rights were not spelt out as collective rights. The rights were addressed to the individuals who belong to minority groups. (Thornberry 1991 p: 149) According to Capotorti there are sound political reasons for this individualistic situation (1991 p. 35):

“The fact of granting rights to minorities and thus endowing them with legal status might increase the danger of friction between them and the state, … Moreover the freedom of each individual member of a minority to choose between voluntary assimilation of his own distinctive characteristics might be disregarded by the organs of the entity formed by the minority group, in its concern to preserve the unity and strength of the group.”

However this individualistic approach is not an impediment for implementation of right in to collective actions because the nature of those acts requires a collectivity that would be taken in to consideration before international bodies 10.

Second; the opening words of Article were ambiguous, it did not mentioned to the emergence of new minority groups ‘those states in which ethnic religious or linguistic minorities exist’ the wording left the exercise of rights stipulated in article to the states’ discretion. As in the case stated above the lack of definition of minority concept gave the state signatories the freedom to determine the situation of ethnic groups under their jurisdiction, i.e. whether they constitute national minorities or not.

Several states, especially Latin American states were unwilling to recognize the existence of minorities within their borders; they were describing themselves simply

10 Also see Thornberry 1991 p: 173
as countries of immigration (Thornberry 1991 p: 154-156). During the drafting of Article 27 the representatives of Brazil expressed their view which was apparently shared by many Latin American States (GAOR, 16.S/3.C/pp8-12 cited in Thornberry 1989 p: 869):

“The mere coexistence of different groups in a territory of a single state did not make them minorities in legal sense. A minority resulted from conflicts of some lengths between nations, or from the transfer of a territory from the jurisdiction of one state to another.”

Australia and France took a similar view and France went beyond and wanted to attach a reservation to Article 27 that ‘was not applicable so far as the Republic is concerned’. France elaborated its position by explaining, that under the terms of its constitution, the Republic (Poulter 1999 p: 80):

“… was indivisible, secular, democratic and social. It shall ensure the equality of all citizens before the law, without distinction … of origin, race or religion. It shall respect all beliefs. Since the basic principles of public law prohibit distinction between citizens on grounds of origin, race or religion, France is a country in which there are no minorities …”

Capotorti rejects the interpretations above. He claims that existence of a minority must be evaluated on the basis of objective criteria which are difficult to determine but not impossible. According to Capotorti this lack of definition does not mean that the existence of minorities depends only on the discretionary power of states (1979 p: 35).

Thirdly; the role of state in exercise of rights was a question mark. The legal sense that created by the wording ‘shall not be denied the right … to’ puts states in a passive role which defined as ‘shall refrain from preventing persons belonging to
minorities from enjoying their culture, profession, and practicing their religion or using their language’. (Nas 2000 p: 154)

The objective behind the article was achievement of a real equality in order to prevent minorities from isolating their distinctiveness from the rest of the society, which requires employment of positive measures could only be achieved after Vienna Declaration (June 1993) with amendment of General Comment No: 23 (50) pp 6.1-6.2 (UN Doc A/48/40, Part1,p 208).

II.4.3. Conventions and Declarations

Between 1945 and 1989 UN and its Commissions and Sub-Commissions produced several Conventions, Declarations and numerous resolutions which were including various article having effect on minorities issue in different levels.


This Convention was adopted by the United Nations General Assembly on 9 December 1948 by resolution 260A (III) and entered into force on 12 January 1951.

The Convention aimed to protect national, ethnic, and religious groups from destruction as a reaction against atrocities of WWII. Under the Convention, Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish (Article I).

It defines genocide as any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (i) killing members of the group; (ii) causing serious bodily or mental harm to members of
the group; (iii) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (iv) imposing measures intended to prevent births within the group; (v) forcibly transferring children of the group to another group (Article II).

The Convention also provides that any Contracting Party may call upon the competent organs of the United Nations for the prevention and suppression of acts of genocide (Article VIII). No limitation is applied to the crime of genocide as a crime against humanity, in conformity with the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity (1968). The Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity was adopted by the United Nations General Assembly on 26 November 1968 by resolution 239 (XXIII), and entered into force on 11 November 1970.

II.4.3.2. Convention against Discrimination in Education


Its purpose is not only to eliminate and prevent all discrimination, but also to promote equal opportunity and treatment in education. The Convention aimed to fight against injustice including both discrimination, which results from legislative provisions or administrative practices, and deliberate denial of the right to education of certain members of the community, and inequalities which consists of a combination of social, geographical, economic and historical circumstances.

This Convention commits States Parties to a national policy which will promote equality of opportunity and treatment in matters of education for all groups of
society. To this end, States Parties obliged to abandon or modify any legal and administrative provisions which involve discrimination, and also to forbid any different treatment or preferences on the membership of an individual to a particular group (Article 3). The Convention laid down the right of members of national minorities to carry on their educational activities and deepening on the educational policy of each state, the use or teaching of their own language (Article 5.1 (c)).

II.4.3.3. International Convention on the Elimination of All Forms of Racial Discrimination


The Convention defines ‘racial discrimination’ as any distinction, exclusion, restriction or preference based on race, color, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life (Article 1).

States Parties undertake “… to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms” and, in particular, “… to undertake to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination” and “… to prohibit and bring an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any person, group organization” (Article 2). States Parties have further undertaken to adopt measures in the field of teaching,
education, culture and information with a view to combating prejudices which lead to racial discrimination (Article 7).

The Convention enumerates rights and freedoms to be guaranteed for everyone on the principle of equality and without discrimination. The list contains the political, civil, economic, social and cultural rights embodied in the Universal Declaration of Human Rights, as well as other rights, such as the right of access to any place or service intended for use by the general public, such as transport, hotels, restaurants, cafes, theatres and parks (Article 5). In addition, the Convention opens the possibility of special measures to ensure the advancement of certain racial or ethnic groups (Article 1). The Convention provides for the establishment of a Committee on the Elimination of All Forms of Racial Discrimination (CERD) (Article 8) to monitor its implementation and receive and consider communications from individuals or groups of individuals claiming to be victims of a violation of any of the rights set forth in the Convention (Article 14).

II.5. The Role of Council of Europe in Minority Protection

The idea for the Council of Europe was devised in the Congress of Europe held in Hague in May 1948. The Council of Europe was founded towards the ideas, which were expressed, in the preamble of European Convention for the Protection of Human Rights and Fundamental Freedoms (will be used as the Convention). A Europe united on the common values of individual freedom as stipulated in preambles, political liberty and the rule of law, principles which form the basis of all genuine democracy for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and facilitating their economic and social progress.
II.5.1. Approach to Minorities

As the emphases were on unity, rather than diversity, of the peoples of Europe human rights and democracy were given particular importance as the common values that lie in the basis of European unity (Akermark, 1997 p: 199). Apart from its main objective, the Council of Europe extremely hesitant to pursue a specific national minority rights protocol because:

1. do not want to repeat League of Nations experience which the Council of Europe documents argue was at best ‘not very convincing’ and worse ‘aggravated existing tensions and difficulties’ (COE, Document 1002 (1959) cited in Preece 1998 p: 114).

With regards to both reasons the European Convention, which was opened for signature by member states of the Council of Europe in 1950, was followed the policy framing UN Declaration (1948). The European Convention too concentrated upon human rights and was included a few rights for minorities.

II.5.2. Effects of ‘European Convention on Human Rights’ on Minorities

In the European Convention many of the human rights were directly assisting minorities in asserting and maintaining their distinctiveness. For example right to respect for private and family life (Art. 8), rights to freedom of religion (Art. 9), freedom of expression (Art. 10), the rights to freedom of association and assembly (Art. 11), and articles enforcing the linguistic rights of persons belonging to ethnic
minorities before law and court (Art. 6(3))\textsuperscript{11}. The ultimate objective of the establishment of the Council of Europe and adoption of Convention expressed in Article 14:

\begin{quote}
"The enjoyments of rights and freedoms set forth in this convention shall be secured without discrimination on any ground such as sex, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status."
\end{quote}

The rights which were given on the basis of individualism and prevention of discrimination were also used to preserve distinct identities of members of national minorities. Thus members of national minorities could be able to enjoy the rights and freedoms without discrimination stipulated in the first section of the Convention by referring Article 14. ECHR expressed its view concerning the situation regarding a case referred to\textsuperscript{12}:

\begin{quote}
"The Commission finds that the situation complained of falls outside the scope of the provisions of the Convention … The Convention does not provide for any rights of a … minority as such, and the protection of individual members of such a minority is limited to the right not to be discriminated in the enjoyment of the Convention rights on the grounds of their belonging to the minority."
\end{quote}

The Commission of Human Rights accepted that under Article 8 ‘a minority group, is in principle, entitled to claim the right to respect for the particular life style it may lead as being private life’\textsuperscript{13} however The Court did not uphold the Commissions opinion.

\textsuperscript{11} The right of free assistance of an interpreter where an accused cannot understand or speak the language used in criminal proceeding.

\textsuperscript{12} X vs. Austria, Application No. 8142/78, 18 DR 88 at 92-93 (1979)

\textsuperscript{13} Case G & E vs. Norway. Application, Nos. 9278 & 9415/81, 35 DR 30, at 35-36 (1983)
The matter of national minority rights was first raised in 1949 with a report of the Legal Committee of the Consultative Assembly drew attention to the ‘problem of the wider protection of the rights of minorities’ (Council of Europe, Document 707 (1949) cited in Preece 1998 p: 114). Since than several occasions between the years until 1961, the national minority issue discussed – particularly in Consultative Assembly – whether it requires to adopt more provisions to protect national minorities or not. In 1950 the Legal Committee of the Consultative Assembly asked the Committee of ministers to ‘examine the problem of wider protection of the rights of minorities’ with a view to the ‘more precise definition of these rights’ (Council of Europe, Document 6 (1950) cited in ibid p: 114).

In 1956, a new proposal submitted to the Consultative Assembly calling for creation of a special committee to study the ‘implications of the European Convention … for the status of minorities’ and to present ‘annual reports … on the situation of European minorities and nationalities’ (Council of Europe, Document 508 (1956) cited in Preece 1998 p: 115). After the examination of this proposal the Legal Committee decided not to pursue this opinion since it would ‘lead to a procedure similar to that applied in the League’ and consequently ‘might give offense or harm’ to the ‘spirit of collaboration’ between the member states. The Legal Committee recommended that national minority problems should be solved bilaterally (Council of Europe, Document 1002 (1959) cited in ibid p: 115).

Adopting an international instrument for national minority protection was depicted one last time in a 1961 report advocating a draft article to add the Convention in order to secure national minorities ‘a kind of preferential treatment’ for ‘safeguarding their character’ (Council of Europe, Document 1299 (1961) cited in Preece 1998 p: 115):

“persons belonging to a national minority shall not be denied the right, in community with the other members of their group, as far as compatible with public
order, to enjoy their own culture, to use their own language, to establish their own schools and receive teaching in the language of their choice to profess and practice their own religion."

The similarity of identical wording of the draft with later adopted ICCPR (1966) was not a coincidence, UN and the Council of Europe was often consulting the same experts. The Consultative Assembly proposed the adoption of this report (Council Of Europe, Consultative Assembly Recommendation 285 (1961)), but the Committee of Ministers decided to adopt a ‘wait and see’ policy and postponed after discussed the recommendation to not to over exceed the already overburdened workload of the Human Rights Commission. The Belgian Linguistic Case of 1968 confirmed the validity of this concern and ended all Cold War attempts to develop a separate national minorities protocol (Preece 1998 p: 115-116).

II.5.3. Protection Mechanisms

The Council of Europe developed extensive mechanisms in second section, and determines the working principles of these mechanisms in third section for providing guarantee for the rights which were stipulated in the first section of the Convention.

According to the Establishment of a commission named European Human Rights Commission (EHRC) (Article 19 (a)) and a court named European Court of Human Rights (ECHR) (Article 19 (b)) were decided.

The court dealt with important cases which were related to the situation of national minorities within the non-discrimination scope of Article 14 of the Convention. Unfortunately as seen in Belgian Linguistic case the scope of non-discrimination was not a sufficient instrument for protecting members of national minorities. The
court found Belgium guilty of discrimination based on residence and avoiding using the clause association with minorities, however held that Article 14 and the First Protocol did not produce a guarantee for parents that their children could be educated by the state in their mother language. (Belgian Linguistic case, ECHR, Judgment of 23rd July 1968, Series A, No.6, P.87)

The Court and the Commission applied a strict interpretation of articles concerning minority rights.

II.6. The Role of CSCE in Minority Protection

CSCE was an initiative in order to facilitate the communication and understanding among ideologically opposing states of Europe to maintain peace and security in Europe. It became an important forum for human rights including national minority concerns after recognition of human rights issue in relation with security considerations in Helsinki Final Act (HFA) of 1975 (Preece 1998 p: 117).

II.6.1. Helsinki Final Act

According to Pentikainen HFA of the Helsinki Conference of 1975 provided the first instance that an inter-state agreement incorporated the principle of respect for human rights in addition to classical principles of international relations and law such as non recourse to force and respect for territorial integrity (1997 p: 83, cited in Nas 2000 p: 158). That’s why national minorities were excluded from Principle 8 which was related to self determination the emphasis on ‘peoples’ term of Principle 8 referred to the citizens of a sovereign independent state (Cassese 1977 p: 101-102 cited in Karaosmanoğlu 2000 p: 66).

HFA has the status of a political statement rather than a legally binding treaty (Preece 1998 p: 117 foot note). HFA drew attention to the protection of minorities
in principle VII of Declaration of Principles with in existing boundaries of previous
in Karaosmanoğlu 2000 p: 68). Although HFA did not applied any new measures
or specific commitments in the minority protection issue, its importance lies in the
point of carrying the issue to the international relations ground once more (Girasoli
dominated by violation of individual human rights instead of minority protection.

II.6.2. Vienna Concluding Document

The concluding document of Vienna meeting of 1989 Vienna Concluding
Document (VCD) has adopted two provisions (paragraphs 18-19) which were
more extensive than that of the HFA in definition of national minorities. With
paragraph 19 CSCE brought some definitions for the recognition of national
minorities -such as ethnic, cultural, linguistic, and religious. Except this
development it is not possible to talk about a new innovation focusing on the
protection of national minorities.

II.7. Minorities in a World of Power Politics

During the inter war period beginning right after the end of WWI a considerable
development and improvement was achieved on the issue of minority protection.
Indeed it can be said that it reached its zenith at this time. However protection of
minorities did not take place in international law minority protection treaties of the
post-WWI were the forerunner of a more general minority system because of two
reasons (Poulter 1999 p: 72-73):

1. Most of the treaties and declarations were including several standard
articles modeled from the Polish/German treaty. Thus, some general
principles were emerged out of particular commitments.
2. Since the League of Nations was responsible for enforcing the minority protection guarantees in the treaties and declarations with the task of receiving petitions if the minority rights under the treaties had been violated and obliged to making decisions by referring PCIJ in this regard, a case law emerged which had some significance for post – World War II developments.

Although it had failed, the idea of collectivity brought tendency of systematization for the issues that should be handled in order to maintain peace. The ideas and doctrines of League were much more liberal than the environment of inter war period which was expressed by Bagley as an age of ‘retrogression, a back sliding of morals and politics’ (1950 p: 126 cited in Poulter 1999 p: 76).

From, the beginning of 1930s with the expansionist acts of fascist regimes leading to destruction of WWII was the path of fall of the idealist discourses of ‘universal morality and rationality’ or ‘preservation of status quo which is vesting the interests of satisfied powers’ (Carr 1939\(^\text{14}\) p: 67-289 cited in Burchill p: 73). Warnings of the realists for recognition of the inexpugnable motive of international relations the ‘national interest' was scraped in human mind in an undesirable way.

Memories of destructions of WWII had been sole concern during the cold-war period international relations’ considerations were mostly focused on security issue around the militaristic ways of it such as, armament, rivalry among Eastern and Western blocks, and nuclear threat. Re-emergence of power politics and positivist perception had changed the inheritance of League system; unachieved project of universal morality idea sacrificed for the sake of a new system which wants to reach a system of coherence of interests.

\(^{14}\) Carr E.H. *Twenty Years Crisis*, London 1939
The speech of the US secretary of time is summarizing the dominant approach to rights of ethnically distinct groups of societies (US Department of State Bulletin 5 June 1943 p: 482 cited in Thornberry 1991 p: 116):

“In the kind of world which we fight, there must cease to exist any need for the use of that ‘accursed’ term ‘racial or religious minority’.

All issues of international environment evolved in accordance with this perception. That’s why minority protection issue could gain prominence after considered in to international security by CSCE in Helsinki Final Act. The system based on principles of the modernist thought of national unity which was re-formulated on the basis of security concerns minorities were only respected as a threat for international security. This paradigm shift effected national minorities issue in two ways:

1. Self-determination of nation’s principle reduced to a simple exercise of popular sovereignty of aggregate of citizens of a state.
2. Minorities ought to be satisfied with individual rights which can be taken into consideration as minority rights as an interpretation of international bodies.

In spite of those negative approaches to minority protection, UN creation universal human rights system was extended on behalf of minority protection regulations. However minorities were being neglected, doubtlessly the creation of such a universal system was a great achievement in account of international law and relations. The human rights had reached to its way of reading that should already be, by referring to equal treatment and non discrimination to provide full enjoyment by all individuals, whether they belonged to minorities or majorities.
CHAPTER III

III. POST-COLD WAR ERA

III.1. End of the Cold War and a New Era

It is not possible to spell an exact date for the rise of criticisms on modernist thought that takes place in every dimension of our lives, however in accordance with our topic we can consider the end of 1980s as our threshold for a new era in international relations theory which witnessed the rise of critics. In this period criticisms on Realist international theory and its positivist methods were found widespread support in public opinion. Each of these criticisms is valuable as they played a prominent role in establishment of a new international relations vision in post-cold war era.

III.1.1. Demise of Public Faith to Modernist Discourses

Since the age of Enlightenment, there was always a resistance against modernism and its determinant destructionist rationality spreading by bourgeois especially from the romantics. In Kuper’s words15:

“Civilization of Enlightenment view perceived as a great challenge against and their superstitions, irrational prejudgments, and their fearful loyalty to feudal lords. According to romantic tradition; rational, scientific, universal, civilization idea threatens authentic cultures, let the crafts sink in to oblivion, cosmopolitanism degenerates the language, rationalism threading the faith and all together putting the moral values, which societies were based on, in to danger.” (1999 p: 7 cited in Özbudun p: 15)

Modernity project which had begun with Kant’s ideas of individual liberation had transformed to an iron cage of instrumental rationalism in historical process. During this process, bourgeois had played the leading role, beginning from French Revolution, including Industrial Revolution, rational reason which promised liberty for individuals evolved as an instrument which restricted human, then society and science; re-defined everything around in accordance with first capital, than state and ultimate peak of modernist discourse Euro-centric ideas.

The way throughout post-modernism is a relatively short but a dynamic process, under the conditions of 20th century. Rapid corrosion of modernist discourses, lead the rise of post-modernist discourses.

First step is the Nietzsche’s works projecting his discomfort from his age’s modernity of organized capitalism which forced rapid transformation of individuals (Rappa 2003). His works were preparing the bases for spread of subjective-irrational philosophy which were seen as the earlier form of post-modernist fact (Okyayuz 2000 p: 164). Role of Nietzsche in rise of post-modernist thought emerged with spread of his discomfort to the rest of society. Foucault’s genealogy inherited from Nietzsche had shown that knowledge, reality and modern subject are designs of a reason which is seemingly out of sphere of influence of a power or groups of power (West 2005 p: 307).

Second important step in corrosion process of modernism was ‘fear’ factor. It includes two world wars, numerous humanity crimes and a holocaust, rise of numerous fascist regimes around the world and even in stronghold of Enlightenment. Instead of feeding hopes for flourish of humanity it became a machinery of fear which fed a cold war with its technological achievements in militarist industry. (West 2005 p: 308)
Third important event was ‘destiny of Marxism’\textsuperscript{16}. “Apart from all, Marxism accomplished its evolution throughout theory to practice by becoming ideology of certain number of socialist regimes, which ‘de-facto existed’\textsuperscript{17}, in 20\textsuperscript{th} century” (West 2005 p: 309). Its spread in Eastern European Countries which will be lately named Eastern Block constitutes ultimate borders of sphere of influence of socialist regime throughout the efforts of American capitalism (see Brezinski, Büyük Satranç Tahtası). In spite of efforts aimed to prevent spread of socialist doctrine, Marxist discourses were able to maintain its popularity in public discourses around the world until Stalinist degeneration. During this era a series of events beginning with concentration camps, political exiles, and continuing with invasion of Hungary (1956) and Czechoslovakia (1968) did not project the humanitarian promises of original discourses.

III.1.2. Critical Approach in International Relations Theory

In general we can define critical approach including recognition of ontological, epistemological and normative questions which were marginalized by positivist aspects of realist theory which of were beginning from the interpretations on Kantian philosophy of knowledge, to Habermasian teleology of democratic transformation including Marx’s emancipation of historical ontologisms (Devetak 2001 p: 155).

More specifically, it is a reaction against ‘isolation’ and usefulness’ notions in theory definition of Waltz (1986 p: 21).

According to critical approaches international relations is not limited with the relations between states as pointed in Realist theory, it is a process which includes relations between civil society and other foundations, and state. In other words

\textsuperscript{16} This is the term originally used in the book.
\textsuperscript{17} See footnote.
criticisms of the reductionist, positivist, unitarian, statist ideas of modernist thought that takes place in every dimension of social life -sciences.

At this point Walker’s description on the nature of international relations theories gains prominence:

“Theories of international relations… can be read as a crucial site in which attempts to think otherwise about political possibilities are constrained by categories and assumptions that contemporary political analysis encouraged to take for granted.” (Walker 1993 p: 5)

From this point of view criticism of international relations theory will not act as a source of subjective knowledge but becomes a discourse which is ‘producing knowledge for legitimating a certain power or interest’ as taken in to consideration in an inter-state level (Keyman 2004 p: 229). That criticism destroys the independence and subjectivity claims of Realist international theory and shows the relation between knowledge and power. From this point of view critical period symbolizes a radical transformation of working principles and methods of realist international theory.

Keyman determines 4 crucial topics in his analyses of critical process (2004 p: 229-30):

1. Revealing relation between Modernity and international relations theory; this step shows the relations constituted between Modernism and Realist International relations theory. International Relations theory is a discourse produced by modernity project, and in this sense it is a Euro-centric narration. We have to ask modernity question to Realist theory in order to perceive the reasons and consequences of privileged role of states.

2. Recognition of power knowledge relation; assessment of theory in modernity question had shown that the knowledge which was assumed as
objective, are subjective in reality and serves the purposes of certain politics and interests. Thus independent and subjective characteristics of epistemology -which was referred to define knowledge production process of modernism project- and clearly defined distinction between facts and values becomes political as far as serving purposes of establishment of certain rationality. From this point of view it is necessary to recognize the relation between power and knowledge to create a new international relations vision.

3. Critical epistemology and normative dimension of theory; if knowledge is not abstract but political, we can assume that reduction of international system to an inter-state system served the purposes of creation of a certain world order hegemony. From this point of view critical theory has to burden two missions: first to show that Realist theory is related with power and hegemony; second to serve as guidance for formation of a new world order.

4. Acceptance of identity-difference relation as the base of international relations theory; recognition of Realist international theory as an extension of modernity project reveals the ultimate aim of power knowledge relation created by Realist theory towards establishing hegemony of modern Western identity. The critical theory which established against this virulent web of relations aimed to bring a new democratic vision in to International Relations by questioning modernity and trying to fill the gap of Realist theory by articulating social groups.

Doubtlessly both theoretical criticisms were sharing common points but each was focused on different elements of Realist International theory.
III.1.2.1. Habermas, Communicative Action Theory, and Inclusive Democratic Moral Reasoning

Habermas as a leading figure of critical approach differed from other critical theorists and even from Frankfurt school as an advocate of modernist rationalization. He believes in the rationalization discourses of modernism; modern science, technology are genuine progresses that achieved by rationality (Habermas 1987). Although he appreciates those achievements he did not totally blinded, he was able to see the legitimating crisis of modernist rationality driven from its democratic deficit. But contrary to others Habermas proposes ‘discourse ethics’ (1987) in order to carry democratization discourse of modernism further, a different approach which is combined with a democratic model of community as dialogue (Hollinger 1994 p: 155).

Habermas who claims that instrumentalist rationality exploits public sphere, suggests replacing instrumentalist rationality with communicative rationality in order to achieve to promotion of democracy (Habermas 1987). In a democratic world order hegemony relations among actors will be abolished and a certain public sphere will be constituted; according to Habermas communicative approach will bring new solutions to already existing problems in modernist project.

Habermas’s sole desire is the achievement of promised democratization in civil society-state relations. According to him, a top-down approach of modern state which employs supremacy of law will not be a sufficient attempt also he suggests creation of a communicative public sphere that realize a down-top participation to control and decision making mechanisms (Habermas 1996). In other words he suggests a system legitimating power of modern state on the bases of a communicative rationality but not only supremacy of law.
First of all we have to look at the communicative action concept of Habermas in order to understand the discourse ethics lying under his assumption for coherence –if the concept means so\textsuperscript{18}. Habermas distinguishes actions into two broad types (1987); the first, communicative action which is aimed reaching understanding and establishing consensus; the second, strategic action which is seen as derivative of the communicative action, is aimed just success. Interactions became “communicative when the participants coordinate their plans of action consensually, with the agreement reached at any point being evaluated in terms of the inter-subjective recognition of validity claims” (Habermas 1990 p: 58).

According to Devetak, Discourse ethics, is essentially a deliberative and consent-oriented approach that aimed to resolve political issues within a moral framework which are necessary for reconstruction of world politics (1996 p: 172-173). From his analyses on writings about discourse\textsuperscript{19} ethics he finds three features of discourse ethics very useful:

1. Inclusionary feature of discourse ethics; its orientation of establishment and maintenance of the conditions which are necessary for open and non-exclusionary dialogue.

2. Democratic feature of discourse ethics; it builds on a model of public sphere which is bound to democratic deliberation and consent, where participants employ an ‘argumentative rationality’ for the purpose of a mutual understanding based on a reasoned consensus challenging the validity claims involved in any communication.

\textsuperscript{18}Kimberly Hutchings argues that “although Habermas’s notion of discourse ethics seems initially promising as a way forward for non-foundational feminist theory, in the end any ‘dialogue’ on Habermasian terms turns out to be onesided and exclusive”. See: Speaking and Hearing: Habermasian discourse ethics, feminism and IR Review of International Studies (2005), 31, 155–165

3. Discourse ethics as a moral-practical reasoning; it is not simply guided by utilitarian calculations or expediency, nor is it guided by an imposed concept of the ‘good life’; rather it is guided by procedural fairness.

III.1.2.2. Neo-Gramscian Hegemony Concept

Other important criticism for reformation of realist international relations theory was claimed by Cox who focused on the changing relationship between state and civil society\(^{20}\). His analyzes were focused on understanding the historical articulation of civil society and state in to international relations theory\(^{21}\). His works were situated within a historical materialist problematic of social transformation and drew to a large extent from the work of the Italian Marxist Antonio Gramsci on state hegemony (1971).

Gramsci refers state not just as the apparatus of government operating within the ‘public sphere’ but also as part of the ‘private sphere’ of civil society through which hegemony functions (1971 p: 261). However Cox extents the domain of hegemony from national level to international level where a situation of hegemony may prevail “… based on a coherent conjunction or fit between a configuration of material power, the prevalent collective image of world order (ideology) and a set of institutions” which shapes and bears forms of world order (1981 p: 141).

When some one called hegemony implies domination of one stronger unit – person group or etc. - over an other in any field. In reality this is the definition of concept which placed in our minds by Realist theory in accordance with its positivist absolute power centered perception. Also in international relations theory hegemony concept has a uni-dimensional application; in international relations...


relations usage of Realists, who equate hegemony with the dominance of one state over others.

But the Gramscian concept suggests a more complex problematic, involving consent and coercion, as well as political leadership, authority and legitimacy (1971). According to Gramsci hegemony can be formulated as: consent (provides ideological leadership) + domination (provided by economic and political power). The basis of hegemony is to be found in the relationship between state and civil society, both within, and across nation-states.

III.1.2.3. Critical International Relations Theory on the Basis of Communicative Action and Hegemony Notions

While we are witnessing irresistible transformation of economic and political global networks Neo-Gramscian theory and presumptions of Cox and Habermas's communicative action theories gaining prominence on the other hand Cold War international system and the explanatory power of realism began to be questioned. First, the demise of Fordist production structures of modernity and a gradual shift in this ‘national’ form of capitalist development to post-Fordist, flexible methods and the global organization of production. Second, the advent of liberal democracy after the demise of the Soviet Union brought forth a new approach to democracy and civil society -emphasizes in both Habermas and Gramsci.

While many aspects of Habermas's work might have provided a potentially rich source of concepts and ideas for the development of a critical IR theory, especially from the distinction point that drawn between instrumental, technical and critical cognitive interests and his concepts of discursive ethics and communicative action by Habermas were thought to be particularly nourishing starting points.
For international relations theory the theory of communicative action, whose cornerstone is mutual agreement through the exchange of arguments, is a useful tool for emancipation of humanity; communicative action expresses an interaction in which actors attempt to coordinate actions by reaching agreement on the definition of the situation and the norms to be applied to it. However did not directly pointed international relations area Habermas’s quotation of communicative action in political community which expressed as “contrast to strategic action, actors do not pursue their interests by deception, promises or threats. Rather, actors try to gain agreement by proposing and evaluating arguments” (1984 p: 574). In international relations level the role of actor and its methods of communicative compromises were standing as it were; the nature of language, actors are compelled to arrive at a mutual understanding once they enter into a communicative dialogue by implying validity claims which are always perceived as potentially redeemable (Haacke 1996 p: 262).

Linklater, who traces the Habermasian communicative action theory of political community, applied the communicative action theory in international relations level in his well known article22 in his work Linklater approach to this task by firstly analyzing the way in which inequality and domination flow from modes of political community tied to the sovereign state, and secondly to consider alternative forms of political community which promote human emancipation.

III.1.2.4. Hegelian Genealogy vs. Recognition of Men

Since the clash between Marx and Hegel, position of civil society against state question is at the stake. In Hegelian genealogy that sees state as “absolute and permanent aim for self … fact and ethical life could be gained only by being a member of state” (1991 p: 275-276) here not the men but the state gains

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ontological priority to civil society. Contrary to Hegel’s claims Marx argues the unity of civil society and political society, and adds “political liberation” formulated by rights of men severely damages human community by dividing it in to two spheres.

Division of human community as civil society and political society; this approach “reduces individual to an egoist, selfish creature as a member of civil society, on the other hand reduces it to citizen as a moral personality” (Marx 1971 p: 57). This debate of political philosophy based on universal ethical reasoning finds its ultimate version in Linklater’s work23 which was strongly influenced by the works of Marx and Kant. In his work attaching to universality and freedom themes of Enlightenment and criticizing particularization of living spheres by advocating extension of moral and political spheres of life in order to prevent the flourishing animosity among citizens as us and them (1990 p: 159).

In international level the problem raises with sovereign state as a ‘limited moral community’ is promotion of exclusion, injustice, insecurity and violent conflict between self regarding states (ibid p: 28). That’s why critical international relations theory regards Westphalian state notion of modernism as a barrier on the road to universal justice and emancipation.

After the role and situation of modern state defined in its sphere of political acts the reason lying at the hearth of state began to questioned, the granted situation of nation state in traditional theories was the beginning point of critical theory. Its ontological status should be examined in its own historicalness. Here the question rises from the placement of ontology by Cox in his theory perception that sees ‘ontology in the beginning of a theory’ explaining the relations between beings (structure) (1993 p: 13). In his work Transformation of Political Community Linklater (1998 p: 147-157) had already pointed out interplay of four historical

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rationalization processes that constitutes the ontological basis of states: state building, geopolitical rivalry, capitalist industrialization and moral practical learning. These processes also grant some exclusive rights which are claimed by sovereign state driven from its presence in world territory and structure: the right to monopolize the legitimate means of violence, taxation, and jurisdiction over its territory and the right to demand undivided political allegiance, being the sole authority of adjusting disputes among its citizens and the sole subject of rights and representation in international law (ibid p: 28-29).

III.2. Interplay of three Actors: Capitalism, Republicanism, and Nationalism

Complex interdependence of capitalism, state, and nationalism that formed bourgeois society in 19th century is the essence of nation-alist-state whose hegemony had been rationalized by capitalist reason (Wicker 1997, Riggs 1998). Those three elements were interrelated each other such a strict way that while first to mutually accelerating each other they already prepare the basis for the third, which is the multiplier element of the system, idea of ‘nation’. Wicker’s (1997 p: 8-9) quick look seems useful to understand the interdependent roles of the capitalism, state –republic–, and nation; capitalism as a project of progress could never develop without the services that could only be provided by state such as standardization and homogenization of money, weight or measures, elimination of domestic tariffs, construction of a transport infrastructure, developing domestic markets, taking protectionist measures, codification of laws in an appropriate way –liberally, including property rights and negative conduct–, promoting trade and industry, establishing central administration, education and justice. That architectonics of ‘Leviathan’ gave way to dialectics of ‘Geist’ (Walker 1993 p: 177).

While the economy was benefiting from state provided facilitations, the state was also benefiting largely from the economic operations in order to accomplish its symbiotic response for capitalist development to imply the principles of republican
liberal democracy and welfare state which were formulated through assimilatory aims of constituting a community of citizens. However the concept was not a new invention its discourse on ‘statist autonomy’ had been carried further by discourses of bourgeois modernity (Walker 1993 p: 67-80). Which of those were supported by rights given to members of political community by territorial authority of Westphalian state (Caporaso 2000) and gained its legitimacy by both American and French Revolutions (Schnapper 1997 p: 201) gained a stronger emphasize on loyalty towards artificially designed homogeneous societies than ever before.

The nation concept that justifies the relations between two concepts capitalist progress and state became wisdom of era. Thus term ‘national’ dominated the literature of the 19th century. The role of nation concept also became inevitably required for maintaining the entirety of society (Wicker p: 9-10). Labor was national, consumer was national, goods were national.

Tendencies of nationalizing everything had being changed after the 1960s which could be accept as the millennia of the major transformations in the international division of the labor. While developments in transportation and communication technologies preparing the basis of transition to ‘world market’ territorially bounded nation scale became insufficient and it required establishment of international economic apparatus. Thus the development of international networks of economic negotiations which are out of reach of state governments undermined the ‘national economy’ and formed larger trades blocks in world economy (Hobbsbawm 1995 p: 181-182) and constitute a cosmopolitan trade republic without making allowance for the concept of nation as List foreseen (1959/1841 p: 133-144 cited in Wicker 1997 p: 9).

Thus capitalism which strengthened nationalist thinking in 18th and 19th centuries began to weaken the sovereignty of older nations with the new economic consequences of post-industrialism such as global division of labor and the power
of multi-national companies in the last quarter of 20\textsuperscript{th} century (Richmond 1984 p: 4-5). As a result openness towards outside promoted and idea of domestic homogenization was renounced (Wicker 1997 p: 29), and individuals seeking for new guarantees formulated ‘re-discovery of sub-identities’ (İnsel 1996 p: 7), which were mostly based on previously established cultural interconnection among its members, such as regional and ethnic identities.

The rapid demise of sovereignty claims of territorial state which was “being eclipsed by non territorial actors such as multinational corporations, transnational social movements and international organizations” (Keohane and Nye 1989 p: 3). Displacing the evidently outmoded 19\textsuperscript{th} and 20\textsuperscript{th} century system of sovereign nation-states were new and emerging forms of transnationalism, global civil society, and world society (Keohane and Nye 2000 p:12) Moreover, the “rising tide of globalization” was conceived far-reaching promises by liberals, ranging from the proliferation of new forms of global governance, such as international organizations, private firms, associations of firms, NGOs, and associations of NGOs, to the coalescence of a global civil society, the convergence of norms of governance and common international standards of human rights, war crimes, democracy, and even ‘world citizenship’ (Keohane and Nye 2000 p: 24).

In this new era where the project of modernity was questioned, the issue of minorities acquired a new significance. The nation-state that was a product of modernity could not create homogenous societies and the existence of minorities was a significant demonstration of the maintenance of diversity and existence of alternative sources of identity.

Thus dismantling of the linking reason of state, sovereignty, citizenship, and nationalism towards a more cosmopolitan forms of government and heterogeneous societies give way to recognition of difference notion of postmodernism. State which is deprived of its 19\textsuperscript{th} and early 20\textsuperscript{th} century situation
can not maintain the previous ‘fetishised’ state of unity and coherence in irreducibly complex society of global era without employing oppression or violence. The price for unification ideal of modernist way will be inevitably ‘terror’ (Lyotard 1984 p: 64).

III.3. Post-Modern Discourse

Disappointments of masses around the world which were waiting since 18th century demised their hopes on progressive discourse of modernism project overtaken either by Marxism or liberalism. If some of progress which had been achieved in objective science, universal ethic, law and art could be projected to social life people will not loose their faith in modernity. The fatal blow came from those groups who were waiting for promised heaven of reason.

It is not possible to talk about a consensus on who are those people some authors/thinkers claims that logo-centric -in Derrida’s words- structure of modernity first began to question by western societies –such as F. Jameson-, on the other hand some claims that they are the peoples of post-colonial states –such as M. Poster-. But their claims are clear living in a democratic environment of which their identities were recognized and collective freedoms were supported.

III.3.1. Post-modern Discourse in International Relations

The first post-modern study in International Relations Literature was Richard Ashley’s article named ‘The Poverty of Neo-Realism’ (1984). In his article he commends pluralism or fragmentation against the universalistic unifying aspects of realism, that “masks an implicit hierarchy of social control relations centered on some particular sets of interests and subordinating other opposing and legitimate interests” (p: 268). The prominence of the article for international relations theory is its quality of being the declaration of demise of realist theory (264-81) and being
a call for establishment of a new theory specified for analyzing newly emerging situation. This counter positioning against modernity and points of criticisms gathered other theorists of international relations and created post-modern discourse.

The post-modern reading of world politics use three notions while approaching international relations these are uncertainty, fission, and difference (Keyman 2004 p: 251-52):

1. Uncertainty; is counter argument of Realist theory’s certainty of state acts in international system. According to uncertainty notion, the certainty notion neglects economic, cultural and discursive working style of international relations and will lead to re-establishment of Cold War logic which was originated from security concerns. In this sense it defines itself as an inclusive discourse.

2. Fission notion; used to refer the fission of Modern identity – modern, Western, masculine, rational – under various criticisms. Thus it criticizes modernist identity discourse in international relations and prepares the bases for recognition of pluralist international system.

3. Difference; used for two purposes: first to emphasize the exclusion of other identities by modernity while centralizing modern identity, and second: to create a policy which recognizes difference-identity relations. Thus, difference notion makes the creation of a radical democratic world order possible.

III.4. Ethnic Distinctiveness in Post-Cold War Era

The East European revolutions that started in 1989 led to the collapse of socialist regimes and consequently to the demise of the Soviet Union. The bipolar world order that characterized the Cold War period gave way to a new international
order. This also meant that the collapse of basic mechanism of modernist international relations approach 'balance of power', and many more principles of modernist world order perception was falling one by one in every case. A new vision in international relations theory was required in order to explain the emerging situations around the world, soft or violent reaffirmation of identities. According to Rupnik, the fall of communism is peak of the exhaustion of modernity this was the last fatal blow to the modernist idea of unitarism (1990 p: 42).

III.4.1. Decline of Modernist Unity

The establishment of a global hegemony is what could be perceived as cultural dominance and homogenization of social system or stratification of ethnic differences accompanied by various economic and political elements had ended by the rise of old-new regional hegemonic centers. The case had been reversed since emergence of competitive old-new cultural identities in social realm, weakening of hegemonic center accompanied by the rise of cultural and economic competition led the breakdown of former hegemonic cultural space.

Figure 1 Global Order Disorder in the Center of the System

Source: Friedman 1994 p: 251
The outline of the process and possible further developments were represented in the figure. Fragmentation is the inevitable consequence of the decline of hegemony in social realm, it give way to social and personal crisis which would re-organize the relations between old-new identifications. As the hegemony of central identity declines, multiculturalism emerges and as a consequence ethnicity becomes salient.

III.4.2. Rise of Old-New Concerns

In the era of hegemonic decline, recognition of collective rights for ethnic communities, such as autonomy in cultural, educational, and religious affairs and even self government in those areas, where national minorities predominant, became the ‘only appropriate and indeed necessary’ political response to their demands (Preece 1998 p: 124). But the historical logic of existence of state still produces the same concerns:

“If every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and economic well being would become ever more difficult to achieve. … The sovereignty, territorial integrity and independence of States within the established international system, and the principle of self determination of peoples, both of great value and importance, must not be permitted to work against each other in the period ahead.

… [S]olutions to these problems should enhance the situation of minorities as well as the stability of states.” (B. Boutros-Ghali, Secretary-General, UN, 1992 cited in Preece 1998 p: 123)

The roots of the problem that must be challenged in international system, was lying in the very heart of the Wilsonian principle of self-determination which became ‘normative grounding of political independence’ in the modern state
system (Preece 1998 p: 123). From this point of view granting collective rights to distinct ethnics becomes an undesirable mean that limits the use of legitimate sovereign power of state.

The new international relations system had obliged a two folded mission; first, maintaining peace, security, and economic well being; second, achieve radical democratic transformation by applying identity/difference recognition notion (promoting democracy by articulating identity/difference notion) in to political system.

III.5. UN and Minority Protection in Post-Cold War Era


III.5.1. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

The first attempt of UN in new era was adoption of The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, resolution (47/135) of UN General Assembly on 18 December 1992.

In Article 1 of the Declaration proclaims that States ‘shall protect’ the existence and distinct identities of minorities (pp.1), ‘encourage conditions’ for the promotion of that identity (pp.1), and ‘adopt appropriate legislative and other measures’ to achieve those objectives (pp.2).
In accordance with Article 2 of the Declaration, persons belonging to ‘national or ethnic, religious and linguistic’ minorities have the right to enjoy their own culture, to profess and practice their own religion and to use their own language (pp.1); the right to participate effectively in cultural, religious, social, economic and public life (pp.2) as well as in the decision-making process concerning the minority to which they belong (pp.3); and the right to establish and maintain their own associations (pp.4).

In Article 3 of the Declaration the free exercise of those rights in public and private spheres – which can only be enjoyed in union with other members of the minority - without discrimination were guaranteed (pp.1).

In Article 4 of the Declaration giving obligations to State; measures to be taken by States to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms (pp.1) and defining those: States should; create favorable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs (pp.2); take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue (pp.3); where appropriate, take measures to encourage knowledge of the history, traditions, language and culture of minorities existing within their territory and enable persons belonging to minorities to participate fully in economic progress and development in their country (pp.4).

Article 5 of the Declaration explicitly emphasizes the articulation of identities in policy making process; National policies and programs shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities (pp.1); programs of cooperation and assistance among States should be
planned and implemented with due regard for the legitimate interests of persons belonging to minorities (pp.2).

In Article 8 of the Declaration, bilateral obligations of both minority and state were defined: “Nothing in the present Declaration shall prevent the fulfillment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfill in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties” (pp.1); “Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States” (pp.4).

In the declaration no attempts were made for defining term minority, the adjectives like ‘national, ethnic, religious, and linguistic’ were used in order to define groups which were having distinctive characteristics from the majority. However this was the first declaration which directly pertained to minorities (Art.1 pp.1), the referred Article 27 of ICCPR in the preface also ‘is understood as a group protection provision before international bodies’ (Ermacora 1983 p: 323 cited in Poulter 1999 p: 97) so it did not brought a new sense as a group protection clause. But the main significance of the Declaration was bringing obligation of protection of identity of such minorities, thus the role of State shifted from negative to positive (see Poulter 1999 p: 97, Nas 2000 p: 182).

III.5.2. Vienna Declaration and Establishment of High Commissioner for Promotion and Protection of All Human Rights

Vienna Declaration and Program of Action is the concluding document of The World Conference on Human Rights which was convened by the United Nations and held in Vienna, Austria, from 14 to 25 June 1993. The conference was attended by more than 7,000 participants, including delegates from 171 States and
800 non-governmental organizations, as well as by representatives of bodies, programs and specialized agencies of the United Nations and other intergovernmental organizations. The Vienna Declaration recommends strengthening and harmonizing the monitoring capacity of the United Nations system (Part II (A) Art. 18) and calls for the establishment of the body of the United Nations High Commissioner for Human Rights (A/Res/48/141 adopted 20 December 1993).

This organ was established as a result of the need to observe full implementations of human rights instruments such as Universal Declaration of Human Rights, ICCPR, CESCR, and Declaration on Right to Development. It gains its minority rights dimension in interpretation of provisions on human rights as a group protection provision before international bodies.

**III.6. OSCE and Minority Protection in Post-Cold War Era**

Since 1970s as a forum operating to create a rapprochement between Eastern and Western Blocks of Europe, become an influential actor in harmonizing minority rights standards of two ideologically distinct blocks after the collapse of socialist regimes, since the beginning of 1990s. The minority protection rights were adopted in the framework of OSCE at meeting in Copenhagen (1990) (29 ILM 1305 cited in Poulter 1999 p: 89):

“...respect for the rights of persons belonging to national minorities as a part of universally recognized human rights is an ‘essential factor’ for peace, justice, stability, and democracy ... The participating States will adopt, where necessary, special measures for the purpose of ensuring to persons belonging to national minorities full equality with the other citizens in the exercise and enjoyment of human rights and fundamental freedoms.”
National minorities issue became the most sensitive issue of post-Cold War Europe especially in account of former Communist states. In this context OSCE and its previous experiences on European security as a dialogue mechanism of Cold War era gained prominence and made it the key institutional arena for handling this sensitive issue. Since 1990 various mechanisms were established to enforce the efforts throughout constituting a credible ground within existing boundaries for national minority protection in Europe region.

The OSCE adopted several institutional arrangements aimed specifically establish a human and national minority rights regime for the sake of European peace (Preece 1998 p: 145-146).

III.6.1. Vienna Concluding Document

Despite the fact that the Helsinki Final Act (HFA) (1975), however referred to UN instruments –such as ICCPR referring to ethnic, religious and linguistic characteristics of minorities- in principle 7, CSCE did not attend to define minorities with regards to their distinct characteristics from the rest of the society and just applied the concept of minority exclusively nationalities (Karaosmanoğlu 2000 p: 68). The first reference for defining minorities was made in paragraph 19 of the Vienna Concluding Document (VCD):

“They will protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of national minorities on their territory. They will respect the free exercise of rights by persons belonging to such minorities and ensure their full equality with others.”

After its first attempt on defining minorities with regards to their distinct characteristics instead of nationalities CSCE encouraged to go further and attempted to find an appropriate definition for term minority, in Geneva, to overcome the difficulties deriving from lack of definition of term.
III.6.2. Copenhagen Concluding Document

In Copenhagen Concluding Document (CCD) (adopted on 29 June 1990) which constituted at the end of Copenhagen summit with regards to the principles of VCD, a series of task were burdened to the participating states for protecting and promoting human rights and freedoms in order to constitute the foundation of freedom, justice and peace. CCD adopted the most significant provisions among the OSCE documents (Hannum 1991 p: 1439-41 cited in Karaosmanoğlu 2000 p: 70). The democratic movements in Eastern Bloc may be said to trigger positive developments in this regard.

Rights of persons belonging to national minorities were defined in paragraph 32 as:

To belong to a national minority is a matter of a person’s individual choice and no disadvantage may arise from the exercise of such choice. Persons belonging to national minorities have the right freely to express, preserve and develop their ethnic, cultural, linguistic or religious identity and to maintain and develop their culture in all its aspects, free of any attempts at assimilation against their will. In particular, they have the right:

(32.1) to use freely their mother tongue in private as well as in public;
(32.2) to establish and maintain their own educational, cultural and religious institutions and organizations or associations, which can seek voluntary financial and other contributions as well as public assistance, in conformity with national legislation;
(32.3) to profess and practice their religion, including the acquisition, possession and use of religious materials, and to conduct religious educational activities in their mother tongue;
(32.4) to establish and maintain unimpeded contacts among themselves within their country as well as contacts across frontiers with citizens of other States with their kin-relates whom they share a common ethnic or national origin, cultural heritage and religious beliefs;
(32.5) to disseminate, have access to and exchange information in their mother tongue;
(32.6) to establish and maintain organizations or associations within their country and participate in international non-governmental organizations.

Persons belonging to national minorities can exercise and enjoy their rights individually as well as in community with other members of their group. No disadvantage may arise for a person belonging to national minority on account of the exercise or non-exercise of any such rights.

Obligations of participating states in related fields were:

(33) to protect the ethnic, cultural, linguistic, and religious identity of national minorities on their territory;
(34) to ensure that persons belonging to national minorities have adequate opportunities for instruction of their mother tongue or in their mother tongue, wherever possible and necessary, for its use before public authorities, and in context of the teaching of history and culture in educational establishments, they will also take account of the history and culture of national minorities;
(35) to respect the right of persons belonging to national minorities to effective participation in public affairs and establishment of appropriate local or autonomous administrations corresponding to specific historical and territorial circumstances in order to protect and create conditions for promotion of identities of such minorities;
(36) to recognize the particular importance of increasing constructive co-operation among themselves for friendly and good neighborly relations, international peace, security and justice, and to encourage the solution of problems through dialogue based on the principles of rule of law in order to promote a climate of mutual respect, understanding, co-operation and solidarity among all persons belonging to ethnic minorities living on its territory.

III.6.3. Charter of Paris for a New Europe

In Charter of Paris adopted on 21 November 1990 emphasis was on individual rights towards promoting democracy and prevention of discrimination in public sphere. After listing the rights and fundamental freedoms of individuals’, and national minorities were just pointed under the Human Rights, Democracy and Rule of Law section as:

“*We affirm that the ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right freely to express, preserve and develop that identity without any discrimination and in full equality before the law.*”

In ‘Human dimension’ section under the ‘Guidelines for the future’ chapter importance of a democratic frame work for resolving the questions related to national minorities, and combating all forms of racial and ethnic hatred, antisemitism, xenophobia and discrimination against anyone was emphasized in order to promote friendly relations, as well as peace, justice, stability and democracy among the peoples of participating states. However there had been some important emphasizes on the collective entity of minority both in CCD and the Charter, the lack of a universally accepted definition of term minority left the collective entity of minorities in to discretion of states and so forth a solid progress for collective group rights could not be achieved.
III.6.4. Geneva Meeting of Experts on National Minorities

Experts Meeting on National Minorities (EMNM) was held in Geneva on 1-19 July 1991, the representatives of the participating States had discussed on the issues of national minorities and of the rights of persons belonging to them which had shown diversity in accordance with the situations of the legal, historical, political and economic backgrounds. They had an exchange of views on practical experience with national minorities, in particular on national legislation, democratic institutions, international instruments and other possible forms of co-operation. They expressed their views on the implementation of the relevant CSCE commitments, considered the scope for the improvement of relevant standards, and also considered new measures aimed at improving the implementation of the aforementioned commitments. A number of proposals were submitted for consideration by the Meeting and, following their deliberations, the representatives of the participating states adopted the report.

In the report of the meeting, in addition to the recognition of importance and the role of the rights of persons belonging to national minorities in order to promote friendly relations, as well as peace, justice, stability and democracy among the peoples (section IV and V), the participating states also decided to imply some methods which were employed and produced positive results (section IV, paragraph 6/7):

- advisory and decision-making bodies in which minorities are represented, in particular with regard to education, culture and religion;
- elected bodies and assemblies of national minority affairs;
- local and autonomous administration, as well as autonomy on a territorial basis, including the existence of consultative, legislative and executive bodies chosen through free and periodic elections;
- self-administration by a national minority of aspects concerning its identity in situations where autonomy on a territorial basis does not apply;
- decentralized or local forms of government;
- bilateral and multilateral agreements and other arrangements regarding national minorities;
- for persons belonging to national minorities, provision of adequate types and levels of education in their mother tongue with due regard to the number, geographic settlement patterns and cultural traditions of national minorities;
- funding the teaching of minority languages to the general public, as well as the inclusion of minority languages in teacher-training institutions, in particular in regions inhabited by persons belonging to national minorities;
- in cases where instruction in a particular subject is not provided in their territory in the minority language at all levels, taking the necessary measures to find means of recognizing diplomas issued abroad for a course of study completed in that language;
- creation of government research agencies to review legislation and disseminate information related to equal rights and non-discrimination;
- provision of financial and technical assistance to persons belonging to national minorities who so wish to exercise their right to establish and maintain their own educational, cultural and religious institutions, organizations and associations;
- governmental assistance for addressing local difficulties relating to discriminatory practices (e.g. a citizens relations service);
- encouragement of grassroots community relations efforts between minority communities, between majority and minority communities, and between neighboring communities sharing borders, aimed at helping to prevent local tensions from arising and address conflicts peacefully should they arise; and
- encouragement of the establishment of permanent mixed commissions, either inter-State or regional, to facilitate continuing dialogue between the border regions concerned.
Except achievements of Geneva meeting EMNM, important attempts, which had failed, were made such as expanding the national minority concept as racial, ethnic and religious minorities; thus minority will be accepted as a collective entity which requires appointment of collective protection provisions instead of individual protection. But the disagreement of participating states on definition of national minority expressed in 4th paragraph of section II “… not all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities” (30 ILM (1991) 1692; 12 Human Rights Law Journal (1991) 332 cited in Karaosmanoğlu 2000 p: 68) abandoned both definition, and granting collective rights to minorities issues, and left group protection issue interpretation of provisions before international bodies.

Apart from the failure above also another important attempt, which had failed, was proposition of a special supervisory mechanism (30 ILM (1991) 1692; 12 Human Rights Law Journal (1991) 332 cited in Karaosmanoğlu 2000 p: 72). COE followed the developments but failed too.

III.6.5. Helsinki Concluding Document

Helsinki Concluding Document was adopted after CSCE meeting of Helsinki on 10 July 1992 was a response for the emerging problems, such as economic decline, social tension, aggressive nationalism, intolerance, xenophobia and ethnic conflicts, threaten stability in the CSCE area. In accordance with its main objective – stability in Europe of post-cold war era –, CSCE recognizes necessity of a series of institutional amendments, and new posts in order to increase its effectiveness (see Helsinki Summit Declaration). There are two important developments which were related to our subjects; first, establishment of High Commissioner on National Minorities (HCNM) and efforts of strengthening Council and the Committee of the Senior Officials (CSO); second, in accordance with
democratization tendency of the era, the decision towards openness of CSCE activities to the public information.

Establishment of HCNM to provide ‘early warning’ and, as appropriate, ‘early action’ at the earliest possible stage in regard to tensions involving national minority issues that have the potential to develop into a conflict within the CSCE area. The adaptation of decision became a necessity after former Yugoslavia crisis reached its peak, working principles and authority of HCNM (chapter II) was a reflection of a compromise between the special supervisory body proposal in EMNM and concerns of states. Thus HCNM constituted as a diplomatic machinery of CSCE which was based on two fundamental principles of diplomacy – confidentiality and impartiality. (Preece 1998 p: 150-51)

The other development in minority rights issue was, strengthening CSO as an enforcement mechanism of national minority rights and other human dimension commitments were decided in chapter III.

**III.7. COE and Minority Protection in Post-Cold War Era**

During the new period two important innovations were made by COE; The European Charter for Regional or Minority Languages (1992), and The Framework Convention for the Protection of National Minorities (1994), minority protection provisions of both the convention and the charter were indicating prominent developments in minority protection issue. The concerns of states on their sovereignty rights were increased and thus ratification of documents was delayed, as much as implementation of those provisions strengthened by appropriate enforcement mechanisms.
III.7.1. European Charter for Regional or Minority Languages

The European Charter for Regional or Minority Languages was adopted by the Council of Europe and opened for signature on 5 November 1992. It entered into force on 1 March 1998. Main objective of the charter is to halt the decline of regional, historical and minority languages, and promote their use, both in their written and spoken forms, in public life and in social, economic and cultural contexts, as well as to encourage people to teach and learn them in order to ‘maintain and develop cultural wealth and traditions of Europe’. In preamble of Charter also points the importance of protection of regional and minority languages for promotion of democracy and cultural diversity by regarding to national sovereignty and territorial integrity of states of Europe.

Contrary to previous declarations a definition for term linguistic minority – at least linguistic minorities – was officially recognized. Regional or minority languages, as defined in the Charter, are languages that are traditionally used within a given territory of a State by nationals of that State who form a group numerically smaller than the rest of the State’s population, and different from the official language(s) of that State (Article 1.a).

Charter lists a wide range of measures in order to promote the use of regional or minority languages in different spheres of public life: Education (Art. 8), Judicial authorities (Art. 9), Administrative authorities and public services (Art. 10), Media (Art. 11), Cultural activities and facilities (Art. 12), Economic and social life (Art. 13). Charter foresees a list of methods and instruments (Art. 2) for application of promotion of regional or minority languages in public which leaves states a wide range of discretion (Art. 3).

Application of charter also brought a new dimension: a ‘self-control mechanism’ which will be monitored by a ‘committee of experts’ (Art. 15.1). The Committee’
main task will be to forward to the Committee of Ministers recommendations for improving the application of the Charter in member states. Another important development in this system is public announcement of reports of member states (Art. 15.2).

Apart from all the Charter outlines several objectives and principles on which the Parties should base their policies, legislation and practice in relation to all regional or minority languages used on the State’s territory (Art. 7).

III.7.2. Framework Convention for the Protection of Minorities


The convention is especially important because it is the first legally binding Convention after became a precondition to be a member of COE (Preece 1998 p: 160). Hugh Poulton (p:6) describes it as a ‘new thinking’ as it obliges the states to ‘take active steps to allow minority cultures to develop’.

Obligations of contracting parties are:

(Art. 7) The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.
(Art. 8) The Parties undertake to recognize that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organizations and associations.

(Art. 9 (1)) The parties undertake to recognize that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

(Art. 17 (1)) The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic, or religious identity, or a common cultural heritage.

We have witnessed the increasing tendencies of acceptance the normality of polyethnicity in international arena. The ethnically homogeneous society myth is being upheld particularly through the continued emphasis on the ‘national sovereignty’ as international organizations were becoming able to challenge through the international law. At the same time, however, instruments of minority protection are addressing those national minority characteristics that loom large in every ethnic definition of the term (emphasis on collective rights such as the protection of minority languages, religions, cultures, etc.).
III.8. EU and Minority Protection in Post-Cold War Era

European Union (EU), which first emerged as a trade block (EEC), assumed a different role in world politics after giving a boost to its political integration process with Maastricht Treaty. To define the role and situation of EU as an institutional actor in international relations is a challenging issue. But it is clear that, it is a unique actor, which acts in some way as another ‘member of the union working with, but alongside its member states’ (Piening 1997 p: 193 cited in White 2001). From this point of view we can analyze EU as the hegemonic power of European state’s system – and in world order in Gramscian terms. The common elements, which were producing and re-producing this system of values, are notions of liberal democracy, including human and minority rights standards (however did not stipulated explicitly), and liberal market economy.

Those common elements would be the basis of a peaceful, democratic and secure Europe that had the potential to project its own model to adjacent regions. This unique model could provide the bases for the economic and political stability of the continent after two world wars. The EU project, which was first developed by its founding fathers Jean Monnet, Robert Schuman, Konrad Adenauer, Paul Henri Spaak, and Alcide de Gasperi as a response to the horrors of war in Europe, and untamed destructive state nationalism (Marks 1999 p: 69), was first launched by Paris Treaty (1951) establishing European Coal and Steel Community (ECSC). Underlying the initiative was a concern to integrate coal and steal sectors of West European Countries under a supranational authority with a view to controlling the armament potential of states. The integration process continued on a much broader scope with the formation of the European Economic Community and Atomic Energy Community. At first sight the focus of integration was strictly economic. However, on closer reflection, it could be observed that the main aim was to achieve economic and political stability and eventually to create an area of stability and security.
The individualist liberal thought dominating EU put the individual (human) security in to the centre of its system of values ‘to secure the political conditions that are necessary for the exercise of personal freedom’ (Rothschild 1995 124(3) p: 83 cited in Cebeci 2002 p: 330).24 The EU as a global actor has attempted to use its diplomatic and economic relations in order to promote the respect for human and minority rights throughout the world within the co-operation and partnership perspectives.

Today EU accounts for 55% of global aid flows – about €30 billion per year – of which more than a fifth is managed by the European Commission, provided for more than 160 countries, territories or organizations worldwide (European Commission 2004 p: 3).

Through its external assistance, the EU demonstrates its support for the promotion and entrenchment of universal values such as democracy and Human Rights with regards to international and regional instruments employed by UN, OSCE (CSCE), and COE/such as Universal Declaration on Human Rights and its complementary International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, the European Convention on Human Rights; as well as interpretations of these rights before international judicial courts or tribunals. The EU is not a norm-setter in the area of minority protection, but it is a very important promoter of the existent legal principles and standards.

III.8.1. Principles

Apart from universal documents, the EU is also bound by its own declarations on respect for human rights which, according to the Declaration on Human Rights

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adopted at the Luxembourg European Council on 28 - 29 June 1991. The EU affirmed its commitment to the following norms, principles and values:

1. European Council reaffirmed that ‘respecting, promoting and safeguarding human rights’ is an essential part of international relations and one of the cornerstones of European cooperation, and of relations between the Community and its member States and other countries.
2. Policy of promoting and safeguarding human rights and fundamental freedoms throughout the world determined as the objective of the Community and its member States.
3. Effective and universal implementation of existing instruments and the strengthening of international mechanisms of control prioritized in the field of human rights.
4. European Council recalls the principle of non-discrimination in order to establish an effective democracy by ensuring the protection of minorities.
5. For the ‘full realization of human dignity’: democracy, pluralism, respect for human rights, institutions working within a constitutional framework, and responsible governments appointed following periodic, fair elections, as well as the recognition of the legitimate importance of the individual in a society, are determined as essential prerequisites of sustained social and economic development.

The protection of persons belonging to minorities is an inherent part of the EU policy on human rights. Article 6 of the Treaty on European Union refers to the European Convention for the Protection of Human rights and Fundamental Freedoms. Its Article 14 states that the rights and freedoms laid down in the Convention should ‘be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status’.
In order to present a framework for all European Union activities in the area of human rights, the Commission has issued since 1995 a series of communications to the Council and the Parliament which put forth that Community human rights programs should favor special groups including minorities and indigenous peoples (COM 95/576; Bull. 11-1995, point 1.2.1 cited in Nas 2000 p: 310)\(^25\). These communications set out strategies aimed at enhancing the consistency and effectiveness of the human rights and democratization approach of the EU.

Another important document on the human rights issue that concluded is the EU Charter of Fundamental Rights which was officially proclaimed at the Nice Summit in December 2000, it also concludes the guiding principles of the Commission in its external relations. The Charter points out the necessity of preservation and development of liberal individualist values, which the Union is found on, lays down the equality before the law of all people (Article 20), prohibits discrimination on any ground (Article 21), and requests the Union to protect ‘cultural, religious and linguistic diversity’ of Europe as well as the ‘national identities of the Member States’ and the organization of their public authorities at national, regional and local levels (preamble).

The wording of the Charter is some different than the previous documents which were objected protection of ethnic divergences, focus had shifted from collectivities (national minorities) to individuals (belonging to ethnic minorities). The provisions aimed to diverse identities were taken into consideration under the human rights provisions such as; equality before law, non-discrimination, and cultural, religious and linguistic diversity. The Charter is included in the Constitutional Treaty establishing a constitution for Europe.

\(^{25}\) Commission communication to the Council and the Parliament entitled ‘The European Union and the external aspects of human rights policy: from Rome to Maastricht and beyond’.
III.8.2. Strategies to Implement the Principles

Paralleling to these developments the Council of Ministers decided to mandate the Commission for insertion of such democracy clauses in all future co-operation agreements with third states by a resolution in November 1991, thus democracy assistance, co-operation and partnership, and promotion of democracy were elevated to the main objective status of foreign aid. These regulations outlined a ‘positive approach’; ‘in the event of grave and persistent human rights violations or the serious interruption of democratic processes’ co-operation agreements would be partially or completely suspended. (Santiso 2002 p: 111) The notion of ‘essential elements’ (ibid p: 111 footnote 4) which outlines the positive obligations of co-operated states was articulated on the bases of suspension or non-performance clauses.

In 1992 Maastricht Treaty or Treaty on European Union, which came in to force on 1 November 1993, efforts towards these aims were codified under title XVII (Development Co-operation). According to this human rights and principles of democratization were integrated into the policies of the EU. The treaty considers as one of the objectives of the Common Foreign and Security Policy of the EU the development and consolidation of ‘democracy and the rule of law, and respect for human rights and fundamental freedoms’.

The most important initiative of the EU is the Balladour Plan or in official name the Pact on Stability in Europe proposed by French Prime Minister Eduoard Balladur on 21-23 June 1993 meeting of the EU heads of state in Copenhagen in order to achieve ‘stability through the promotion of good neighborly relations, including questions related to frontiers and minorities, as well as regional co-operation and
the strengthening of democratic institutions through co-operation arrangements to be established in the different fields that can contribute to the objective.

In 1994 a new initiative with a wider range was launched by the European Parliament, the European Initiative for Democracy and Human Rights (EIDHR). The initiative foreseen a series of budget headings especially designed for campaigns which aimed the promotion of human rights and democratic governance. The four thematic priorities are:

1. Promoting justice and the rule of law,
2. Fostering a culture of human rights,
3. Promoting the democratic process,
4. Advancing equality, tolerance and peace.

The budget chapter of the initiative is aimed more specifically at NGOs. In implementing its human rights policy, the EU recognizes the importance of the contributions made by international, regional and non-governmental organizations to civil society and to the development of a democracy that upholds political, civil, economic, social and cultural rights. The Union values both the expertise which many organizations working to implement human rights possess, as well as their visibly high impact in the field of human rights.

The Council adopted two regulations (No: 975-976/1999), which will be named, ‘Human Rights Regulations’ for the development and consolidation of democracy and the rule of law and respect for human rights and fundamental freedoms under Articles 179 and 308 of Treaty establishing the European Community (TEEC).

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27 See Communication on the EU’s role in promoting Human Rights and Democratization in Third Countries (2001)
Thus the current legal basis for all democratization activities was established. These activities are:

1. Electoral observation and assistance,
2. Good governance,
3. The rule of law and the fight against corruption,
4. Administrative accountability,
5. The effective separation of power,
6. Political participation in decision making and political pluralism.

The resolutions also identify the promotion of democratic governance as a mechanism for conflict prevention and post-conflict peace building. (Santiso 2002 p: 112)

In 2000 in accordance with global trends the scope of the aids were widened by adaptation of the joint statement of the Council and the Commission which clarifies the strategic thrust of the EU development policy. In order to maximise its impact within the global development framework, the Community decided to focus its assistance in six areas where it could add particular value: the link between trade and development; regional integration and co-operation; support for macro-economic policies and equitable access to social services; transport; food security and sustainable rural development; and institutional capacity building, in particular good governance and the rule of law.

According to this statement while poverty reduction is the main objective of the EU development and co-operation, it will only be sustained where there are functioning democracies and accountable governments (Santiso 2002 p: 108). It also highlights the core principles on which the Community’s assistance is

\[28\] Declaration by the Council and the Commission on the European Community’s development policy ref 13458/00 of 16.11.2000.
grounded: sustainable, equitable and participatory human and social development, with the promotion of Human Rights, democracy, the rule of law and good governance as an integral part of this process. The most important mean of democratic transformation process is non state actors, supporting the civil society and creating a ‘bottom up’ democratization effect (ibid p: 110).

III.8.3. Means of Implementation

Those objectives explained above include the principles of the system of values of EU as a hegemonic power in the world order. EU would like to eliminate any possibility which could harm to its system of values in global order. The EU use two mechanisms in order to maintain and promote those values in world order these are; co-operation (democracy assistance) and partnership agreements, and enlargement.

III.8.3.1. Co-operation and Partnership Agreements

Since the early 1990s, the European Community has included more or less systematically so-called human rights clauses in its bilateral trade and co-operation agreements with third countries, including association agreements such as the Europe agreements (including PHARE and TACIS), Mediterranean agreements (MEDA) and the Cotonou Agreement (ex Lomé Convention) with African, Caribbean, and Pacific States (ACP), with regards to Council decisions on priorities of the EU in its external relations. After the Council decision of May 1995, the human rights clause has been included in all subsequently negotiated bilateral agreements, except more than 20 sectoral agreements on textiles, agricultural products, and so on, and more than 30 agreements negotiated before May 1995 (EU Commission’s web site May 18 2005).
PHARE (Pologne, Hongrie: Actions pour la Reconversion Economique) program was established to coordinate aid to Poland and Hungary first, than widened to all Central and Eastern European countries with 3906/89 regulation of the Council. In regulation, the Council did not make any reference to the promotion of democracy and human rights; but on 5 February 1990 the Council announced that only those countries that ‘committed themselves to respect the rule of law, human rights, political pluralism, free and fair elections, and a market economy’ would be included in the program (cited in Nas 2000 p: 309). Legal basis of the TACIS (Technical Assistance for Common Wealth of Independent States) program was established with 99/2000 regulation of the Council (former regulation of the Council was (EC, Euratom) no: 1279/96, which was expired on 31 December 1999). As a technical assistance it did not refer to any clause for the promotion of democracy and human rights until the Council adopted a decision on a TACIS civil society development program for Belorussia (Council decision 98/1 EC/EAEC of 18 December 1997 cited in Nas 2000 p: 310). Today the TACIS program provides grant-financed technical assistance to 12 countries of Eastern Europe and Central Asia (Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine and Uzbekistan).

According to the overall finding of the Evaluation of the PHARE and TACIS Democracy Program (1992-1997) report of the Commission is, that ‘the PTDP has been of considerable value for the development of democracy and civil society in Central and Eastern Europe’ (European Commission 1997, p: 7). The most significant impact is judged as its contribution to the growth of a lively NGO sector in all nine countries examined, regarded in turn as crucial to the democratization process (ibid p: 76). It is held that such assistance has been important financially, psychologically and politically for non-governmental groups which have helped create “a moral community” essential to the construction of a democratic political culture (ibid p: 77).
Starting point of the Euro-Mediterranean Partnership process is the Barcelona Declaration of the Euro-Mediterranean Conference of Ministers of Foreign Affairs, which held in Barcelona on 27-28 November 1995. The legal basis of the MEDA program is the Council Regulation no: EC/1448/96 also known as MEDA Regulation and amended with Council Regulation (EC) No 2698/2000 of 27 November 2000 became MEDA II. The Barcelona Declaration has three dimensions entitled under three chapters; political and security; economic and financial; social, cultural and human chapters. The objectives determined in Social, Cultural and Human dimension of the Euro-Mediterranean Partnership are:

1. Promoting respect for fundamental social rights, including the right to development, in order to carry out economic and social development hand in hand,
2. Contributing civil society which is an essential factor for greater understanding and closeness between peoples;
3. Supporting democratic institutions and strengthening of the rule of law and civil society;
4. Waging a determined campaign against racism, xenophobia and intolerance and agree to cooperate to that end.

The partnership between the European Union and the African, Caribbean and Pacific (ACP) States is enshrined in the EU-ACP Partnership Agreement, also known as the Cotonou Agreement. Signed in June 2000 after an intensive public debate on the future of EU-ACP relations, the new Agreement has built on previous conventions (two Yaoundé, four Lomé) and will last 20 years, allowing for five-year revisions. In 2003 all the ACP States (79 with Cuba) and the EU Member States have ratified the Agreement (except Cuba). The main goals of the Cotonou Agreement are poverty eradication, sustainable development and the gradual integration of the ACP countries into the world economy. (European Commission Annual Report 2004 p: 32)
However economic goals were determined as prior in agreement the continuing section of Article 1 of the agreement points humanitarian development areas such as; promotion of individual rights, social development, capacity building of the actors and the institutional framework in order to achieve the emergence of a civil and democratic society and market economy. The obligations of contracting ACP States pointed in 2nd Section of the agreement these are; articles 25 Social sector development, 26 Youth issues, and 27 Cultural development (preserving and promoting cultural values and identities).

In each agreement minority rights were placed under human rights clauses, which had been accepted as one of the common values of the Community. These human rights provisions were placed in accordance with the Declaration by the Council and the Commission on the European Community’s development policy, states that ‘poverty reduction and development will only be sustained where there are functioning democracies and accountable governments’. In order to guarantee the democratic progress suspension of aid mechanisms were resorted in TACIS, MEDA, and APC partnership agreement.

III.8.3.2 Candidacy for EU Membership

Membership prospect; is the most effective mechanism of EU that enforces the reform processes, which are essential for maintaining stability and security in Europe29 (cited in H. Sjursen and K. E. Smith 2005 foot note 6). As it is having a limited geographical scope, it can not be counted as a global enforcement mechanism, includes only European countries as stated in the 1958 Rome Treaty (Article 237) - 'Any European state may apply to become a member of the

29 Recently Guiliano Amato (the Italian prime minister) and Gerhard Schroeder (the German Chancellor) wrote that 'enlargement to the Central and South-Eastern Europe, by creating stability, will contribute to reinforcing decisively our security' (KES's translation). In 'La Porta Stretta della Grande Europa', La Repubblica, 21 September 2000.
Community’. Under the conditions of Cold-War EC did not establish any conditions for membership.

III.8.3.2.1. Membership and Eligibility

Creation of eligibility conditions became a matter of concern in 1970s, because of the unfolding events in southern Europe (H. Sjursen and K. E. Smith 2005). The tripartite Council-Commission-European Parliament Declaration on Human Rights of 1977 had required all EU candidate states to be parties to the European Convention on Human Rights (ECHR) of 1950, which was only open for the members of the COE, and to accept the right of individual petition under it. Thus an indirect link was established between EU membership and membership of the Council of Europe. Since the Council of Europe verified its members’ constitutions, laws on human rights and record on minorities, it performed a prior screening for the Community candidates.

Following this development, in April 1978, the European Council declared that ‘respect for and maintenance of representative democracy and human rights in each Member State are essential elements of membership in the European Communities’.

This remained the situation on membership eligibility until the end of the Cold War. In post-Cold War era until 1993 conditions of being a member of the community remained as: European identity, democratic status and respect of human rights. But after the collapse of USSR, the dramatically increasing number in membership applications from CEECs living various democracy crises had made the setting up a series of additional membership requirements necessary. The European Council established the accession criteria for all the candidate States at Copenhagen in June 1993. The European Council determined the following
conditions, which should be met by all the European States wishing to join the Union:

1. Stability of the institutions, guaranteeing democracy, the rule of law, human rights, respect for and protection of minorities;
2. Existence of a functioning market economy and ability to cope with competitive pressures and the market forces within the Union;
3. Ability to take on the obligations of membership, including adherence to the aims of political, economic and monetary union.

All membership applications must be judged by the Commission in terms of the extent to which the applicant state meets the Copenhagen conditions. The European Council in Cardiff (June 1998) clarified that:

“It is a priority for the Union to keep on going the process for enlargement for the countries mentioned in the conclusions of the European Council conference held in Luxembourg. These countries will therefore be able to push through their status of candidate and make progress so as to fulfill the obligations required by a full member, including the Copenhagen criteria.”

However those criteria listed in Copenhagen and emphasized in Cardiff were expressed as the external face of EU emphasizing on minorities as collective identities, on the other hand a contradictory status has been created with the Amsterdam Treaty (2 October 1997).

In Amsterdam Treaty, it was declared that “the Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States” (Substantive Amendments Art.1 (8)). The Amsterdam Treaty explicitly stated the common values of the Community and the member states except missing one of the values emphasized in the Copenhagen criteria; protection of minorities.
With the Amsterdam Treaty Community shifted from group notion to individual notion of minority rights. Minority protection formulated on the individualist basis of non-discrimination principle, in Substantive Amendments Chapter Art.2 (7) of the treaty stipulates that “Council to take appropriate action to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation”. However the use of term ‘ethnic origin’, without mentioning to ‘nationality’ or ‘national minority’ could create some scope for minority protection, ‘even if the directive was not conceived for this purpose’, if it would be interpreted by the judges of the Court of Justice through minority protection (J. Hughes & G. Sasse 2003 p: 11).

The minority protection clauses ‘exported’ by EU, which were embedded in liberal democracy and human rights dimensions, could not be settled internally. The efforts of the Union could succeed in promoting liberal principles of human rights under democratic governance but the national minorities’ problem of EU is still standing and eroding the dignity of democratic values of the Union in international area.

III.8.4. Moral Justification or other Considerations

To question the reasons of this double standardization in EU is not an easy topic to handle; they are the consequences of self-conditional upsurge of nationalism in Europe after the cold war. First of all the ontological historicalness of the nationalism notion differs in West and East Europe. The nationalism concept, which is very flexible, could be successfully employed in various political motives; a radical in an anti-imperialist perspective, liberal in its capacity to build states, or reactionary in its reinforcing of a dominant ethnicity and repression of minority aspirations (R. Caplan & J. Feffer 1996 p: 6). As Caplan and Feffer pointed
flexible discourses of nationalism also appropriately served the centralization aims of the Soviet state mechanism.

Bolsheviks ended the debates on structure of state by proclaiming Russia a federal republic after they came in to power in 1917. Soviet government and Lenin himself did not support the idea of ethnic federation\textsuperscript{30}, nevertheless the idea of federalism does not serve the political centralization aim of next Soviet government. During the Stalin era social engineering mechanisms of Soviet state began to design the territories of ethnic nationalism in accordance with directives of Stalin the true ‘father of nations’ in 1923 (Slezkine 1994 p: 414 cited in Tishkov 1996 p: 25)\textsuperscript{31}. Federates of Soviet Federal Republic transformed to ethnic administrative autonomies for sake of the Soviet. The \textit{Volksgeist} of Herder, which was unfortunately, became the hatchery of third Reich and the main ideological mean of conflicts in post Soviet states such as Yugoslavia, Armenia and Azerbaijan, maintained by Stalinist policies (Nathan Gardels 2000 p: 79-81).

In addition to this ethno-nationally designed system, the lack of democratic institutions caused the classic representation crisis in post-communist era. As Schöpflin points (1996 p: 151-153) while Western Europe could be able to constitute democratic institutions that absorbs these ‘old-new’ pressures of ethnic nationalism in to democracy by granting them a degree of representation, the case in Central and Eastern Europe was reverse. Either explicitly or implicitly post communist governments tend to regard representation as a matter of being a member of majority; they perceive representation as a matter of nation not the citizenship.


\textsuperscript{31} Slezkine, Y. The USSR as a Communal Apartment or How a Socialist State Promoted Ethnic Particularism, \textit{Slavic Review}, Vol. 53 No: 2 (Summer 1994)
However, while EU was challenging these institutional deformations of CEECs, on the other hand a new ethno-nationalist threat emerged in the ‘Common European House’ which rocked the integrity of member states. The reasons of those ethno-nationalist movements vary in accordance with their historical and regional progresses; but it has obviously two important factors that are common in all ethno-national upsurges. These are: fear factor, preservation of culture -which are indivisible-, and supranational structure of the Union. Although members of the Union achieved a particular representation of their ethnic groups residing within their jurisdiction, as the eroding effect of the union over its member states began to felt itself heavier centrality of the ‘national state’ gained more importance.

From this point of view we can define the situation of European unity as a paradoxical progress because Jean Monnet who is one of the founding fathers of the Union expressed their aim as: “We are not forming coalitions between states, but union among people”. If the Project of ‘uniting the people of Europe’ succeeded, sovereignty would be shared among nations, regions, local authorities and European institutions. All those levels of government would have their own rights and standing within a pluralistic and Federal European Framework, this is what the regions of Europe desired in order to create their ‘good communities’ in scales of economics and politics such as in Scotland example. The slogan of the Scottish National Party in 1988 was: “Independence in Europe” (Llobers 1997 p: 52) the case constitutes a good example of a new nationalist strategy towards an ever closer European Union. After sixteen years of conservative governance of dogmas of Thatcherism Glasgow Herald poll found that 90 percent of young Scots were disinclined to describe themselves as ‘British’ and a large majority ranking prefer to be ‘European’ – which serve their economic, political and cultural self-determination aims – rather than ‘Britishness’ (McMillan 1996 p: 79-81).

In a paradoxical way, in the age of large economic and political integrations, people possess small-scaled regional, ethnic and national identities (Llobers 1997
p: 43). This must be the ineffability of primordial ties, attachments or emotions; whether it is a phenomenon as an ineffable event or a complex socio-psychological inevitability this is the reality of our age, which predominantly seen in, where societies can exceed far beyond without using nation state apparatus. The case in Europe is this.

Unfortunately, EU retreated to a more inter-governmental situation in order to preserve the prerogatives of sovereign national governments and maintenance of order within their own borders. The centrality of nation notion reinforced in the ‘hearts’ and ‘minds’ of most people in Europe as Smith argued (1995 p: 45), as well as the centrality of nation states in the Unions’ institutional bodies. If the centrality of nation state became an implicitly determined priority of the Union's 'policies', and the collective rights of minorities denied in order to not to import so called danger of ethnic conflict in to the union, as a far reaching argument, it could also be argued that the minority rights condition became only a reflection of responsibility of moral justification, or reference to more universal principles motivating individuals through integration (H. Sjursen and K. E. Smith 2005).

Since 1990, state conduct towards minorities has increasingly been the subject of standard-setting at both European (Organisation for Security and Cooperation in Europe, Council of Europe) and international (United Nations) levels. However, if some EU member states are not willing to adopt those standards themselves, and can formally declare this, then it could be difficult to interpret this as a moral norm among equals. Both equality and morality inevitably becomes a subject of critical concerns towards EU’s foreign policy implementations on protection of minorities.
IV. CONCLUSION

The nationalist responses for ethnic awakenings are not exclusive to EU in our globalizing world. Its roots are lying at the very hearth of capitalistic modernity idea of 19th century. Developments seen in 19th century played a kind of ‘identity space’ role for an alteration of identities; especially in industrializing countries which were being dominated by newly rising hegemonic power of commercial meta production.

Those developments giving way to bureaucratization of Westphalian State in which were previously dominated by mercantilist thought in relatively simpler form of social organizations. Complexity of new form of social organization required new measures of governance and notions attached to legitimacy, ‘secularized’ ‘national’ sovereignty enjoyed by representative democracy instead of sacred monarchial authority- of which imposed in group superiority to the nation.

The concept of nation-state derived from self determination of nations presupposed an exact correlation between the boundaries of ethnic group and state’s jurisdictional territory. However this condition could not go further than an imagination, because juridical territories were including heterogeneous populations of previous empires which did not take ethnic homogeneity in to consideration. As territorial encompassment included some other ethnic groups, jurisdictional state was too. Thus nation-state notion declared minor ethnic groups alien. As a result those distinct ethnic groups became the elements that should be assimilated or some how oppressed for the sake of nation state, entire population must belong to one culture and speak one language.

The latest phase in the Westphalian states system is partly linked to the demise of Fordist production structures and its characteristics with particular territories and jurisdictions. This national form of capitalist development is gradually giving way
to post-Fordism, flexible methods and global organization of production, throughout that end where national hegemony over society declines as well as sovereignty of territorial nation state during the transformation of sovereignty from national society of territorial state to global communities. Modern technology, communications and economic interdependence was thought to be a mean towards a greater understanding and acceptance among ethnic groups, however the case was reverse. Indeed ethnic groups were integrated into more heterogeneous communities, their contacts with other ethnic groups heightened each group’s consciousness of their own identity.

The decline of national hegemonic zones is accompanied by a general process of regional, economic, decline increasing stratification, socio cultural fragmentation leading to a general increase in social disorder where individuals attached to society as members of political community –citizenship. Economic interdependence has also contributed to increased ethnic consciousness, because the economic differences which can result from unequal distributions of resources or industries often coincide with ethnic divisions. Economic status becomes associated with membership of a particular ethnic group.

Declining role of political community in economic and politic matters give way to dissolution from holistic identification of society as nation and ended up with alternative identifications of groups/communities. At the end of decline process, there is a turn to ‘roots’ from the state induced national identity to ethnicity and other collective identities. Recent developments in Central and Eastern Europe as well as most of post-colonial states had showed us, how ethnic considerations formed the basis for identification such as Yugoslavia, India, Congo, Pakistan, and Nigeria.

The ethnic awakening process and further developments can not be accomplished by peaceful methods. However their territorial integrities were protected under
various international documents fear of secession had always been the main motive of states. That’s why ethnically differing groups in societies are left to live under the oppressions they could only attract the attention of international society when their efforts for preserving their ethnic identities caused conflicts. Today their existence is apparently declared but they are still far from representing in their state systems because of lack of recognition. The effective participation of minorities in public life is an essential component of a peaceful and democratic society.

Debates through the objective had been shaped around the primary concern of nation-states ‘territorial integrity’. However the obligation to respect the state’s territorial integrity stipulated in every international document about minority rights such guarantor clauses had been enforced by another measure ‘personalization of minority rights’. Minority rights had been formulated as granted rights to ‘persons belonging to minorities’ in order to prevent the association of culturally limited rights with political rights ranging from local autonomy to secession. Today rights of minorities take shape around the ‘right of cultural identity’ which is undeniably linked to collectivity.

The term ‘cultural identity’ refers to an identification process emerging from a social group. Especially civil rights including freedom of expression and information, freedom of thought, conscience and religion, and freedom of assembly and right of association are main means of protection of cultural identities. However those freedoms were taken in to consideration as collective acts before international institutions, judicial dimensions of political concerns are still neglecting collective recognition and protection of minorities which had been demanded since WWI.

Unfortunately behaves of states were not changed since WWI they are still preventing the most appropriate solution for minority protection, a democratic
approach in national level towards the preservation of ethnic identities of groups in state society which prepare their next generations to participate public and private spheres of society. Apart from the lack of approaches in national level states also try to cripple the efforts through constitution of a minority protection system in international level by using every method.

Their situation is still considering far from morality and justice, and probably will go on like this as far as being considered as a threat for stability and security project in inter-state systems. However efforts through improvement of ethnic identities would not be able to achieve unless their situation has not been recognized as a component of global system and politically formulated. Our perpetual peace dreams which were inherited from modernist thought requires articulation of identity/difference recognition question in to a political transformation project in order to achieve a radical democracy. This could be achieved only by recognizing the collective being of ethnic groups and granting them collective rights to enjoy, which will allow them to participate society by transferring their culture and traditions to its members in public and private methods freely.
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