Araştırma Makalesi AndHD • Cilt: 7 - Sayı: 1 - Ocak 2021 - s. 3-41

A Confederalist Demand to Transform the Liberal Discourse: A Comprehensive Analysis of International Minority Protection Regimes(*)

Liberal Söylemi Dönüştürmek İçin Konfederalist Bir Talep: Uluslararası Azınlık Koruma Rejimlerinin Kapsamlı Bir Analizi

Hakan KOLÇAK(**)

Abstract

This study seeks to analyze the advancement and actual issues of international minority protection regimes. It is an interdisciplinary article that draws on the methods of international human rights law and constitutional politics. Global developments have dramatically affected the scope of minority rights since the 1800s. Religious and national characteristics were the basis of domestic minority protection regimes until the foundation of the League of Nations (LoN). The LoN established the first international protection mechanism for minority rights. This communitarian mechanism was replaced with its liberal individualist counterpart with the establishment of the United Nations. Many states have incorporated the liberal discourse of minority rights into their constitutional, statutory and regulatory documents since the 1950s. According to this study, the liberal discourse would need to enlarge its scope in the near future. Some national minorities, including the Catalans and Scots, reject the existence of national borders in the presence of supranational confederalist institutions, e.g. the European Union (EU). They do not want to exercise self-government rights within their home states. Instead, they would like to transform their autonomous regions into the sovereign states of EU-like confederalist organizations. This study maintains that finding a resolution for this transformation process would be one of the main research questions that the liberal discourse should answer in the near future.

Keywords

Minority Rights, Individualist Freedoms, Confederalism, Liberalism, Collectivist Rights.

Öz

Bu çalışma, uluslararası azınlık koruma rejimlerinin gelişimini ve mevcut sorunlarını analiz etmeyi amaçlamaktadır. Disiplinlerarası bir makale olan çalışmamız, hem uluslararası insan hakları hukuku hem de anayasal siyaset biliminin araştırma yöntemlerinden faydalanmaktadır. Küresel gelişmeler, 1800'lü yıllardan beri azınlık haklarının kapsamını ciddi bir şekilde etkilemiştir. Dini ve milli değerler, Milletler Cemiyeti (MC) kurulmadan önce varlığını sürdüren yerel azınlık koruma sistemlerinin temellerini oluşturmuştur. MC, azınlık haklarının korunması üzerine ilk uluslararası

(*) Makale Hakem denetiminden geçmiştir.
Makalenin Editörlüğe Gönderildiği Tarih: 02.10.2020, Makalenin Kabul Tarihi: 07.01.2021.

(**) Doktor Öğretim Üyesi, Recep Tayyip Erdoğan Üniversitesi, Hukuk Fakültesi, Anayasa Hukuku Anabilim Dalı,
E-mail: hakan.kolcak@erdogan.edu.tr,
Orcid Id: http://orcid.org/0000-0003-1185-4055.

mekanizmayı inşa etmiştir. Birleşmiş Milletler'in kurulması ile birlikte şekillendirilen liberal ferdiyetçi azınlık koruma sistemi, MC'nin toplulukçu mekanizmasını ortadan kaldırmıştır. Pek çok devlet, liberal azınlık hakları söylemini 1950'li yıllardan itibaren ulusal mevzuatlarına dahil etmiştir. Bu çalışmaya göre; liberal söylem, yakın gelecekte kapsamını genişletmek zorunda kalabilir. Katalanlar ve İskoçlar gibi bazı ulusal azınlıklar, Avrupa Birliği (AB) ve benzeri ulus-üstü konfederalist kurumların mevcudiyetinde ulusal sınırların varlığını reddetmektedir. Mevzu bahis azınlıklar, bulundukları ülkelerde özerklik haklarını kullanmaktan ziyade mevcut özerk bölgelerini AB benzeri konfederalist yapılara bağlı egemen devletlere dönüştürmeyi arzulamaktadır. Çalışmamız, söz konusu dönüşüm süreci ile ilgili bir çözüm bulunması hususunu, liberal azınlık hakları söyleminin yakın gelecekte irdelemesi gereken bir mesele olarak görmektedir.

Anahtar Kelimeler

Azınlık Hakları, Ferdiyetçi Özgürlükler, Konfederalizm, Liberalizm, Toplulukçu Haklar.

I. INTRODUCTION

Domestic and international actors have sought to protect minority groups since the Middle Ages. The early protection mechanisms were established to secure religious minorities. Specific rights and freedoms for religious minorities were incorporated into various bilateral and multilateral treaties that were adopted following the 1644 Congress of Westphalia. At times of a strong wave of nationalism, which was itself a direct consequence of the American and French Revolutions, minorities were defined as national communities at the 1815 Vienna Congress. National minorities were provided with several guarantees via the Vienna treaties.

The protection mechanism built on the national formulation was supported until the 1878 Congress of Berlin. New states were tasked with securing the rights and freedoms of their national minorities by some protocols and treaties. These legal documents failed to form their enforcement systems, preventing them from establishing an international protection mechanism for minority rights. The first universal protection mechanism was formed by the League of Nations (LoN), which was established following the Paris Peace Conference in 1919. Minority rights and freedoms were set out by many treaties entering into force during the LoN period. The communitarian LoN mechanism lost its effectiveness in the late 1930s. It was eventually destroyed by the Second World War.

Minority rights were considered detrimental to global peace and security after the failure of the LoN. Minorities were protected indirectly via the liberal individualist human rights protection mechanism of the United Nations (UN) until the fall of the Berlin Wall. Some important developments witnessed in the early 1990s, including the rise of ethnic nationalism in eastern Europe, the col-

lapse of communism and the global recognition of the freedom of movement, brought up the importance of minority rights to the international and European agendas once again. Accordingly, the global and European discourses of minority rights were formulated in the 1990s, when several international and regional organizations underscored the significance of the recognition of cultural diversity and pluralism in settling ethnic conflicts and accommodating minorities. The rights of minorities, including those concerning self-government, political representation, culture, language and identity, were recognized and preserved by international declarations, regional conventions and national constitutions.

Many national minorities welcomed the updated liberal discourse of minority rights until the early 2000s. Since then some minority groups, such as the Catalans and Scots, have wanted the discourse to alter its scope in a way enabling them to establish their sovereign states within confederal organizations. The Catalans and Scots would like to turn their self-ruling regions - Catalonia and Scotland - into sovereign members of the confederalist European Union (EU). They do not back the presence of domestic borders within the existence of the EU, stimulating them to develop separatist movements seeking to construct their sovereign states within the EU. This new trend affects other autonomous regions in Europe, including the Basque Country, Corsica, the Flemish Community, Sardinia and the Aland Islands. There are active pro-EU secessionist organizations, political parties and alliances in these self-governing regions that strengthen their muscles gradually. This gradual build-up process would ultimately result in a scenario urging the liberal discourse to enlarge its scope in a manner granting national minorities the right to enjoy their sovereign statehood within confederal organizations.

As an interdisciplinary article drawing on the methods of international human rights law and constitutional politics, this qualitative study seeks to examine the development and current issues of international minority protection regimes. The study benefits from a normative approach aimed at understanding the development of the protection regimes via bilateral/multilateral treaties as well as regional/international soft laws - e.g. declarations and official guidelines - and their hard counterparts, such as conventions, covenants and charters. Many written sources, e.g. books, journal articles and institutional reports, are also taken into account in comprehending the characteristics of the regimes. Similar sources and many additional documents published by prestigious media outlets - e.g. *Bloomberg*, *Euronews*, *The Financial Times* and *The Guardian* - are considered in identifying potential issues of the regimes. Some other sources, such as statements of political leaders and announcements of political parties, are also examined in the identification of the issues.

This study is organized in the following order. It initially defines the concept of minority and explains a brief history of minority rights. The study then scrutinizes the early international protection mechanisms for minorities. Subsequently, the study analyzes the current international and European protection mechanisms. Finally, the study turns its attention to some recent developments that would result in a significant amendment to the liberal discourse of minority rights.

II. DEFINING THE CONCEPT OF MINORITY

The concept of minority refers to groups who find themselves in "*a position of relative subordination in a given societal context*".[1] Sheer numerical inferiority is considered as the main reason for subordination. However, numbers are always connected to other distinct factors concerning cultural, ethnic, linguistic or religious characteristics. Francesco Capotorti takes into account several potential factors and proposes the most widely agreed upon definition of minority as follows: "*a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members - being nationals of the State - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language*".[2]

This broad approach is embraced by Article 1 of the non-binding UN General Assembly Resolution 47/135 on the rights of minorities, which was approved unanimously on 18 December 1992.[3] Objective and subjective definitional criteria are originated from Capotorti's definition. The objective criteria are those certain features that distinguish a group from the majority, e.g. a distinct culture, ethnicity, language or religion. The subjective criteria are those that provide a group with minority consciousness.[4] Minorities are classified into two main categories in accordance with these criteria, namely (i) cultural minorities and (ii) national minorities. Cultural minorities (immigrants and their descendants) are those who fulfil the objective conditions but fail to satisfy the

1 KRAUS, Peter: "Democracy's Challenge: Nordic Minority Politics in the European Context", (Eds.) KRAUS, Peter / KIVISTO, Peter: *The Challenge of Minority Integration: Politics and Policies in the Nordic Nations*, De Gruyter, Berlin, 2015, p. 46.

2 CAPOTORTI, Francesco: *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*, Official Publications of the United Nations, New York, 1979, p. 96.

3 *Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, 3 February 1992, UN General Assembly Resolution A/RES/47/135, art.1.

4 GOLDMAN, Olivia: "The Need for an Independent International Mechanism to Protect Group Rights: A Case Study of the Kurds", *Tulsa Journal of Comparative and International Law*, 1994, Volume 2, No 1, pp. 45-60.

subjective criteria due to their desire to integrate into the majority culture. National minorities are those who satisfy both objective and subjective criteria.

The aforementioned definition of national minority is embraced by Article 1 of the Draft Additional Protocol on the Rights of Minorities to the European Convention on Human Rights. The draft provision defines national minority as "*a group of persons in a state who reside on the territory of that state and are citizens thereof; maintain longstanding, firm and lasting ties with that state; display distinctive ethnic, cultural, religious or linguistic characteristics; are sufficiently representative, although smaller in number than the rest of the population of that state or of a region of that state; and are motivated by a concern to preserve together that which constitutes their common identity, including their culture, traditions, religion or language*".[5]

III. A BRIEF HISTORY OF MINORITY RIGHTS

The idea of safeguarding the weak from the strong is examined in the history of humanity. Much history is described by socio-legal terms leading to the establishment of various organizations that protect interests of the powerful. It is worth noting that there is another influential and detectable fashion of those who seek to advocate demands of the weak. The development of minority rights owes its heritage to those who have struggled to establish principles in order to safeguard non-dominant and numerically inferior groups from excesses of the majority.

Domestic and international actors have paid attention to national minorities and their issues since the Middle Ages. Religious affiliation was the basis of the early minority protection regimes. The protection mechanism that was established by the Agreement of Medina settled disputes between Muslim and Jewish communities in the seventh century. The Agreement conferred the freedom of religion upon all groups on the condition of confirming their loyalties to the state. Similarly, St. Louis pledged to safeguard Maronite Christians in the Holy Land following the authorization of French Monarchs.[6]

The principle of *cuius regio eius religio* (whose region, his religion) was replaced with the principle of *cuius regio eius natio* (whose region, his nation) in the following periods. The protection of religious minorities gained much

[5] The Protocol was adopted by the Parliamentary Assembly of the Council of Europe (PACE) on 1 February 1993. It was not endorsed by the Committee of Ministers, preventing the Protocol from entering into force.

[6] OESTREICH, Joel: "Liberal Theory and Minority Rights Group", *Human Rights Quarterly*, 1999, Volume 21, No 1, pp. 109-115.

more importance as a consequence of this replacement. The Ottoman Empire established a minority rights regime, called the *millet* system, that enabled non-Muslim minority communities - mainly Jews, Greeks and Armenians - to enjoy several religious freedoms.[7] Following the 1644 Congress of Westphalia, religious guarantees for minority groups were incorporated into a significant number of treaties. The Treaty of Westphalia granted crucial concessions to those of the Augsburg Confession. Protestants received back their previous ecclesiastical estates and churches. They were allowed to freely practice their religion. Many religious freedoms were also vested in minorities by the 1660 Treaty of Oliva, the 1678 Treaty of Nijmegen, the 1697 Treaty of Ryswick, the 1745 Treaty of Dresden and the 1772 Treaty of Warsaw.[8] The guarantees set out by these treaties were not a condition for international peace but "*a gesture of good faith towards the sovereign*", indicating that the enforcement of religious freedoms was dependent upon the discretion of the sovereign.[9]

A new principle appeared after the 1815 Congress of Vienna, when a wave of nationalism was unleashed by three significant international events: the American Revolution, the French Revolution and the Napoleonic era. The American Revolution popularized the Lockean ideas of natural rights, toleration and political representation. The French Revolution justified the rights of nations. In the name of expanding the French Empire, Napoleon offered self-government rights to those communities living in dynastic states. All these developments changed the political formulation of minority rights. Minorities were described by various Vienna treaties as national communities instead of religious groups.[10] Article 1 of the General Vienna Treaty bestowed Poles with the right to maintain their national institutions. However, the exact extent of this promise was left to the judgement of the sovereign. The Vienna Final Act provided some early evidence of civil and political rights in addition to religious freedoms. Article LXXVII of the General Treaty guaranteed political and civil rights for the community of Berne. The Prince-Bishopric of Basle was turned into the Cantons of Basle and Berne. Similar stipulations were incorporated into Annex X of the General Vienna Treaty, which unified Catholic Belgium and Protestant Holland. Article XIV of the General Treaty transferred the Catholic

7 ARAL, Berdal: "The Idea of Human Rights as Perceived in the Ottoman Empire", *Human Rights Quarterly*, 2004, Volume 26, No 2, pp. 454-460.

8 THORNBERRY, Patrick: "Historical Background: International Law Moves from Protection of Particular Groups to Norms of a Universal Character", (Ed.) CASTELLINO, Joshua: *Global Minority Rights*, Ashgate, Dartmouth, 2012, pp. 3-6.

9 PREECE, Jennifer: "Minority Rights in Europe: From Westphalia to Helsinki", *Review of International Studies*, 1997, Volume 23, No 1, pp. 76-78.

10 PREECE, "Minority Rights", pp. 78-79.

territories, which had been under the administration of the King of Sardinia, to the Protestant Canton of Geneva.[11]

The nation-based Vienna formulation was popular until the 1878 Congress of Berlin. The rise of nationalism engendered new states, especially in the Balkan Peninsula. As a condition for international recognition, some Balkan states were asked by the western powers to respect minority guarantees and civil liberties. The London Protocol of 1830 resulted in the foundation of the Greek state. According to the Protocol, the recognition of this state was dependent upon its respect for the rights and freedoms of its Muslim citizens. Similar provisions were included in the 1878 Treaty of Berlin, under which Bulgaria (Article IV), Romania (Article XLIV) and the States of Montenegro and Serbia (Articles XXVII and XXXIV) were tasked with respecting the rights and freedoms of their Muslim citizens.[12] However, there were some weak muscles of the Protocol and Treaty. Failing to show enough respect for minority rights and freedoms did not lead to the withdrawal of recognition once it had been awarded. These legal documents did not establish any enforcement systems pertaining to non-fulfilment, preventing them from constructing a proper universal protection mechanism for minority rights.[13]

IV. INTERNATIONAL MECHANISMS FOR MINORITY PROTECTION

The first international protection mechanism for minority rights was established by the LoN, which was founded after the Paris Peace Conference in 1919. The LoN sought to promote international peace by compelling states to adopt minority rights and freedoms.[14] It persuaded many new states to provide minority guarantees as part of the terms of their admission to the LoN. Such guarantees were set out by various treaties that became effective during the LoN period. The 1919 Treaty of Paris imposed a duty of securing minority rights and freedoms upon Romania. The 1919 Treaty of Saint-Germain-en-Laye included some provisions ensuring minority rights and freedoms in Austria, the Kingdom of Serbs, Slovenes and Croats - subsequently renamed as Yugoslavia - and Czechoslovakia. Poland was tasked with safeguarding its minority communities by the 1919 Treaty of Versailles. Several articles were set out by the 1919 Trea-

11 For more details on the General Treaty and its minority-specific articles, see PREECE, "Minority Rights", pp. 78-79.

12 For a detailed analysis of the London Procotol and the Treaty of Berlin, see PREECE, "Minority Rights", pp. 79-81.

13 THORNBERRY, pp. 7-9.

14 MAZOWER, Mark: "Minorities and the League of Nations in Interwar Europe", (Ed.) CASTELLINO, Joshua: *Global Minority Rights*, Ashgate, Dartmouth, 2012, pp. 17-22.

ty of Neuilly-sur-Seine that guaranteed minority rights and freedoms in Bulgaria. The 1920 Treaty of Trianon involved some provisions preserving minority rights and freedoms in Hungary. Another treaty encompassing minority rights and freedoms was the 1923 Treaty of Lausanne, under which Turkey and Greece were tasked with protecting their minority communities.[15]

The LoN failed to deal with the grievances of those minorities who were charged with disloyalty towards post-war governments, rendering the LoN protection mechanism a tool for fomenting universal rivalry and discontent. There was, in fact, a general inclination to ignore state policies made with the aim of assimilating national minorities when these policies were considered necessary for state stability. Furthermore, on those occasions when the LoN decided to investigate alleged violations of the treaties, western European members - especially France and the United Kingdom (UK) - were reluctant to become involved on the basis that their national interests were not concerned. This reluctance empowered those LoN member states whose ethno-cultural kin groups constituted minorities in other administrations, and thus whose national interests were endangered, to take the initiative in reminding and implementing LoN guarantees. Hence, minority issues degenerated into a political fight between those treaty-bound states which wished to secure the territorial *status quo* and national minorities/their kin states with revisionist goals towards the post-war borders set by the 1919 treaties.[16] The degeneration rendered the LoN system an ineffective protection mechanism in the late 1930s.[17] Minority demands were then used to give justification for the establishment of the Croatian and Slovak puppet states, and the transfer of southern Slovakia and half of Transylvania to Hungary. Upon all these circumstances, the mechanism became more impotent. It was ultimately collapsed by the Second World War.[18]

---

15 For more details on the minority-specific LoN materials, see PREECE, Jennifer: "National Minority Rights vs. State Sovereignty in Europe: Changing Norms in International Relations?", *Nations and Nationalism*, 1997, Volume 3, No 3, pp. 345-364.

16 PREECE, "Minority Rights", pp. 81-84.

17 The LoN minority protection mechanism did not fail to preserve all minority groups around the globe. There were few successful LoN settlements, including the Aland Islands Agreement of 1921. This arrangement settled the dispute between Finland and Sweden. The main cornerstones of the Agreement are still supported by the Nordic states. For more details, see AKERMARK, Sia: "Internal Self-Determination and the Role of Territorial Autonomy as a Tool for the Resolution of Ethno-Political Disputes", *International Journal on Minority and Group Rights*, 2013, Volume 20, No 1, pp. 5-25; CHILLAUD, Matthieu: "The French Perspective on the Åland Islands: A Cyclic Interest? Between Geopolitics, Historiography, and a Case Study", *Journal of Autonomy and Security Studies*, 2018, Volume 2, No 2, pp. 54-69; MAKILI-ALIYEV, Kamal: "Comparing the Åland Islands Precedent and the Nagorno-Karabakh Conflict Research Note", *Journal of Autonomy and Security Studies*, 2018, Volume 2, No 2, pp. 106-117.

18 PREECE, "Minority Rights", p. 84.

Minority promises were deemed detrimental to global peace and security following the failure of the LoN.[19] Thus, minority rights lost their hitherto autonomous standing in the international arena. They were subsumed within the universal human rights regime, built on liberalist bases.[20] This general antipathy was pursued throughout the Cold War. It was apparent in the records of international institutions like the UN, the Council of Europe (CoE) and the Commission on Security and Cooperation in Europe (CSCE), later renamed as the Organization for Security and Cooperation in Europe (OSCE). These institutions did not adopt any separate minority-specific texts during the Cold War.[21] Instead, they sought to protect minority groups indirectly through guaranteeing universal rights to all individuals.[22]

Among the UN human rights conventions adopted during the Cold War, there is no binding provision on minority protection, except for Article 27 of the International Covenant on Civil and Political Rights (ICCPR) and Article 30 of the Convention on the Rights of the Child (Child Convention). These articles reserve specific rights only for minority groups. Article 27 ICCPR reads: "*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 practise their own religion, or to use their own language*".[23]

The Human Rights Committee (HRC), which is the monitoring mechanism of the ICCPR, interprets Article 27 ICCPR in its General Comment No. 23. In this document, the HRC recognizes Article 27 ICCPR as a provision granting individual rights only to persons belonging to minority groups.[24] The General Comment notes that these individual rights are "*distinct from, and additional to, all the other rights which, as individuals in common with everyone else, they [members of minority groups] are already entitled to enjoy under the Cove-*

19 PREECE, "Minority Rights", p. 84.

20 KUNZ, Josef: "The Present Status of the International Law for the Protection of Minorities", *American Journal of International Law*, 1954, Volume 48, No 2, pp. 282-284.

21 The 1975 Helsinki Final Act departs from this post-war avoidance of minority issues at the European level. The Act takes into consideration minorities in three different sections: The Declaration on Principles, Principle VII and The Section on Co-operation in Humanitarian and Other Fields.

22 It is possible to bestow special rights upon minority groups via a collectivist method or its individualist counterpart. The collectivist method grants minority rights to *peoples*. The individualist method confers minority rights upon *persons* belonging to minority groups.

23 *International Covenant on Civil and Political Rights*, 19 December 1966, 999 UNTS 171 (entered into force on 23 March 1976), art.27.

24 HRC General Comment No. 23: Article 27 (Rights of Minorities), 8 April 1994, CCPR/C/21/Rev.1/Add.5.

nant".[25] It is also stipulated that "*the persons designed to be protected [under Article 27] are those who belong to a group and who share in common a culture, a religion and/or a language*".[26] Such persons do not need to be citizens of the state parties in order to enjoy the rights under Article 27. According to the HRC, every state party should allow each individual belonging to minorities to exercise the rights protected under Article 27 if she inhabits in its territory and is subject to its jurisdiction. Moreover, such individuals are not required to be permanent residents to enjoy the rights enshrined in Article 27. Rather, migrant workers or visitors who constitute a minority group in a state party should be authorized to exercise them.[27]

The HRC rules that linguistic minorities have the right to use their native tongue in private and in public under Article 27 ICCPR. This right is distinct from the freedom of expression enshrined in Article 19 ICCPR, which is conferred upon all individuals, regardless of whether they belong to minority groups or not. The HRC underlines that language rights protected under Article 27 are different from those safeguarded under Article 14/3-f ICCPR. The former bestows an accused person with the right to use the language of her choice in court proceedings. The latter provides an accused person who "*cannot understand or speak the language used in the courts*" only with the opportunity to "*have the free assistance of an interpreter*".[28]

Persons belonging to minority groups are entitled to exercise cultural rights under Article 27 ICCPR. According to the HRC, there is no exact list of such rights as culture can potentially manifest itself in different forms. But nevertheless, the HRC gives some examples by paying attention to indigenous peoples who ask for a particular way of life, such as the right to perform traditional activities (e.g. fishing or hunting) or the right to live in a reserved land.[29]

Article 27 ICCPR guarantees religious freedoms for persons belonging to minority groups. The HRC holds that members of religious minority groups in state parties are entitled to exercise the right to freely practice and profess their religions. They are also given the opportunity to protect and develop their religious identities that would eventually enrich the fabric of the entire society.[30]

---

25 HRC General Comment No. 23, para. 1.

26 HRC General Comment No. 23, para. 5.1.

27 HRC General Comment No. 23, para. 5.2.

28 HRC General Comment No. 23, para. 5.3.

29 HRC General Comment No. 23, para. 7.

30 HRC General Comment No. 23, paras. 6.2 and 9.

Article 30 of the Child Convention employs an individualist method akin to that utilized by Article 27 ICCPR in granting minority groups special rights. This article reads: "*In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language*".[31]

The Committee on the Rights of the Child (CRC), which is the monitoring mechanism of the Convention, interprets this article in its General Comment No. 11.[32] According to the CRC, the article is a minority-specific provision, under which only persons who are below the age of eighteen years and who belong to a national minority, or to an indigenous people, are entitled to exercise particular rights similar to those secured under Article 27 ICCPR. Therefore, Article 30 of the Child Convention gives a child belonging to a minority group the right to perform her own traditional activities, the right to use her native language in public and in private, the right to education in her mother tongue, the right to freely practice her own faith, etc.[33]

The other primary UN human rights documents do not reserve any of their provisions only for minorities, e.g. the Universal Declaration of Human Rights (UDHR),[34] the International Covenant on Economic, Social and Cultural Rights (ICESCR),[35] the Convention on the Elimination of All Forms of Discrimination

---

31 *Convention on the Rights of the Child*, 20 November 1989, 1577 UNTS 3 (entered into force on 2 September 1990), art.30.

32 CRC General Comment No. 11: Indigenous Children and Their Rights under the Convention, 12 February 2009, CRC/C/GC/11.

33 CRC General Comment No. 11, para. 16.

34 The UDHR does not reserve any of its provisions *only* for minority groups. It seeks to protect all individuals, regardless of their membership in minority groups. Under the UDHR, members of minority groups have the freedom of thought, conscience and religion (art.18), the freedom of opinion (art.19), the freedom of peaceful assembly and association (art.20) and the right to partake in the administration of the states where they inhabit (art.21/1). Exercising the right to education in minority languages would be the case under Article 26/3, which authorizes parents to "*have a prior right to choose the kind of education that shall be given to their children*". All these rights are not designed specifically for minorities. Instead, every person, irrespective of her membership in minority groups, is entitled to enjoy all rights secured under the UDHR. For the full text of the UDHR, see *Universal Declaration of Human Rights*, 10 December 1948, UN General Assembly Resolution 217 A (III).

35 The ICESCR is one of the two legally binding documents constructed on the UDHR. Similar to its mother document, the ICESCR does not reserve any of its provisions only for minority groups. This covenant aims to protect all individuals, regardless of whether they belong to minority groups or not. Under the ICESCR, members of minority groups may have some special rights in the area of education. The Committee on Economic, Social and Cultural Rights (CESCR), which is the monitoring mechanism of the ICESCR, interprets Article 13 ICESCR in its General Comment No. 13. Paragraph 28 of the General Comment reads that according to Article 13/3 ICESCR, "*states par-*

against Women (CEAFDAW)[36] and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).[37] Rather, they seek to protect all individuals, irrespective of whether they belong to minority groups or not.

A UN-like individualist approach was in operation at the European level during the Cold War. The European Court of Human Rights (ECtHR) tried to protect minorities indirectly. The cornerstone of the European protection mechanism was the European Convention on Human Rights (ECHR). The ECHR did not reserve any of its articles only for minorities. Instead, it sought to grant basic rights and freedoms to all individuals, regardless of their membership in minority groups. Saying that no ECHR provision was reserved only for minorities did not mean

ties undertake to respect the liberty of parents and guardians to ensure the religious and moral education of their children in conformity with their own convictions". The same paragraph notes that Article 13/3 allows public schools to teach the general history of religions and ethics that should be "*given in an unbiased and objective way, respectful of the freedom of opinion, conscience and expression*". Incorporating the instruction of a specific religion or belief into public education is recognized by the CESCR as an act incompatible with Article 13/3 ICESCR. This provides persons belonging to religious minorities with the chance to be exempt from such education (para. 28). Minority members may also have some special rights in the domain of culture under Article 15 ICESCR (the right of everyone to take part in cultural life). In its General Comment No. 21, the CESCR stipulates that persons belonging to minorities, including ethnic minorities (paras. 32-33), indigenous peoples (paras. 36-37) and migrants (paras. 34-35) in state parties, should be empowered to preserve, promote and advance their own cultures. Accordingly, they should be granted language and cultural rights, such as the right to use their own languages in education and the media, and the right to establish cultural institutions (e.g. museums and libraries). These rights are not those specifically reserved for minorities. Rather, all individuals are entitled to exercise them, including women (para. 25), children (paras. 26-27), older persons (paras. 28-29), persons with disabilities (paras. 30-31) and persons living in poverty (paras. 38-39). In short, there is no minority-specific provision in the ICESCR.

36 The CEAFDAW is built on the principles of non-discrimination and equality. It provides special protection for all women, regardless of their membership in minority groups, in various areas, such as politics and public affairs (arts. 7-9), education (art.10), employment (art.11), health care (art.12), economic and social affairs (art.13), and marriage and family relations (art.16). The Committee on the Elimination of Discrimination against Women (CEDAW), which is the monitoring mechanism of the Convention, interprets several articles of the Convention in its General Recommendations No. 26 and 34. In these documents, the CEDAW rules that there are no specific rights reserved for a particular group in the Convention. Rather, all women, including those of rural, indigenous, Afro-descendant and migrant groups, are entitled to exercise the rights set out by the CEAFDAW.

37 The ICERD is constructed on the principles of non-discrimination and equality. It provides universal protection for all individuals who may face discriminatory acts. It does not reserve any of its articles only for minorities. The Committee on the Elimination of Racial Discrimination (CERD), which is the monitoring mechanism of the ICERD, rules in its General Recommendation No. 27 that the Roma are entitled to exercise several rights in accordance with the ICERD, e.g. the right to use their language in education and the media, and the right to freely practice their religion. In its General Recommendation No. 23, the CERD comes up with a formula for the protection of indigenous peoples under the ICERD. The CERD General Recommendation No. 34 offers a similar approach that explains how to protect Afro-descendant groups under the ICERD. However, the ICERD does not reserve any specific rights only for these minority groups. Instead, every individual suffering from discriminatory acts is entitled to exercise all rights secured by the ICERD.

minority groups were not safeguarded under the ECHR. Rather, the ECtHR attempted to vest various specific rights in minority groups, e.g. the right to use minority languages in public and in private, the right to use minority languages in education, the right to perform traditional minority activities and the right to freely practice minority religions. The ECtHR asked for the adoption of these rights by interpreting some ECHR provisions.[38] But nevertheless, these rights were not reserved only for minorities. All individuals, irrespective of whether they belong to minority groups or not, are entitled to exercise them.

V. LIBERAL ATTENTION TO MINORITY RIGHTS

According to classical liberalism, sovereign states should embrace the value of neutrality in the administration of ethno-cultural differences or cleavages.[39] This theoretical approach argues that states should not recognize, protect or promote any ethnic, linguistic or religious characteristics.[40] The proper response of states to ethno-cultural diversity is to establish a constitutional framework of rules fair to all ethnic, linguistic and religious groups and then enable individual citizens to safeguard and develop their own identities.[41] Depending on the choices of individuals, some ethno-cultural features would flourish while others might decline, pass into oblivion or even disappear.[42] Classical liberalism maintains that states should not assist or fetter any ethno-cultural features, irrespective of their flourishing or declining status.[43] What they ought to do is just to form fair background rules under which ethno-cultural characteristics would strive for success.[44]

The classical approach is effective in dealing with religious diversity. States would become neutral on religious matters by adopting secularism or laicism as one of their basic constitutional principles.[45] However, it is unlikely for those states embracing this approach to become neutral on other ethno-

38 For more details on the ECtHR case-law, see BERRY, Stephanie: "The Siren's Call? Exploring the Implications of an Additional Protocol to the European Convention on Human Rights on National Minorities", *International Journal on Minority and Group Rights*, 2016, Volume 23, No 1, pp. 1-38.

39 KOLÇAK, Hakan: "Multiculturalism for True Equality: A Normative Argument for Multicultural Turkey", *International Journal of Human Rights and Constitutional Studies*, 2020, Volume 7, No 2, p. 110.

40 PATTEN, Alan: "Liberal Neutrality and Language Policy", *Philosophy & Public Affairs*, 2003, Volume 31, No 4, pp. 367-368.

41 RAWLS, John: *Political Liberalism*, Columbia University Press, New York, 1993, pp. 198-199.

42 KOLÇAK, "Multiculturalism", p. 110.

43 PATTEN, "Liberal Neutrality", p. 368.

44 RAWLS, pp. 195-199.

45 KOLÇAK, "Multiculturalism", p. 110.

cultural matters. As Will Kymlicka underlines, "*it is quite possible for a state not to have an established church. But the state cannot help but give at least partial establishment to a culture when it decides which language is to be used in public schooling, or in the provision of state services*."[46] This is possibly the reason why most states intend to adopt the nation-building principle, under which they pick out one single national identity and systematically promote it for all citizens.[47] This identity is in most, but not all, cases the identity and culture of the "*staatsvolk*", an ethnic community who is "*demographically and electorally dominant group in the state*".[48]

The nation-building principle calls on a liberal state to recognize a native tongue spoken by its majority ethnic group (*staatsvolk*) as its official language.[49] It urges the state to acknowledge the majority language as the language of instruction in public schools.[50] It stimulates the state to secure and advance the dominant culture via constitutional articles or provisions.[51] The state embracing this principle "*makes no attempt to acknowledge, accommodate, or assist the variety of different cultures and identities to which citizens are attached in a diverse society*".[52] This circumstance prevents the state from ensuring true equality among its ethno-cultural communities.[53] True equality does not mean treating everyone the same for all purposes. This equality has a two-fold meaning, equality in law (legal equality) and equality in fact (substantive equality).[54] States would ensure legal equality by providing their citizens with equal protection before the law.[55] This protection is not enough to ensure true equality. States should also provide their citizens with substantive equality.[56] This equali-

46 KYMLICKA, Will: *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford University Press, Oxford, 1995, p. 111.

47 PATTEN, Alan: "Beyond the Dichotomy of Universalism and Difference: Four Responses to Cultural Diversity", (Ed.) CHOUDHRY, Sujit: *Constitutional Design for Divided Societies: Integration or Accommodation?*, Oxford University Press, Oxford, 2008, p. 94.

48 O'LEARY, Brendan: "An Iron Law of Nationalism and Federation? A (Neo-Diceyian) Theory of the Necessity of a Federal *Staatsvolk* and of Consociational Rescue", *Nations and Nationalism*, 2001, Volume 7, No 3, pp. 284-285.

49 KOLÇAK, "Multiculturalism", p. 110.

50 PATTEN, "Beyond the Dichotomy", p. 94.

51 KOLÇAK, "Multiculturalism", p. 110.

52 PATTEN, "Beyond the Dichotomy", p. 94.

53 KOLÇAK, "Multiculturalism", pp. 116-117.

54 KURBAN, Dilek: "Confronting Equality: The Need for Constitutional Protection of Minorities on Turkey's Path to the European Union", *Columbia Human Rights Law Review*, 2003, Volume 35, No 1, p. 162.

55 KOLÇAK, "Multiculturalism", pp. 116-117.

56 KURBAN, p. 162.

ty requires states not to treat their ethno-cultural minority groups as if they were part of the dominant population. Instead, it requires states to recognize, protect and promote not only majority but also minority identities.[57]

The inability of classical liberalism to ensure substantive equality between majority and minority communities was scrutinized in the late 1970s, when the absolute individualist approach of minority protection started to be criticized by various liberal scholars. Vernon van Dyke suggested: "*The liberal conception [of human rights] - an individualist conception - is unduly limited... Considering the heterogeneity of mankind and of the population of virtually every existing state, it is also necessary to think of ethnic communities and certain other kinds of groups, and to include them among the kinds of right-and-duty-bearing units whose inter-relationships are to be explored*".[58] This suggestion sparked a new debate between communitarians (collectivists) and liberals (individualists).[59] According to liberals, individuals were prior to communities; communities mattered only because they contributed to the well-being of the individuals composing them.[60] If individuals no longer considered existing cultural practices worth of protection, communities would not have any independent preferences in securing these practices and any rights to hinder individuals from modifying or refusing them.[61] Communitarians disputed this individualist perspective. They viewed people as embedded in certain social roles and relationships. According to them, such embedded selves inherited a way of life describing their good for them.[62] Communitarians considered individuals as the product of social practices.[63] Privileging individual autonomy was destructive of communities, according to communitarian perspectives.[64]

---

57 KOLÇAK, "Multiculturalism", p. 117.

58 VAN DYKE, Vernon: "The Individual, the State and Ethnic Communities in Political Theory", *World Politics*, 1997, Volume 29, No 3, p. 343.

59 KYMLICKA, Will: *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship*, Oxford University Press, Oxford, 2001, pp. 3-20.

60 HARTNEY, Michael: "Some Confusion Concerning Collective Rights", *Canadian Journal of Law and Jurisprudence*, 1991, Volume 24, No 2, pp. 293-297.

61 NARVESON, Jan: "Collective Rights?", *Canadian Journal of Law and Jurisprudence*, 1991, Volume 4, No 2, pp. 329-335.

62 GARET, Ronald: "Communality and Existence: The Rights of Groups", *Southern California Law Review*, 1983, Volume 56, No 5, pp. 1001-1028.

63 JOHNSTON, Darlene: "Native Rights as Collective Rights: A Question of Group Self-Preservation", *Canadian Journal of Law and Jurisprudence*, 1989, Volume 2, No 1, pp. 19-29.

64 MCDONALD, Michael: "Should Communities Have Rights? Reflections on Liberal Individualism", *Canadian Journal of Law and Jurisprudence*, 1991, Volume 4, No 2, pp. 217-230.

During this debate, most minority groups within advanced democracies did not want to be safeguarded from the forces of liberal modernization. In contrast, they wanted to be full and equal participants in contemporary liberal societies. Some members of the Quebecois, Catalans, Flanders and Scots wished to secede from liberal democracies, but if done, it was not to construct illiberal communitarian societies; instead, to establish their own modern liberal societies. There were few crucial and visible exceptions to this custom, e.g. some ethno-religious sects (the Amish, Hasidic Jews and Hutterites) and traditionalist indigenous groups isolating themselves from globalization and modernization. The communitarian formula would be applicable only to these groups. But nevertheless, the communitarian critique of liberalism reminded the significance of minority rights against the encroachment of liberal individualism in the 1970s and 1980s.[65]

The early 1990s witnessed more important developments. At that time, the rise of ethnic nationalism in eastern Europe following the fall of communism was a threat to European stability. The dissolution of Yugoslavia, the Soviet Union and Czechoslovakia reawakened minority nationalism not only in these countries but all over east-central Europe. In the meantime, the new freedom of mobilization rendered it possible for the members of national minorities to immigrate to those states where their ethnic kin groups already constituted a majority. Numerous national minority members chose to make this move, and Europe saw the greatest movement of people since the end of World War II.[66] There were other tragic incidents that brought up the importance of minority freedoms to the international agenda once again. The genocides committed in Rwanda and Bosnia challenged the individualist approach of human rights as persons belonging to the Tutsi, Croatian and Bosnian communities were the victims of genocide not due to their individual identities, but due to their membership in ethnic, racial or religious groups.[67]

All aforementioned incidents justified the need for the existence of global minority rights.[68] The justification encouraged contemporary liberals to come up

---

65 KYMLICKA, *Politics in the Vernacular*, pp. 61-89.

66 Austria, Germany, Hungary and Turkey received numerous ethnic migrants. Moreover, the civil wars in Bosnia and Croatia dispersed a huge number of refugees throughout east-central Europe. For more details, see PREECE, "National Minority", p. 349.

67 KURBAN, p. 155.

68 For theoretical arguments on justifying the existence of global minority rights within liberal theory, see MARGALIT, Avishai / RAZ, Joseph: "National Self-Determination", *Journal of Philosophy*, 1990, Volume 87, No 9, pp. 439-461; MILLER, David: *On Nationality*, Oxford University Press, Oxford, 1995; RAZ, Joseph: "Multiculturalism", *Ratio Juris*, 1998, Volume 11, No 3, pp. 193-205; SPINNER, Jeff: *The Boundaries of Citizenship: Race, Ethnicity and Nationality in the*

with the equality-of-status principle in ensuring substantive equality between majority and minority communities.[69] Similar to their classical counterparts, modern liberals believe that states should express a commitment to the value of neutrality.[70] However, the contemporary approach describes state neutrality through different elements. According to this approach, states are likely to observe neutrality on ethno-cultural differences by not only refusing to help or hamper any particular form of life, but also recognizing, accommodating and assisting both majority and minority identities.[71]

The equality-of-status principle was embraced by some international declarations after the fall of the Berlin Wall. Three main organizations - the UN, CoE and OSCE - adopted several documents that underlined the significance of the recognition of cultural diversity and pluralism in settling ethnic conflicts and accommodating minorities.[72] The UN General Assembly adopted its first minority-specific tool in 1992, namely the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.[73] Another minority-specific UN document was the Declaration on the Rights of Indigenous Peoples, which was adopted in 2007. According to the Declaration, indigenous peoples should enjoy specific rights, including cultural rights, spiritual and religious freedoms, media rights, education rights, special representation rights and self-government rights.[74] It is important to note that the UN has not yet converted the promises of these two declarations into binding treaties, rendering them soft UN laws on minority issues.

Liberal State, Johns Hopkins University Press, Baltimore, 1994; TAMIR, Yael: *Liberal Nationalism*, Princeton University Press, Princeton, 1993; WALDRON, Jeremy: "Minority Cultures and Cosmopolitan Alternatives", (Ed.) KYMLICKA, Will: *The Rights of Minority Cultures*, Oxford University Press, Oxford, 1995, pp. 93-119; KUKATHAS, Chandran: "Are There any Cultural Rights", *Political Theory*, 1992, Volume 20, No 1, pp. 105-139; KUKATHAS, Chandran: "Liberalism and Multiculturalism: The Politics of Indifference", *Political Theory*, 1998, Volume 26, No 5, pp. 686-699; KYMLICKA, Will: *Liberalism, Community, and Culture*, Oxford University Press, Oxford, 1989; KYMLICKA, Will: *Contemporary Political Philosophy: An Introduction*, Oxford University Press, Oxford, 1990; KYMLICKA, Will: "Multiculturalism and Minority Rights: West and East", *Journal of Ethnopolitics and Minority Issues in Europe*, 2002, Volume 4, No 4, pp. 1-27.

69 PATTEN, "Beyond the Dichotomy", p. 101.

70 KOLÇAK, "Multiculturalism", p. 112.

71 PATTEN, "Beyond the Dichotomy", p. 101.

72 KYMLICKA, Will / PFOSTL, Eva: "Introduction", (Eds.) KYMLICKA, Will / PFOSTL, Eva: *Multiculturalism and Minority Rights in the Arab World*, Oxford University Press, New York, 2014, pp. 1-24; BOULDEN, Jane / KYMLICKA, Will: "Introduction", (Eds.) BOULDEN, Jane / KYMLICKA, Will: *International Approaches to Governing Ethnic Diversity*, Oxford University Press, New York, 2015, pp. 1-21.

73 *United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities,* 20 December 1993, UN General Assembly Resolution A/RES/48/138.

74 *United Nations Declaration on the Rights of Indigenous Peoples*, 2 October 2007, UN General Assembly Resolution A/RES/61/295.

A European discourse of minority rights was formulated by the OSCE and CoE after the Cold War. In the Helsinki Final Act of 1975, OSCE participating states undertook to respect the rights of national minorities.[75] These commitments were advanced and ameliorated in the conferences and meetings during the late Cold War period, but much progress was made just after the collapse of communism. At that time, minority questions in east-central Europe were taken up by the OSCE not only as security problems but also as human rights issues. The main purpose of the OSCE was to avoid the mistakes of the LoN. Therefore, the OSCE recognized minority rights in an individualist rather than collectivist manner. It described minority members as *persons* belonging to national minorities by resting on liberal individualism. The OSCE incorporated minority rights into its main documents, e.g. the 1990 Copenhagen Document,[76] the 1990 Charter of Paris for a New Europe,[77] the 1991 Geneva Report on National Minorities,[78] the 1991 Moscow Document,[79] the 1992 Helsinki Document[80] and the 1994 Budapest Document.[81]

The second Helsinki Summit Meeting in 1992 established the office of High Commissioner for National Minorities (HCNM) as an OSCE organ to help member states resolve minority/majority conflicts and assist them in the implementation of minority standards. The HCNM introduced many individualist standards on minority rights via its recommendations, including (i) the 1996 Hague recommendations on the education rights of national minorities;[82] (ii) the 1998 Oslo recommendations on the language rights of national minorities;[83] (iii)

---

75 For all details on the Final Act, see CSCE: *Conference on Security and Cooperation in Europe Final Act*, CSCE Publication Office, Helsinki, 1975.

76 For the minority-related section of the 1990 Copenhagen Document, see CSCE: *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, CSCE Publication Office, Copenhagen, 1990, pp. 18-23.

77 For the minority-specific section of the 1990 Charter of Paris for a New Europe, see CSCE: *Charter of Paris for a New Europe*, CSCE Publication Office, Paris, 1990, p. 4.

78 For all details on the 1991 Geneva Report on National Minorities, see CSCE: *Report of the CSCE Meeting of Experts on National Minorities*, CSCE Publication Office, Geneva, 1991.

79 For the minority-concerned section of the 1991 Moscow Document, see CSCE: *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE*, CSCE Publication Office, Moscow, 1991, p. 46.

80 For the minority-related section of the 1992 Helsinki Document, see CSCE: *The Challenges of Change*, CSCE Publication Office, Helsinki, 1992, pp. 9-12.

81 For the minority-specific section of the 1994 Budapest Document, see CSCE: *Towards a Genuine Partnership in a New Era*, CSCE Publication Office, Budapest, 1994, pp. 32-35.

82 For all details on the 1996 Hague recommendations, see HCNM: *The Hague Recommendations Regarding the Education Rights of National Minorities & Explanatory Note*, HCNM Publication Office, The Hague, 1996.

83 For all details on the 1998 Oslo recommendations, see HCNM: *The Oslo Recommendations Regarding the Linguistic Rights of National Minorities & Explanatory Note*, HCNM Publication Office, Oslo, 1998.

the 1999 Lund recommendations on the effective participation of national minorities;[84] (iv) the 2001 OSCE guidelines on the participation of national minorities in electoral processes;[85] (v) the 2003 OSCE guidelines on the usage of minority languages in the broadcasting media;[86] (vi) the 2006 OSCE recommendations on policing in multi-ethnic states;[87] (vii) the 2008 Bolzano recommendations on national minorities in inter-state relations;[88] (viii) the 2012 Ljubljana guidelines on the integration of diverse societies;[89] (ix) the 2017 Graz recommendations on access to justice and national minorities;[90] and (x) the 2019 Tallinn guidelines on national minorities and the media in the digital age.[91]

Minority issues were considered by the CoE as potential hindrances to the democratic development of previous communist states and as social and economic problems in those kin states receiving minority migrations. Some CoE bodies - e.g. the PACE, the Committee of Ministers, the Steering Committee on Human Rights and the European Commission for Democracy through Law - studied many minority rights proposals in the first half of the 1990s. In November 1992, the European Charter for Regional or Minority Languages (European Language Charter) was adopted.[92] CoE member states decided at the 1993 Vienna Summit Meeting to adopt an additional protocol regarding the protection of national minorities to the ECHR. Furthermore, they decided to draft a separate convention on national minorities. Having completed all political and legal procedures, the Committee of Minis-

---

84 For all details on the 1999 Lund recommendations, see HCNM: *The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note*, HCNM Publication Office, The Hague, 1999.

85 For all details on the 2001 OSCE guidelines, see OSCE: *Guidelines to Assist National Minority Participation in the Electoral Process*, OSCE Office for Democratic Institutions and Human Rights, Warsaw, 2001.

86 For all details on the 2003 OSCE guidelines, see HCNM: *OSCE Guidelines on the Use of Minority Languages in the Broadcast Media*, HCNM Publication Office, The Hague, 2003.

87 For all details on the 2006 OSCE recommendations, see HCNM: *OSCE Recommendations on Policing in Multi-Ethnic Societies*, HCNM Publication Office, The Hague, 2006.

88 For all details on the 2008 Bolzano recommendations, see HCNM: *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations & Explanatory Note*, HCNM Publication Office, The Hague, 2008.

89 For all details on the 2012 Ljubljana guidelines, see HCNM: *The Ljubljana Guidelines on Integration of Diverse Societies*, HCNM Publication Office, The Hague, 2012.

90 For all details on the 2017 Graz recommendations, see HCNM: *The Graz Recommendations on Access to Justice and National Minorities & Explanatory Note*, HCNM Publication Office, The Hague, 2017.

91 For all details on the 2019 Tallinn guidelines, see HCNM: *The Tallinn Guidelines on National Minorities and the Media in the Digital Age & Explanatory Note*, HCNM Publication Office, The Hague, 2019.

92 *European Charter for Regional or Minority Languages*, 5 November 1992, ETS 148 (entered into force on 1 March 1998).

ters adopted the Framework Convention for the Protection of National Minorities (FCNM), which entered into force on 1 February 1998.[93] The FCNM takes into account the legitimate interests of national minorities with a specific focus on language rights.[94] Language rights are justified in the FCNM through the principles of equality, non-assimilation and tolerance.[95] Under these three principles, the FCNM allows national minorities to use their own languages in the media, administrative institutions and judicial proceedings.[96] In the field of education, national minorities enjoy language rights pursuant to the FCNM.[97] Finally, the FCNM vests a significant number of special representation rights in national minorities.[98]

In short, the rise of ethnic nationalism in eastern Europe, the collapse of communism and the freedom of movement brought up the significance of minority rights to the global and European agendas once again. This global trend stimulated several states to incorporate minority rights into their constitutional and statutory documents. Many indigenous peoples, such as the Maori in New Zealand, the Sami in Scandinavia, the American Indians, the Aboriginals in Australia and Canada, and the Inuit in Greenland, were granted self-government, land and special representation rights.[99] The cultural rights of these groups, including those concerning language, fishing, hunting and sacred sites, were constitutionally and/or legally preserved. They were authorized to exercise customary laws. A certain number of seats were reserved for them in national parliaments.[100]

---

93 *Framework Convention for the Protection of National Minorities*, 10 November 1994, ETS 157 (entered into force on 1 February 1998).

94 The Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), which is the supervisory body of the FCNM, publishes several documents analyzing all FCNM articles. For a detailed analysis of this minority-specific convention, see ACFC: *Commentary on Education under the Framework Convention for the Protection of National Minorities*, Council of Europe Publication Office, Strasbourg, 2006; ACFC: *Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs*, Council of Europe Publication Office, Strasbourg, 2008; ACFC: *Thematic Commentary No. 3: The Language Rights of Persons Belonging to National Minorities under the Framework Convention*, Council of Europe Publication Office, Strasbourg, 2012; ACFC: *Thematic Commentary No. 4 on the Framework Convention: A Key Tool to Managing Diversity through Minority Rights*, Council of Europe Publication Office, Strasbourg, 2016.

95 FCNM, arts. 4/2, 5/1 and 6.

96 FCNM, arts. 9 and 10.

97 FCNM, arts. 12/1, 13/1 and 14/1-2.

98 FCNM, art.15.

99 KYMLICKA, Will: "The Rise and Fall of Multiculturalism? New Debates on Inclusion and Accommodation in Diverse Societies", *International Social Science Journal*, 2010, Volume 61, No 199, p. 101.

100 KYMLICKA, Will: "The Essentialist Critique of Multiculturalism: Theory, Policies and Ethos", (Eds.) MODOOD, Tariq / UBEROI, Varun: *Multiculturalism Rethought: Essays in Honour of Bhikhu Parekh*, Edinburgh University Press, Edinburgh, 2015, pp. 219-245.

Indigenous peoples were not the only beneficiaries of the rise of minority rights. National minorities were granted self-government and identity rights in the same period. Almost all advanced democracies, including Belgium, Canada, Finland, Italy, Spain, the UK and the United States (US), authorized their national minorities to exercise self-ruling powers.[101] National minorities were vested with many guarantees, e.g. (i) the constitutional confirmation of multinationalism; (ii) proportionality rules in civil service, legislative representation, police, military and public employment (particularly for core state institutions); (iii) minority representation in international organizations; and (iv) public funding for minority language schools, universities, radio stations and television channels.[102]

VI. A NEW QUESTION TO RESOLVE: UNIONISTS FOR CONFEDERALISM

The confederal form of governance (confederalism) attracted a negative evaluation in *The Federalist*, a collection of eighty-five essays that laid the foundation for the US Constitution.[103] Confederal governance has been in a stage of revival particularly since the second half of the twentieth century, when various international economic unions and transnational associations were constructed on confederal bases.[104] Danial Elazar underscores this rise of confederalism by saying that "*with the emergence of permanent multinational communi-*

[101] KYMLICKA, Will: "Multicultural Citizenship within Multinational States", *Ethnicities*, 2011, Volume 11, No 3, pp. 281-302.

[102] KYMLICKA, Will: "Transitional Justice, Federalism, and the Accommodation of Minority Nationalism", (Ed.) ARTHUR, Paige: *Identities in Transition: Challenges for Transnational Justice in Divided Societies*, Cambridge University Press, New York, 2011, pp. 303-315.

[103] The essays were written by Alexander Hamilton, John Jay and James Madison. For more details on the essays, see ELAZAR, Daniel: "Confederation and Federal Liberty", *Publius: The Journal of Federalism*, 1982, Volume 12, No 4, pp. 1-14.

[104] For comprehensive and analytical reviews on the constitutional terms of confederation and confederalism, see ELAZAR, Daniel: "From Statism to Federalism: A Paradigm Shift", *Publius: The Journal of Federalism*, 1995, Volume 25, No 2, pp. 5-18; ELAZAR, Daniel: "Introduction: Using Federalism Today", *International Political Science Review*, 1996, Volume 17, No 4, pp. 349-351; ELAZAR, Daniel: *Federalism: An Overview*, Human Sciences Research Council Publishers, Pretoria, 1995; WOLFF, Stefan: "Post-Conflict State Building: The Debate on Institutional Choice", *Third World Quarterly*, 2011, Volume 32, No 10, pp. 1777-1802; WOLFF, Stefan: "Conflict Management in Divided Societies: The Many Uses of Territorial Self-Governance", *International Journal on Minority and Group Rights*, 2013, Volume 20, No 1, pp. 27-50; PERRY, Valery: "Constitutional Reform in Bosnia and Herzegovina: Does the Road to Confederation Go through the EU?", *International Peacekeeping*, 2015, Volume 22, No 5, pp. 490-510; STEVENS, Michael: "Asymmetrical Federalism: The Federal Principle and the Survival of the Small Republic", *Publius: The Journal of Federalism*, 1977, Volume 7, No 4, pp. 177-203; STEPAN, Alfred: "A Revised Theory of Federacy and a Case Study of Civil War Termination in Aceh, Indonesia", (Eds.) MCEVOY, Joanne / O'LEARY, Brendan: *Power Sharing in Deeply Divided Places*, University of Pennsylvania Press, Philadelphia, 2013, pp. 231-252; WATTS, Ronald: "Federalism, Federal Political Systems, and Federations", *Annual Review of Political Science*, 1998, Volume 1, No 1, pp. 117-137.

ties, of which the European Community is the prime example, we are now witnessing a revival of confederal arrangements".[105] Elazar considers permanent multinational communities, e.g. the EU, the Caribbean Community and the Association of South East Asian Nations, as confederal unions of specific functions.[106] According to him, these unions enable their member states to remain independent while creating an energetic form of transnational governance in certain areas.[107]

As a type of governance, confederalism unites states without depriving them of their statehood. The main purpose for the unification is to form "*viable federal-type unions*".[108] Any practice of confederal governance is based upon a written basic law (treaty or constitution) that is legally binding on all confederal allies. The central confederal government is bestowed by the basic law only with a minimalist mandate, e.g. military integration or coordination, internal commerce and external trade, common markets, etc. It is indeed "*a means of unifying diverse peoples*".[109] It rests upon and operates through the constituent regional governments (confederal allies or member states) that exercise significant sovereign powers. This circumstance renders confederations voluntary associations of sovereign states or leagues of independent polities.[110]

The liberal discourse of minority rights was supported by numerous national minorities until the early 2000s. Since then some minorities, e.g. the Catalans and Scots, have wanted the discourse to be reformed. The reformist minorities argue that the liberal discourse should enable them to establish their sovereign states within the confederalist EU rather than enabling them to exercise minority rights within their home states. The reformists maintain that their autonomous regions should become sovereign members of the EU, which contributes to the development of globalization via the free movement of capital, goods, people and services. They do not support the existence of national borders in the presence of the EU, urging them to initiate secessionist movements aimed at establishing their sovereign states within the EU.

---

105 ELAZAR, Daniel: *Exploring Federalism*, University of Alabama Press, Tuscaloosa, 1987, pp. 50-51.

106 ELAZAR, *Exploring*, p. 52.

107 ELAZAR, "Confederation and Federal", pp. 3-6.

108 LISTER, Frederick: *The European Union, the United Nations, and the Revival of Confederal Governance*, Greenwood Press, London, 1996, p. 33.

109 WIRT, Frederick: "The Tenacity of Confederacy: Local Service Agreements in the Family of Governments", *Publius: The Journal of Federalism*, 1982, Volume 12, No 4, p. 111.

110 DUCHACEK, Ivo: "Consociations of Fatherlands: The Revival of Confederal Principles and Practices", *Publius: The Journal of Federalism*, 1982, Volume 12, No 4, p. 129.

This new trend dramatically affects many autonomous regions in Europe, including the Basque Country, Catalonia, Corsica, the Flemish Region, Sardinia and Scotland. Separatist minorities at the national level are among the strongest unionists at the EU level. The Scottish case provides a good example. Scotland began exercising legislative devolution in 1998. The Scottish Parliament (Holyrood) was first dominated by the unionist parties, namely the Scottish Labour Party, the Scottish Conservative Party and the Scottish Liberal Democrats.[111] The Parliament began changing its unionist spirit in 2007, when the secessionist Scottish National Party (SNP) came into power via a minority government.[112] The Parliament gained a strong separatist character in 2011, when the pro-independence SNP and the Scottish Green Party gained 71 out of 129 seats.[113] This resulted in a *de jure* Scottish independence referendum held on 18 September 2014.[114] In the referendum, 55.3 percent of Scots rejected Scottish independence on a turnout of 84.6 percent.[115] This did not settle the independence issue.[116]

In the 2016 Scottish parliamentary election, the pro-EU SNP and Scottish Greens obtained 69 out of 129 seats, and the Scottish Nationalists formed a minority government.[117] Not long after, the UK held a referendum on its EU membership on 23 June 2016. In the referendum, British voters endorsed the UK to withdraw from the EU. 51.9 percent of Britons voted to leave on a turnout of 72.2 percent.[118] There was no consensus on the leave vote. England and Wales opted to leave, but Gibraltar, Northern Ireland and Scotland backed the

---

111 CONNOLLY, Christopher: "Independence in Europe: Secession, Sovereignty, and the European Union", *Duke Journal of Comparative and International Law*, 2013, Volume 24, No 1, pp. 51-52.

112 MEER, Nasar: "Looking up in Scotland? Multinationalism, Multiculturalism and Political Elites", *Ethnic and Racial Studies*, 2015, Volume 38, No 9, pp. 1478-1480.

113 ADAM, Elisanda: "Self-Determination and the Use of Referendums: The Case of Scotland", *International Journal of Politics, Culture, and Society*, 2014, Volume 27, No 1, pp. 47-48.

114 DARDANELLI, Paolo / MITCHELL, James: "An Independent Scotland? The Scottish National Party's Bid for Independence and its Prospects", *The International Spectator: Italian Journal of International Affairs*, 2014, Volume 49, No 3, pp. 88-91; TIERNEY, Stephen: "Legal Issues Surrounding the Referendum on Independence for Scotland", *European Constitutional Law Review*, 2013, Volume 9, No 3, p. 360.

115 TIERNEY, Stephen: "Reclaiming Politics: Popular Democracy in Britain after the Scottish Referendum", *The Political Quarterly*, 2015, Volume 86, No 2, p. 226.

116 KEATING, Michael: "The Scottish Independence Referendum and After", *Revista d'Estudis Autonòmics i Federals*, 2015, Volume 21, No 1, pp. 73-74.

117 KOLÇAK, Hakan: "Associate Statehood for Scotland as the Way to Stay in both the United Kingdom and the European Union: The Liechtenstein Example", *Romanian Journal of European Affairs*, 2017, Volume 17, No 1, p. 42.

118 DODDS, Anneliese: "Why People Voted to Leave and What to Do Now: A View from the Doorstep", *The Political Quarterly*, 2016, Volume 87, No 3, p. 360.

remain vote.[119] Moreover, all regions of Scotland saw remain majorities.[120] The Brexit Referendum has led to another constitutional crisis for Scotland.[121] The ruling SNP argues that "*Scotland faces the prospect of being taken out of the EU against our will*".[122] This motivates the pro-EU Scottish Nationalists and Greens to hold another independence referendum after all Brexit terms become clear.[123]

In March 2017, the Scottish Parliament backed a Scottish government motion by a majority of 69 to 59, authorizing Scotland's First Minister Nicola Sturgeon to make a formal request to the British government to hold a Scottish independence referendum.[124] In December 2019, Sturgeon sent an official letter to British Prime Minister Boris Johnson that asked for the adoption of a settlement akin to the 2012 Edinburgh Agreement, which paved the way for the 2014 independence referendum.[125] This request was rejected by Boris Johnson, who underlined in his official response to Sturgeon that the 2014 referendum was "*once in a generation vote*".[126] The rejection did not settle the Scottish independence issue. In January 2020, the Scottish Parliament adopted a government motion by a majority of 64 to 54 that expressed support for an independence referendum taking place on a date and in a manner determined by Holyrood.[127]

---

119 ASHCROFT, Richard / BEVIR, Mark: "Pluralism, National Identity and Citizenship: Britain after Brexit", *The Political Quarterly*, 2016, Volume 87, No 3, pp. 355-356.

120 GOODWIN, Matthew / HEATH, Oliver: "The 2016 Referendum, Brexit and the Left Behind: An Aggregate-Level Analysis of the Result", *The Political Quarterly*, 2016, Volume 87, No 3, pp. 323-324.

121 HOBOLT, Sara: "The Brexit Vote: A Divided Nation, a Divided Continent", *Journal of European Public Policy*, 2016, Volume 23, No 9, pp. 1260-1263.

122 STURGEON, Nicola: "Nicola Sturgeon Responds to the Brexit Vote - Read her Speech in Full", *Holyrood*, 24 June 2016, accessed at: https://www.holyrood.com/articles/inside-politics/%20 nicola-sturgeon-responds-brexit-vote-read-her-speech- full, accessed on: 01.09.2020.

123 DICKIE, Mure: "SNP 'Resets' Plans for Second Scottish Independence Referendum", *Financial Times*, 27 June 2017, accessed at: https://www.ft.com/content/84e08f70-b852-3f95-9619-279fc5b93-683, accessed on: 24.08.2020.

124 CARRELL, Severin: "Scottish Parliament Votes for Second Independence Referendum", *The Guardian*, 28 March 2017, accessed at: https://www.theguardian.com/politics/2017/mar/28/ scottish-parliament-votes-for-second-independen-ce-referendum-nicola-sturgeon, accessed on: 25.08.2020.

125 BROOKS, Libby: "Sturgeon Demands Independence Referendum Powers be Devolved", *The Guardian*, 19 December 2019, accessed at: https://www.theguardian.com/politics/2019/dec/ 19/nicola-sturgeon-requests-independence-referen-dum-powers, accessed on: 25.08.2020.

126 LEARMONTH, Andrew: "Boris Johnson Publishes Response to SNP's Section 30 Request", *The National*, 14 January 2020, accessed at: https://www.thenational.scot/news/18158724. johnson-publishes-response-snps-section-30-request, accessed on: 26.08.2020.

127 MACNAB, Scott: "Scottish Parliament Backs Holding Indyref2 Vote This Year", *The Scotsman*, 29 January 2020, accessed at: https://www.scotsman.com/news/scottish-news/scottish-parliament-backs-holding-indyref2-vote-year-139-5741, accessed on: 27.08.2020.

In the same month, the Parliament voted in favor of another motion ensuring that the EU flag continues to fly daily at the Holyrood building after the UK leaves the bloc.[128]

Since then the pro-EU Scots have advocated holding an independence referendum. According to them, self-government rights set out in *The Scotland Act 1998* - the backbone of the constitutional arrangement between Scotland and the UK - have enabled the Scots to exercise significant decision-making powers on several areas.[129] However, they also underline that Scotland does not enjoy its sovereignty under the current constitutional settlement, undermining its capacity to fulfil Scottish demands.[130] They believe that the people of Scotland should enjoy a democratic right to determine their own future.[131] The Brexit Referendum indicates that Scotland's apparent choice is to stay in the EU. The constitutional organs of the Scottish devolved region are unable to satisfy this demand. Scotland is obliged to come out of the EU though this is not asked by the Scottish people.[132] Therefore, the obligation is not consistent with the basic understanding of democracy that calls on the ruler to govern in accordance with demands of the ruled.[133] The pro-EU Scots consider a new independence referendum as a step that should be taken in advancing Scottish democracy.[134] According to them, backing Scottish independence in such a referendum would create a

---

128 READ, Carly: "Scottish Parliament to Keep Flying EU Flag after Brexit in Huge Snub to Referendum Result", *The Express*, 29 January 2020, accessed at: https://www.express.co.uk/news/politics/123-5177/scottish-parliament-eu-flag-brexit-day-snp-nicola-sturgeon-latest, accessed on: 29.08.2020.

129 STURGEON, Nicola: "We've Made a Real Difference: Nicola Sturgeon Reflects on 20 Years of Devolution", *Yes*, 1 July 2019, accessed at: https://www.yes.scot/weve-made-a-real-difference-nicola-sturgeon-reflects-on-20-years-of-devolution/, accessed on: 30.08.2020.

130 DAVIDSON, Jenni: "Independence Referendum must be 'Legal and Legitimate', Nicola Sturgeon Emphasises in Brexit Day Speech", *Holyrood*, 31 January 2020, accessed at: https://www.holyrood.com/news/view,independen-ce-referendum-must-be-legal-and-legitimate-nicola-sturgeon-emphas_15048.htm, accessed on: 20.08.2020.

131 JEFFERSON, Rodney / MORALES, Alex: "Scotland's Leader Warns Johnson He 'can't Deny Democracy'", *Bloomberg*, 10 February 2020, accessed at: https://www.bloomberg.com/news/articles/2020-02-10/scotlands-leader-warns-boris-johnson-he-can-t-deny-democracy, accessed on 23.08.2020.

132 ROBERTSON, Angus: "A Whopping Majority Believes Scotland has Right to Decide over Indyref2", *The Scotsman*, 28 January 2020, accessed at: https://www.scotsman.com/news/ politics/scottish-independence/whopping-majority-believes-scotland-has-right-decide-over-indyref2-angus-robertson-1376832, accessed on 24.08.2020.

133 NUTT, Kathleen: "Scotland could Rejoin EU Four-Five Years after Indy, Expert Says", *The National*, 22 May 2020, accessed at: https://www.thenational.scot/news/18469817.scotland-rejoin-eu-four-five-years-indy-expert-says, accessed on: 19.08.2020.

134 CROWCROFT, Orlando: "Scottish Independence Referendum: Sturgeon Says 'Democracy will Prevail' after New Vote Refused", *Euronews*, 14 January 2020, accessed at: https://www.euronews.com/2020/01/14/democracy-will-prevail-says-sturgeon-after-johnson-refuses-second-scottish-referendum, accessed on: 28.08.2020.

sovereign Scotland fulfilling all EU accession criteria in a short span of time.[135] This would render the current devolved region a sovereign state within the EU, ultimately resulting in a scenario in harmony with the Scottish political choice.[136]

The Scots are not the only people who would like to transform their devolved region into a sovereign confederal member state. This new trend affects many national minorities across Europe.[137] There is an active movement in Wales, a devolved region of the UK, that asks for the establishment of a sovereign Wales within the EU. This political movement is led by the Party of Wales (*Plaid Cymru*), which has been an important actor in Welsh constitutional politics since the establishment of the Welsh devolved region in 1998.[138]

A dominant pro-EU secessionist movement is growing in Catalonia, a self-ruling region of the Spanish Kingdom. The autonomous community is ruled by the separatists who would like to establish a sovereign Catalan republic in the EU. This Catalan demand is rejected by the Spanish government, which does not authorize its Catalan counterpart to hold a *de jure* independence referendum.[139] There are other pro-EU separatist organizations, political parties and

---

135 WEBSTER, Laura: "Unionists Furious as EU Boss Indicates Indy Scotland can Rejoin", *The National*, 20 May 2020, accessed at: https://www.thenational.scot/news/18462298.unionists-furious-eu-boss-indicates-indy-scot-land-can-rejoin, accessed on 23.08.2020.

136 For a detailed analysis of how Scotland would become an EU member state after its independence, see BULLOCK, Steve: "What Representation Would an Independent Scotland Have in the EU?", (Ed.) HUGHES, Kirsty: *An Independent Scotland in the EU: Issues for Accession*, Scottish Centre on European Relations Publication Office, Edinburgh, 2020, pp. 20-22; LOCK, Tobias: "Negotiating EU Accession: Lessons for an Independent Scotland", (Ed.) HUGHES, Kirsty: *An Independent Scotland in the EU: Issues for Accession*, Scottish Centre on European Relations Publication Office, Edinburgh, 2020, pp. 9-12; MCEWEN, Nicola: "Devolution and Alignment with EU Laws", (Ed.) HUGHES, Kirsty: *An Independent Scotland in the EU: Issues for Accession*, Scottish Centre on European Relations Publication Office, Edinburgh, 2020, pp. 13-16; ZULEEG, Fabian: "Transition from the UK and to the EU", (Ed.) HUGHES, Kirsty: *An Independent Scotland in the EU: Issues for Accession*, Scottish Centre on European Relations Publication Office, Edinburgh, 2020, pp. 17-19.

137 ANTUNES, Sandrina / LOUGHLIN, John: "The European Union, Subnational Mobilization and State Rescaling in Small Unitary States: A Comparative Analysis", *Regional & Federal Studies*, 2020, Volume 30, No 2, pp. 121-136; LOUGHLIN, John / ANTUNES, Sandrina: "State Rescaling and a 'Europe of the Regions' in Small Unitary States: A Damp Squib?", *Regional & Federal Studies*, 2020, Volume 30, No 2, pp. 303-321.

138 For a comprehensive analysis of the Welsh case, see KOLÇAK, Hakan: "Unionist Wales: A Comprehensive Analysis of the Welsh Devolved Region via Constitutional and Legal Perspectives", (Ed.) YILMAZ, Sefer: *Public Administrative Studies*, Akademisyen Publishing House, Ankara, 2020, pp. 1-21; MULLEN, Tom: "Brexit and the Territorial Governance of the United Kingdom", *Contemporary Social Science*, 2019, Volume 14, No 2, pp. 276-293.

139 For all significant details of the Catalan case, see KOLÇAK, Hakan: "From Unionism to Secessionism: A Comprehensive Analysis of Contemporary Catalan Politics", *Journal of Society and Politics*, 2017, Volume 12, No 1, pp. 25-52; ANDREU, Josep: "Constitution and Referendum on Secession in Catalonia", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo:

alliances active in some Spanish autonomous communities, e.g. the Balearic Islands, the Basque Country, the Canary Islands and Galicia.[140]

It is possible to find out similar political movements in other European countries. A strong pro-EU separatist movement is effective in the Flemish Region of the Belgian Kingdom. The movement is led by the New Flemish Alliance (*Nieuw-Vlaamse Alliantie*), which is a mainstream political party in Flemish constitutional politics. A less powerful movement is developed in Wallonia, which is a federal component of Belgium.[141] The Bavaria Party (*Bayernpartei*) develops a political movement aimed at transforming the Free State of Bavaria - a federal constituent of Germany - into a sovereign state within the EU.[142] Similar developments exist in France and Finland. The For Corsica Coalition (*Pè a Corsica*) is a political alliance between the autonomists (*Femu a Corsica*) and separatists (*Corsica Libera*). The Coalition intends to turn Corsica - a French island in the Mediterranean Sea - into a sovereign state within the EU.[143] The Future of Aland (*Ålands Framtid*) seeks to achieve a similar goal transforming

Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain, Springer, New York, 2019, pp. 405-422; CASTILLO, Antonio: "State Integration and Disintegration within the European Union: Regarding the Purported Secession of Catalonia and its Hypothetical Membership of the EU", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo: *Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain*, Springer, New York, 2019, pp. 563-574; SWAN, Brown / CETRA, Daniel: "Why Stay Together? State Nationalism and Justifications for State Unity in Spain and the UK", *Nationalism and Ethnic Politics*, 2020, Volume 26, No 1, pp. 46-65; WAGNER, Andrea / MARIN, Jianna / KROQI, Dorian: "The Catalan Struggle for Independence and the Role of the European Union", *Regional Science Policy & Practice*, 2019, Volume 11, No 5, pp. 787-803.

140 For more details on the pro-EU secessionist movements in Spain, see CORRAL, Benito / FREIJEDO, Francisco: "Constitutionalizing Secession in Order to Harmonize Constitutionality and Democracy in Territorial Decentralized States Like Spain", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo: *Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain*, Springer, New York, 2019, pp. 265-285; GRAY, Caroline: *Territorial Politics and the Party System in Spain: Continuity and Change since the Financial Crisis*, Routledge, London, 2020; KOLÇAK, Hakan: "Ongoing Unionism: A Comprehensive Analysis of Galicia via Constitutional and Legal Perspectives", (Ed.) KAYA, Özlem: *Selected Studies on Social Science*, Iksad Publications, Ankara, 2020, pp. 3-42; MAS, Joaquin: "Secession and Federalism: The Spanish Case", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo: *Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain*, Springer, New York, 2019, pp. 389-404.

141 For a detailed analysis of the separatist movements in Belgium, see MASTROMARINO, Anna: "Secessionist Claims in a Federal System: The Belgian Case", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo: *Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain*, Springer, New York, 2019, pp. 221-232.

142 For more details on the Bavarian separatist movement, see ENE, Angela-Mihaela: "The Integrative Process of the European Union from the Perspective of Intra-Community Secessionist Movements", *European Integration Realities and Perspectives*, 2019, Volume 14, No 1, pp. 313-318.

143 For more details on the Corsican case, see BOYLAN, Brandon / TURKINA, Ekaterina: "Calling on Europe? Secessionist Political Parties and Their Communications to the European Union", *Journal of Common Market Studies*, 2019, Volume 57, No 6, pp. 1310-1332.

the Aland Islands - a self-governing Finnish archipelago - into a sovereign state within the EU.[144] Similar parties are found in Sardinia and Sicily, which are designed as autonomous regions by the Italian Constitution.[145] It is noteworthy that the movements in Belgium, France, Finland, Germany and Italy are not as powerful as those developed in the UK (Scotland) and Spain (Catalonia). But nevertheless, these movements are still undergoing their gradual enlargement operations. It is always possible for them to become mass-based political movements as strong as their Scottish and Catalan counterparts.

All in all, there are many pro-EU secessionist movements across Europe that are led by national minorities. These minorities are not satisfied with self-government rights allowing them to exercise territorial autonomy within their home states. Rather, they would like to become sovereign members of the confederalist EU. According to them, the liberal discourse of minority rights should be amended in a manner enabling them to enjoy their sovereign statehood in the EU. This amendment is considered by pro-EU secessionist minority groups as a democratic requirement. They believe that self-government rights are not enough to fulfil some minority demands, resulting in a scenario inconsistent with the basic understanding of democracy. The reformist demand of national minorities has not been supported by their European home states so far. However, the number of those minorities backing the reform is increasing day by day. This circumstance would eventually urge the liberal discourse to answer how it enlarges its scope to bestow national minorities the right to enjoy their sovereign statehood within confederal organizations.

VII. CONCLUSION

This study has sought to scrutinize the advancement and current issues of international minority protection regimes. According to the study, minority rights were affected by many historical developments recorded after the 1644 Congress of Westphalia, the 1815 Congress of Vienna and the 1878 Congress of Berlin. The first international protection mechanism for minorities was established after the 1919 Paris Peace Conference, which paved the way for the foundation of the LoN. The communitarian LoN system was destroyed by World War II. Minorities were safeguarded indirectly through the liberal individualist human rights protection system of the UN until the fall of the Berlin

[144] For more details on the pro-EU secessionist movement in Aland, see KOEV, Dan: "Why Ethnic Parties? A New Theory of Ethnic Minority Political Strategy in Europe", *Nations and Nationalism*, 2019, Volume 25, No 1, pp. 229-297.

[145] For more details on the Italian cases, see KEATING, Michael: "Is a Theory of Self-Determination Possible?", *Ethnopolitics*, 2019, Volume 18, No 3, pp. 315-323.

Wall. Some significant developments coming into existence in the early 1990s, e.g. the rise of ethnic nationalism in eastern Europe, the collapse of communism and the international recognition of the freedom of movement, motivated international and regional actors, such as the UN, CoE and OSCE, to remember the importance of minority rights. This resulted in an updated liberal discourse of minority rights that was generally supported by national minorities until the early 2000s.

Since then, some national minorities, e.g. the Catalans and Scots, have called on the discourse to change its scope in a way permitting them to construct their sovereign states within confederal organizations. This demand of such minorities has not been welcomed by their home or parent states so far. However, the number of national minorities standing up for the demand increases. This would ultimately create a new environment where the liberal discourse broadens its horizons in a manner giving national minorities the right to exercise their sovereign statehood within confederal organizations.

This study contributes to the field of minority rights by (1) doing an up-to-date review of the protection regimes and (2) sparking a new debate over the adoption of a new liberal right to confederalization for national minorities. However, there are some weak muscles of the study. It does not come up with a theoretical argument that answers how the liberal discourse adopts the right to confederalization and why it should bestow this right upon national minorities. In addition, the study does not pay attention to several minority protection regimes built on some ideologies other than liberalism, e.g. Marxism, libertarianism, communalism and cosmopolitanism.

The study takes one of the initial steps in examining the right to confederalization within the context of the liberal discourse. Further strides would be made by future research projects. They would originate liberal normative theories on the adoption of this right. In developing such theories, they would not only benefit from basic liberal norms and principles, e.g. substantive equality and fairness, but also scrutinize many Marxist, libertarian, communal and cosmopolitan ideas via comparative methods.

BIBLIOGRAPHY

ACFC: *Commentary on Education under the Framework Convention for the Protection of National Minorities*, Council of Europe Publication Office, Strasbourg, 2006.

ACFC: *Commentary on the Effective Participation of Persons Belonging to National Minorities in Cultural, Social and Economic Life and in Public Affairs*, Council of Europe Publication Office, Strasbourg, 2008.

ACFC: *Thematic Commentary No. 3: The Language Rights of Persons Belonging to National Minorities under the Framework Convention*, Council of Europe Publication Office, Strasbourg, 2012.

ACFC: *Thematic Commentary No. 4 on the Framework Convention: A Key Tool to Managing Diversity through Minority Rights*, Council of Europe Publication Office, Strasbourg, 2016.

ADAM, Elisanda: "Self-Determination and the Use of Referendums: The Case of Scotland", *International Journal of Politics, Culture, and Society*, 2014, Volume 27, No 1, pp. 47-66.

AKERMARK, Sia: "Internal Self-Determination and the Role of Territorial Autonomy as a Tool for the Resolution of Ethno-Political Disputes", *International Journal on Minority and Group Rights*, 2013, Volume 20, No 1, pp. 5-25.

ANDREU, Josep: "Constitution and Referendum on Secession in Catalonia", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo: *Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain*, Springer, New York, 2019, pp. 405-422.

ANTUNES, Sandrina / LOUGHLIN, John: "The European Union, Subnational Mobilization and State Rescaling in Small Unitary States: A Comparative Analysis", *Regional & Federal Studies*, 2020, Volume 30, No 2, pp. 121-136.

ARAL, Berdal: "The Idea of Human Rights as Perceived in the Ottoman Empire", *Human Rights Quarterly*, 2004, Volume 26, No 2, pp. 454-482.

ASHCROFT, Richard / BEVIR, Mark: "Pluralism, National Identity and Citizenship: Britain after Brexit", *The Political Quarterly*, 2016, Volume 87, No 3, pp. 355-359.

BERRY, Stephanie: "The Siren's Call? Exploring the Implications of an Additional Protocol to the European Convention on Human Rights on National Minorities", *International Journal on Minority and Group Rights*, 2016, Volume 23, No 1, pp. 1-38.

BOULDEN, Jane / KYMLICKA, Will: "Introduction", (Eds.) BOULDEN, Jane / KYMLICKA, Will: *International Approaches to Governing Ethnic Diversity*, Oxford University Press, New York, 2015, pp. 1-21.

BOYLAN, Brandon / TURKINA, Ekaterina: "Calling on Europe? Secessionist Political Parties and Their Communications to the European Union", *Journal of Common Market Studies*, 2019, Volume 57, No 6, pp. 1310-1332.

BROOKS, Libby: "Sturgeon Demands Independence Referendum Powers be Devolved", *The Guardian*, 19 December 2019, accessed at: https://www.theguardian.com/politics/2019/dec-/19/nicola-sturgeon-requests-independence-referendum-powers, accessed on: 25.08.2020.

BULLOCK, Steve: "What Representation Would an Independent Scotland Have in the EU?", (Ed.) HUGHES, Kirsty: *An Independent Scotland in the EU: Issues for Accession*, Scottish Centre on European Relations Publication Office, Edinburgh, 2020, pp. 20-22.

CAPOTORTI, Francesco: *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*, Official Publications of the United Nations, New York, 1979.

CARRELL, Severin: "Scottish Parliament Votes for Second Independence Referendum", *The Guardian*, 28 March 2017, accessed at: https://www.theguardian.com/politics/2017/mar/28/-scottish-parliament-votes-for-second-independence-referendum-nicola-sturgeon, accessed on: 25.08.2020.

CASTILLO, Antonio: "State Integration and Disintegration within the European Union: Regarding the Purported Secession of Catalonia and its Hypothetical Membership of the EU", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo: *Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain*, Springer, New York, 2019, pp. 563-574.

CHILLAUD, Matthieu: "The French Perspective on the Åland Islands: A Cyclic Interest? Between Geopolitics, Historiography, and a Case Study", *Journal of Autonomy and Security Studies*, 2018, Volume 2, No 2, pp. 54-69.

CONNOLLY, Christopher: "Independence in Europe: Secession, Sovereignty, and the European Union", *Duke Journal of Comparative and International Law*, 2013, Volume 24, No 1, pp. 51-105.

CORRAL, Benito / FREIJEDO, Francisco: "Constitutionalizing Secession in Order to Harmonize Constitutionality and Democracy in Territorial Decentralized States Like Spain", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo: *Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain*, Springer, New York, 2019, pp. 265-285.

CROWCROFT, Orlando: "Scottish Independence Referendum: Sturgeon Says 'Democracy will Prevail' after New Vote Refused", *Euronews*, 14 January 2020, accessed at: https://www.euro-news.com/2020/01/14/democracy-will-prevail-says-sturgeon-after-johnso-n-refusessecondscot-tish-referendum, accessed on: 28.08.2020.

CSCE: *Conference on Security and Cooperation in Europe Final Act*, CSCE Publication Office, Helsinki, 1975.

CSCE: *Charter of Paris for a New Europe*, CSCE Publication Office, Paris, 1990.

CSCE: *Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE*, CSCE Publication Office, Copenhagen, 1990.

CSCE: *Document of the Moscow Meeting of the Conference on the Human Dimension of the CSCE*, CSCE Publication Office, Moscow, 1991.

CSCE: *Report of the CSCE Meeting of Experts on National Minorities*, CSCE Publication Office, Geneva, 1991.

CSCE: *The Challenges of Change*, CSCE Publication Office, Helsinki, 1992.

CSCE: *Towards a Genuine Partnership in a New Era*, CSCE Publication Office, Budapest, 1994.

DARDANELLI, Paolo / MITCHELL, James: "An Independent Scotland? The Scottish National Party's Bid for Independence and its Prospects", *The International Spectator: Italian Journal of International Affairs*, 2014, Volume 49, No 3, pp. 88-105.

DAVIDSON, Jenni: "Independence Referendum must be 'Legal and Legitimate', Nicola Sturgeon Emphasises in Brexit Day Speech", *Holyrood*, 31 January 2020, accessed at: https://www.holyrood.com/news/view,independen-ce-referendum-must-be-legal-and-legiti-mate-nicola-sturgeon-emphas_15048.htm, accessed on: 20.08.2020.

DICKIE, Mure: "SNP 'Resets' Plans for Second Scottish Independence Referendum", *Financial Times*, 27 June 2017, accessed at: https://www.ft.com/content/84e08f70-b852-3f95-9619-279fc5b93-683, accessed on: 24.08.2020.

DODDS, Anneliese: "Why People Voted to Leave and What to Do Now: A View from the Doorstep", *The Political Quarterly*, 2016, Volume 87, No 3, pp. 360-364.

DUCHACEK, Ivo: "Consociations of Fatherlands: The Revival of Confederal Principles and Practices", *Publius: The Journal of Federalism*, 1982, Volume 12, No 4, pp. 129-177.

ELAZAR, Daniel: "Confederation and Federal Liberty", *Publius: The Journal of Federalism*, 1982, Volume 12, No 4, pp. 1-14.

ELAZAR, Daniel: *Exploring Federalism*, University of Alabama Press, Tuscaloosa, 1987.

ELAZAR, Daniel: *Federalism: An Overview*, Human Sciences Research Council Publishers, Pretoria, 1995.

ELAZAR, Daniel: "From Statism to Federalism: A Paradigm Shift", *Publius: The Journal of Federalism*, 1995, Volume 25, No 2, pp. 5-18.

ELAZAR, Daniel: "Introduction: Using Federalism Today", *International Political Science Review*, 1996, Volume 17, No 4, pp. 349-351.

ENE, Angela-Mihaela: "The Integrative Process of the European Union from the Perspective of Intra-Community Secessionist Movements", *European Integration Realities and Perspectives*, 2019, Volume 14, No 1, pp. 313-318.

GARET, Ronald: "Communality and Existence: The Rights of Groups", *Southern California Law Review*, 1983, Volume 56, No 5, pp. 1001-1075.

GOLDMAN, Olivia: "The Need for an Independent International Mechanism to Protect Group Rights: A Case Study of the Kurds", *Tulsa Journal of Comparative and International Law*, 1994, Volume 2, No 1, pp. 45-89.

GOODWIN, Matthew / HEATH, Oliver: "The 2016 Referendum, Brexit and the Left Behind: An Aggregate-Level Analysis of the Result", *The Political Quarterly*, 2016, Volume 87, No 3, pp. 323-332.

GRAY, Caroline: *Territorial Politics and the Party System in Spain: Continuity and Change since the Financial Crisis*, Routledge, London, 2020.

HARTNEY, Michael: "Some Confusion Concerning Collective Rights", *Canadian Journal of Law and Jurisprudence*, 1991, Volume 24, No 2, pp. 293-314.

HCNM: *The Hague Recommendations Regarding the Education Rights of National Minorities & Explanatory Note*, HCNM Publication Office, The Hague, 1996.

HCNM: *The Oslo Recommendations Regarding the Linguistic Rights of National Minorities & Explanatory Note*, HCNM Publication Office, Oslo, 1998.

HCNM: *The Lund Recommendations on the Effective Participation of National Minorities in Public Life & Explanatory Note*, HCNM Publication Office, The Hague, 1999.

HCNM: *OSCE Guidelines on the Use of Minority Languages in the Broadcast Media*, HCNM Publication Office, The Hague, 2003.

HCNM: *OSCE Recommendations on Policing in Multi-Ethnic Societies*, HCNM Publication Office, The Hague, 2006.

HCNM: *The Bolzano/Bozen Recommendations on National Minorities in Inter-State Relations & Explanatory Note*, HCNM Publication Office, The Hague, 2008.

HCNM: *The Ljubljana Guidelines on Integration of Diverse Societies*, HCNM Publication Office, The Hague, 2012.

HCNM: *The Graz Recommendations on Access to Justice and National Minorities & Explanatory Note*, HCNM Publication Office, The Hague, 2017.

HCNM: *The Tallinn Guidelines on National Minorities and the Media in the Digital Age & Explanatory Note*, HCNM Publication Office, The Hague, 2019.

HOBOLT, Sara: "The Brexit Vote: A Divided Nation, a Divided Continent", *Journal of European Public Policy*, 2016, Volume 23, No 9, pp. 1259-1277.

JEFFERSON, Rodney / MORALES, Alex: "Scotland's Leader Warns Johnson He 'can't Deny Democracy'", *Bloomberg*, 10 February 2020, accessed at: https://www.bloomberg.com/-news/articles/2020-02-10/scotlands-leader-warns-boris-johnson-he-can-t-deny-democracy, accessed on 23.08.2020.

JOHNSTON, Darlene: "Native Rights as Collective Rights: A Question of Group Self-Preservation", *Canadian Journal of Law and Jurisprudence*, 1989, Volume 2, No 1, pp. 19-34.

KEATING, Michael: "The Scottish Independence Referendum and After", *Revista d'Estudis Autonòmics i Federals*, 2015, Volume 21, No 1, pp. 73-98.

KEATING, Michael: "Is a Theory of Self-Determination Possible?", *Ethnopolitics*, 2019, Volume 18, No 3, pp. 315-323.

KOEV, Dan: "Why Ethnic Parties? A New Theory of Ethnic Minority Political Strategy in Europe", *Nations and Nationalism*, 2019, Volume 25, No 1, pp. 229-297.

KOLÇAK, Hakan: "Associate Statehood for Scotland as the Way to Stay in both the United Kingdom and the European Union: The Liechtenstein Example", *Romanian Journal of European Affairs*, 2017, Volume 17, No 1, pp. 40-58.

KOLÇAK, Hakan: "From Unionism to Secessionism: A Comprehensive Analysis of Contemporary Catalan Politics", *Journal of Society and Politics*, 2017, Volume 12, No 1, pp. 25-52.

KOLÇAK, Hakan: "Multiculturalism for True Equality: A Normative Argument for Multicultural Turkey", *International Journal of Human Rights and Constitutional Studies*, 2020, Volume 7, No 2, pp. 107-125.

KOLÇAK, Hakan: "Ongoing Unionism: A Comprehensive Analysis of Galicia via Constitutional and Legal Perspectives", (Ed.) KAYA, Özlem: *Selected Studies on Social Science*, Iksad Publications, Ankara, 2020, pp. 3-42.

KOLÇAK, Hakan: "Unionist Wales: A Comprehensive Analysis of the Welsh Devolved Region via Constitutional and Legal Perspectives", (Ed.) YILMAZ, Sefer: *Public Administrative Studies*, Akademisyen Publishing House, Ankara, 2020, pp. 1-21.

KRAUS, Peter: "Democracy's Challenge: Nordic Minority Politics in the European Context", (Eds.) KRAUS, Peter / KIVISTO, Peter: *The Challenge of Minority Integration: Politics and Policies in the Nordic Nations*, De Gruyter, Berlin, 2015, pp. 38-51.

KUKATHAS, Chandran: "Are There any Cultural Rights", *Political Theory*, 1992, Volume 20, No 1, pp. 105-139.

KUKATHAS, Chandran: "Liberalism and Multiculturalism: The Politics of Indifference", *Political Theory*, 1998, Volume 26, No 5, pp. 686-699.

KUNZ, Josef: "The Present Status of the International Law for the Protection of Minorities", *American Journal of International Law*, 1954, Volume 48, No 2, pp. 282-287.

KURBAN, Dilek: "Confronting Equality: The Need for Constitutional Protection of Minorities on Turkey's Path to the European Union", *Columbia Human Rights Law Review*, 2003, Volume 35, No 1, pp. 151-214.

KYMLICKA, Will: *Liberalism, Community, and Culture*, Oxford University Press, Oxford, 1989.

KYMLICKA, Will: *Contemporary Political Philosophy: An Introduction*, Oxford University Press, Oxford, 1990.

KYMLICKA, Will: *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford University Press, Oxford, 1995.

KYMLICKA, Will: *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship*, Oxford University Press, Oxford, 2001.

KYMLICKA, Will: "Multiculturalism and Minority Rights: West and East", *Journal of Ethnopolitics and Minority Issues in Europe*, 2002, Volume 4, No 4, pp. 1-27.

KYMLICKA, Will: "The Rise and Fall of Multiculturalism? New Debates on Inclusion and Accommodation in Diverse Societies", *International Social Science Journal*, 2010, Volume 61, No 199, pp. 97-112.

KYMLICKA, Will: "Multicultural Citizenship within Multinational States", *Ethnicities*, 2011, Volume 11, No 3, pp. 281-302.

KYMLICKA, Will: "Transitional Justice, Federalism, and the Accommodation of Minority Nationalism", (Ed.) ARTHUR, Paige: *Identities in Transition: Challenges for Transnational Justice in Divided Societies*, Cambridge University Press, New York, 2011, pp. 303-333.

KYMLICKA, Will: "The Essentialist Critique of Multiculturalism: Theory, Policies and Ethos", (Eds.) MODOOD, Tariq / UBEROI, Varun: *Multiculturalism Rethought: Essays in Honour of Bhikhu Parekh*, Edinburgh University Press, Edinburgh, 2015, pp. 209-249.

KYMLICKA, Will / PFOSTL, Eva: "Introduction", (Eds.) KYMLICKA, Will / PFOSTL, Eva: *Multiculturalism and Minority Rights in the Arab World*, Oxford University Press, New York, 2014, pp. 1-24.

LEARMONTH, Andrew: "Boris Johnson Publishes Response to SNP's Section 30 Request", *The National*, 14 January 2020, accessed at: https://www.thenational.scot/news/18158724.john-son-publishes-response-snps-section-30-request, accessed on: 26.08.2020.

LISTER, Frederick: *The European Union, the United Nations, and the Revival of Confederal Governance*, Greenwood Press, London, 1996.

LOCK, Tobias: "Negotiating EU Accession: Lessons for an Independent Scotland", (Ed.) HUGHES, Kirsty: *An Independent Scotland in the EU: Issues for Accession*, Scottish Centre on European Relations Publication Office, Edinburgh, 2020, pp. 9-12.

LOUGHLIN, John / ANTUNES, Sandrina: "State Rescaling and a 'Europe of the Regions' in Small Unitary States: A Damp Squib?", *Regional & Federal Studies*, 2020, Volume 30, No 2, pp. 303-321.

MACNAB, Scott: "Scottish Parliament Backs Holding Indyref2 Vote This Year", *The Scotsman*, 29 January 2020, accessed at: https://www.scotsman.com/news/scottish-news/scottish-parliament-backs-holding-indyref2-vote-year-1395741, accessed on: 27.08.2020.

MALIKI-ALIYEV, Kamal: "Comparing the Åland Islands Precedent and the Nagorno-Karabakh Conflict Research Note", *Journal of Autonomy and Security Studies*, 2018, Volume 2, No 2, pp. 106-117.

MARGALIT, Avishai / RAZ, Joseph: "National Self-Determination", *Journal of Philosophy*, 1990, Volume 87, No 9, pp. 439-461.

MAS, Joaquin: "Secession and Federalism: The Spanish Case", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo: *Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain*, Springer, New York, 2019, pp. 389-404.

MASTROMARINO, Anna: "Secessionist Claims in a Federal System: The Belgian Case", (Eds.) LOPEZ-BASAGUREN, Alberto / SAN-EPIFANIO, L. Escajedo: *Claims for Secession and Federalism: A Comparative Study with a Special Focus on Spain*, Springer, New York, 2019, pp. 221-232.

MAZOWER, Mark: "Minorities and the League of Nations in Interwar Europe", (Ed.) CASTELLINO, Joshua: *Global Minority Rights*, Ashgate, Dartmouth, 2012, pp. 17-33.

MCDONALD, Michael: "Should Communities Have Rights? Reflections on Liberal Individualism", *Canadian Journal of Law and Jurisprudence*, 1991, Volume 4, No 2, pp. 217-237.

MCEWEN, Nicola: "Devolution and Alignment with EU Laws", (Ed.) HUGHES, Kirsty: *An Independent Scotland in the EU: Issues for Accession*, Scottish Centre on European Relations Publication Office, Edinburgh, 2020, pp. 13-16.

MEER, Nasar: "Looking up in Scotland? Multinationalism, Multiculturalism and Political Elites", *Ethnic and Racial Studies*, 2015, Volume 38, No 9, pp. 1477-1496.

MILLER, David: *On Nationality*, Oxford University Press, Oxford, 1995.

MULLEN, Tom: "Brexit and the Territorial Governance of the United Kingdom", *Contemporary Social Science*, 2019, Volume 14, No 2, pp. 276-293.

NARVESON, Jan: "Collective Rights?", *Canadian Journal of Law and Jurisprudence*, 1991, Volume 4, No 2, pp. 329-345.

NUTT, Kathleen: "Scotland could Rejoin EU Four-Five Years after Indy, Expert Says", *The National*, 22 May 2020, accessed at: https://www.thenational.scot/news/18469817.scotland-rejoin-eu-four-five-years-indy-expert-says, accessed on: 19.08.2020.

OESTREICH, Joel: "Liberal Theory and Minority Rights Group", *Human Rights Quarterly*, 1999, Volume 21, No 1, pp. 108-132.

O'LEARY, Brendan: "An Iron Law of Nationalism and Federation? A (Neo-Diceyian) Theory of the Necessity of a Federal *Staatsvolk* and of Consociational Rescue", *Nations and Nationalism*, 2001, Volume 7, No 3, pp. 273-296.

OSCE: *Guidelines to Assist National Minority Participation in the Electoral Process*, OSCE Office for Democratic Institutions and Human Rights, Warsaw, 2001.

PATTEN, Alan: "Liberal Neutrality and Language Policy", *Philosophy & Public Affairs*, 2003, Volume 31, No 4, pp. 356-386.

PATTEN, Alan: "Beyond the Dichotomy of Universalism and Difference: Four Responses to Cultural Diversity", (Ed.) CHOUDHRY, Sujit: *Constitutional Design for Divided Societies: Integration or Accommodation?*, Oxford University Press, Oxford, 2008, pp. 91-110.

PERRY, Valery: "Constitutional Reform in Bosnia and Herzegovina: Does the Road to Confederation Go through the EU?", *International Peacekeeping*, 2015, Volume 22, No 5, pp. 490-510.

PREECE, Jennifer: "Minority Rights in Europe: From Westphalia to Helsinki", *Review of International Studies*, 1997, Volume 23, No 1, pp. 75-92.

PREECE, Jennifer: "National Minority Rights vs. State Sovereignty in Europe: Changing Norms in International Relations?", *Nations and Nationalism*, 1997, Volume 3, No 3, pp. 345-364.

RAWLS, John: *Political Liberalism*, Columbia University Press, New York, 1993.

RAZ, Joseph: "Multiculturalism", *Ratio Juris*, 1998, Volume 11, No 3, pp. 193-205.

READ, Carly: "Scottish Parliament to Keep Flying EU Flag after Brexit in Huge Snub to Referendum Result", *The Express*, 29 January 2020, accessed at: https://www.express.co.uk/news/poli-tics/123-5177/scottish-parliament-eu-flag-brexit-day-snp-nicola-sturgeon-latest, accessed on: 29.08.2020.

ROBERTSON, Angus: "A Whopping Majority Believes Scotland has Right to Decide over Indyref2", *The Scotsman*, 28 January 2020, accessed at: https://www.scotsman.com/news/po-litics/scottish-independence/whopping-majority-believes-scotland-has-right-decide-over-in-dyref2-angus-ro-bertson-1376832, accessed on 24.08.2020.

SPINNER, Jeff: *The Boundaries of Citizenship: Race, Ethnicity and Nationality in the Liberal State*, Johns Hopkins University Press, Baltimore, 1994.

STEPAN, Alfred: "A Revised Theory of Federacy and a Case Study of Civil War Termination in Aceh, Indonesia", (Eds.) MCEVOY, Joanne / O'LEARY, Brendan: *Power Sharing in Deeply Divided Places*, University of Pennsylvania Press, Philadelphia, 2013, pp. 231-252.

STEVENS, Michael: "Asymmetrical Federalism: The Federal Principle and the Survival of the Small Republic", *Publius: The Journal of Federalism*, 1977, Volume 7, No 4, pp. 177-203.

STURGEON, Nicola: "Nicola Sturgeon Responds to the Brexit Vote - Read her Speech in Full", *Holyrood*, 24 June 2016, accessed at: https://www.holyrood.com/articles/inside-politics/%20-nicola-sturgeon-responds-brexit-vote-read-her-speech-full, accessed on: 01.09.2020.

STURGEON, Nicola: "We've Made a Real Difference: Nicola Sturgeon Reflects on 20 Years of Devolution", *Yes*, 1 July 2019, accessed at: https://www.yes.scot/weve-made-a-real-difference-nicola-sturgeon-reflects-on-20-years-of-devolution/, accessed on: 30.08.2020.

SWAN, Brown / CETRA, Daniel: "Why Stay Together? State Nationalism and Justifications for State Unity in Spain and the UK", *Nationalism and Ethnic Politics*, 2020, Volume 26, No 1, pp. 46-65.

TAMIR, Yael: *Liberal Nationalism*, Princeton University Press, Princeton, 1993.

THORNBERRY, Patrick: "Historical Background: International Law Moves from Protection of Particular Groups to Norms of a Universal Character", (Ed.) CASTELLINO, Joshua: *Global Minority Rights*, Ashgate, Dartmouth, 2012, pp. 3-15.

TIERNEY, Stephen: "Legal Issues Surrounding the Referendum on Independence for Scotland", *European Constitutional Law Review*, 2013, Volume 9, No 3, pp. 359-390.

TIERNEY, Stephen: "Reclaiming Politics: Popular Democracy in Britain after the Scottish Referendum", *The Political Quarterly*, 2015, Volume 86, No 2, pp. 226-233.

VAN DYKE, Vernon: "The Individual, the State and Ethnic Communities in Political Theory", *World Politics*, 1997, Volume 29, No 3, pp. 343-369.

WAGNER, Andrea / MARIN, Jianna / KROQI, Dorian: "The Catalan Struggle for Independence and the Role of the European Union", *Regional Science Policy & Practice*, 2019, Volume 11, No 5, pp. 787-803.

WALDRON, Jeremy: "Minority Cultures and Cosmopolitan Alternatives", (Ed.) KYMLICKA, Will: *The Rights of Minority Cultures*, Oxford University Press, Oxford, 1995, pp. 93-119.

WATTS, Ronald: "Federalism, Federal Political Systems, and Federations", *Annual Review of Political Science*, 1998, Volume 1, No 1, pp. 117-137.

WEBSTER, Laura: "Unionists Furious as EU Boss Indicates Indy Scotland can Rejoin", *The National*, 20 May 2020, accessed at: https://www.thenational.scot/news/18462298.unionists-furious-eu-boss-indicates-indy-scotland-can-rejoin, accessed on 23.08.2020.

WIRT, Frederick: "The Tenacity of Confederacy: Local Service Agreements in the Family of Governments", *Publius: The Journal of Federalism*, 1982, Volume 12, No 4, pp. 103-127.

WOLFF, Stefan: "Post-Conflict State Building: The Debate on Institutional Choice", *Third World Quarterly*, 2011, Volume 32, No 10, pp. 1777-1802.

WOLFF, Stefan: "Conflict Management in Divided Societies: The Many Uses of Territorial Self-Governance", *International Journal on Minority and Group Rights*, 2013, Volume 20, No 1, pp. 27-50.

ZULEEG, Fabian: "Transition from the UK and to the EU", (Ed.) HUGHES, Kirsty: *An Independent Scotland in the EU: Issues for Accession*, Scottish Centre on European Relations Publication Office, Edinburgh, 2020, pp. 17-19.