



ISRG PUBLISHERS

Abbreviated Key Title: ISRG J Edu Humanit Lit

ISSN: 2584-2544 (Online)

Journal homepage: <https://isrgpublishers.com/isrgjehl/>

Volume – III Issue – I (January- February) 2026

Frequency: Bimonthly



## A Review of the Peace Platform? Considering Some of the Challenges and Opportunities of International Law in the Resolution of Ethnic Conflicts

Muaiyid Rasooli, PhD Candidate<sup>1\*</sup>, Prof. Dr. Mohammad Ekram YAWAR<sup>2</sup>

<sup>1</sup> School of Law, Xi'an Jiaotong University, China

<sup>2</sup> Dean of the Faculty of Law, International Science and Technology University, Warsaw, Poland.

| Received: 21.01.2026 | Accepted: 31.01.2026 | Published: 03.02.2026

\*Corresponding author: Muaiyid Rasooli, PhD Candidate

School of Law, Xi'an Jiaotong University, China

### Abstract

*The resolution of ethnic conflicts is vital to the restoration of international peace and security and, in this way, is linked to international law. This paper seeks to examine the most important challenges and opportunities of international law in the context of the resolution of ethnic conflicts.*

*The most fundamental challenges are: (1) internal contradictions in peacebuilding processes that hinder the establishment of lasting peace in multi-ethnic societies; (2) the lack or inadequacy of a minority-centric approach in the United Nations' response structures and mechanisms, which, as a result, makes long-term and lasting ethnic peace elusive; and (3) organizational incoherence and a one-size-fits-all approach within the United Nations framework that have hindered effective, focused, comprehensive, and effective action. The basis for resolving these conflicts is not easy to come by.*

*In contrast, the authors suggest several solutions available in international law to address these challenges, some of which are (1) mainstreaming minority rights at the United Nations; and (2) establishing a specialized institution for ethnic conflicts.*

*This article, by examining in detail the challenges and opportunities for the development of rights, the international community is engaged in resolving ethnic conflicts.*

**Keywords:** International Law, Ethnic Conflict, Conflict Resolution, Peacebuilding, Consensual Democracy

## Introduction

The issue of minorities has always heard the poisonous sound of conflict and war.<sup>1</sup> Ethnic tensions and conflicts, which, if not prevented, turn into ethnic conflicts,<sup>2</sup> are one of the most important security challenges in the world in the post-Cold War era, and among them, we can mention the cases of Chechnya, Balochistan in Pakistan, Kashmir, the Kurdish regions in Turkey, the recent ethnic violence in Syria and Iraq, Sudan, Georgia, Rakhine State in Myanmar, Crimea and then Donetsk and Luhansk in Ukraine, and the Karabakh crisis in Azerbaijan and Cyprus. Kurd.<sup>3</sup>

Ethnic conflicts, which are more or less ubiquitous due to the lack of a single-ethnic state in the world<sup>4</sup>, are a special type of conflict in which the goals of one of the parties to the conflict are defined exclusively in ethnic terms and the confrontation that ensues is based on and along ethnic lines.<sup>5</sup>

These conflicts have taken shape around the construct of ethnicity<sup>6</sup> which in this article means “the political self-awareness of different linguistic, religious, and racial groups in a territory regarding their own identity and the perceived difference between themselves and other groups living in the same region.”<sup>7</sup>

In fact, the face of distinction that leads to these conflicts being captured by the aforementioned description is ethnicity; It should be noted that ethnicity here has a general meaning and, as Sinisa Malevich<sup>8</sup> argues, also includes racial, linguistic and religious distinctions.<sup>9</sup>

Ethnic conflicts are conflicts between minority groups and the state or, in some cases, with each other over issues that have ethnicity as their main focus and begin with the politicization of identity.<sup>10</sup> A representative example of the politicization of identity and ethnicity can be found in the events of the former Yugoslavia.<sup>11</sup> According to Wippmann, issues arising from ethnic conflicts

involve the sphere of international law and therefore, they must be regulated by this branch of law.<sup>12</sup>

This study seeks to answer the fundamental question of what are the most important challenges and opportunities for international law in resolving ethnic conflicts and how does it play a role in this area? In one sense, one can speak of two stages before and after an ethnic conflict in the effort to combat it, the first of which is related to prevention in a specific sense, and the second of which is aimed at resolving and ending<sup>13</sup> the conflict.

Of course, this point is worth noting that in principle, the discussion of prevention (before the conflict occurs) and resolution (after the conflict occurs) are intertwined, and it is possible that measures aimed at them can be implemented simultaneously and in the form of a single package, as it is possible that measures aimed at preventing conflict can also be applied after the occurrence of an ethnic conflict and with the aim of preventing its recurrence.

The resolution of ethnic conflict in this paper refers to a time when ethnic tensions have risen and efforts to prevent them from escalating into ethnic conflict have failed. It is at this stage that the management of violence and efforts to resolve ethnic conflict in a way that reduces the likelihood of its recurrence come into play.

In Persian writings, some writings have addressed the challenges of international law in preventing ethnic conflicts, some of which have been examined.<sup>14</sup> Most writers have not considered ethnic conflicts.<sup>15</sup>

Of course, the book refers to some of the challenges and solutions in this field<sup>16</sup>, and in some articles it discusses in detail the resolution of ethnic conflicts, and the performance of the United Nations in the three cases of Cyprus, Karabakh, and Kosovo is evaluated.<sup>17</sup>

Ferraro's article differs from the aforementioned book, especially in the second and third statements, and in part one of the first statements, it is not limited to its content and has a more comprehensive view of the issue; It also goes far beyond the scope of the article in question. There is no work by English writers that addresses the challenges and opportunities mentioned together.

The authors go on to explain, in two introductory remarks, the most important challenges (1) and the capacities and approaches

<sup>1</sup> Mohammadreza Azimi, *Minorities in International Law: History of Treaties, Limits and Protections* (Tehran: Pardis Danesh Publishing, 11-13, 2013)

<sup>2</sup> Ethnic conflicts

<sup>3</sup> <https://www.globalr2p.org/resources/statement-special-adviser-prevention-of-genocide-on-one-year-of-fighting-in-sudan/>

<sup>4</sup> T.Y. Khabriyeva, *Contemporary Challenges in Determining the Destiny of Nations*, Translated by: Kabulshah Idrissaf (Qom: Mufid University, 22nd ed., 2018).

<sup>5</sup> Stefan Wolff, *Ethnic Conflict: A Global Perspective* (Oxford: Oxford University Press, 2006) 2.

<sup>6</sup> Ethnicity

<sup>7</sup> Hamid Ahmadi, *Ethnicity and Nationalism in Iran: Myth and Reality* (Tehran: Nay Publishing House, 2021), .

<sup>8</sup> Siniša Malešević

<sup>9</sup> See: Siniša Malešević, *Sociology of Ethnicity* (London: SAGE Publication Ltd, 2004) 4-7.

<sup>10</sup> Neda Kordoni, *Culture in the Face of Law: Four Papers on Multiculturalism and International Law* (Tehran: Shirazeh Publishing, 2021), 247-248.

<sup>11</sup> Nadina Resulani, *Ethnic Tensions in the Western Balkans and the Experience of Ethnic Minorities*, MA Thesis in Political Science (New York: The City University of New York, April 2023) 1.

<sup>12</sup> David Wippman, “Introduction: Ethnic Claims and International Law,” in: David Wippman (ed.), *International Law and Ethnic Conflicts* (Ithaca and London: Cornell University Press, 1998) 3.

<sup>13</sup> Resolution

<sup>14</sup> Mostafa Fazaeli and Musa Karami, “Oaths for Peace: Challenges of Liberal International Law in Preventing Ethnic Conflicts,” *International Law Journal*, 39, 67 (2022), 2.

<sup>15</sup> Sattar Azizi, *Protection of Minorities in International Law* (Tehran: Shahr Danesh Publishing, 2015), 21-27; Neda Kordoni et al., “New War and Conflicts of Multicultural Societies in International Law,” *Political and International Research*, 9 35 (2018), .

<sup>16</sup> Kordoni, *Culture in the Face of Law*, 4.

<sup>17</sup> Sattar Azizi and Musa Karami, “Evaluation of the United Nations’ Performance in Resolving Identity-Based Territorial Conflicts: Looking at the Cases of Cyprus, Karabakh, and Kosovo,” *Public Law Studies*, 53 4 (1402).

(2) of international law in resolving ethnic conflicts. They believe that the challenges include, but are not limited to:

Internal contradictions in peacebuilding intervention processes (1-1); Inadequate minority-centric approach in the United Nations response structures and mechanisms (2-1); Organizational incoherence and a one-size-fits-all approach to ethnic conflicts within the United Nations (3-1).

Related capacities and approaches include: using consensual democracy in societies deeply divided along ethnic lines and supporting an inclusive definition of national identity, (1-2), mainstreaming minority rights at the United Nations level (2-2), and establishing a specialized agency for ethnic conflicts within the United Nations structure. (3-2)

### **1. Challenges of International Law in the Resolution of Ethnic Conflicts**

The following, in three sections, discusses the most important challenges of international law in the resolution of ethnic conflicts.

#### **1.1. Internal contradictions of peacemaking intervention processes**

In order to achieve positive peace and achieve lasting peace in societies involved in ethnic conflicts, the factors that may or may not have led to the emergence of tension and then ethnic conflict must be taken into account. According to Castillo, in response to a request from the Security Council to issue recommendations on how to improve the organization's capacity in preventive diplomacy, peacemaking and peacekeeping, and post-conflict peacebuilding<sup>18</sup> the then UN Secretary-General, Peters Paul Ghali, added them to his report entitled "Action Manual for Peace"<sup>19</sup>, defining them as: "Steps to identify and support structures that are designed to prevent The return of conflict will lead to the strengthening and consolidation of peace." The post-conflict quality in this formulation was intended to distinguish it from preventive diplomacy.<sup>20</sup> According to some writers, according to the theory of conflict resolution, which, unlike the theory of conflict management, believes in the avoidance of war and conflict, the main function of the United Nations is to support a wide range of peacebuilding programs that address the root causes of conflict with a view to establishing a positive, long-term peace.<sup>21</sup>

Meanwhile, sometimes processes such as democratization<sup>22</sup>, state-building<sup>23</sup>, and nation-building<sup>24</sup>, which are considered essential for conflict resolution and reconciliation in societies embroiled in ethnic conflicts<sup>25</sup> and their failure to undergo them is considered one of the root causes of the aforementioned conflicts, themselves become a factor in the intensification of ethnic tensions and differences and the continuation of conflicts based on group

identity. Democratic peace<sup>26</sup> is one of the concepts discussed in the discourse on approaches that seek to explain the roots of ethnic conflicts and eliminate them.<sup>27</sup>

This concept, which is derived from Immanuel Kant's ideas on perpetual peace<sup>28</sup> is based on the belief that democratic countries do not go to war with each other. This is why Kant sees democracy and its principles as a bridge to establishing peace.<sup>29</sup> In the context of ethnic conflicts, especially in the post-Cold War era, democratization or democratization practices are one of the policies implemented in multi-ethnic Third World countries with the aim of reducing and resolving conflicts.

In fact, this measure, which has its theoretical basis in Kant's theory of democratic peace, emphasizes the view that as countries move towards democratic structures and establish and expand institutions related to democracy, not only will democratization be achieved, but the international environment will also enjoy greater security.<sup>30</sup>

This is where ethnic peace in a multicultural society is linked to democratic peace, and ethnic peace becomes the driving force behind democratic peace.<sup>31</sup> In other words, within the framework of this theory, democracy will contribute to the prevention and reduction of internal conflicts and, as a result, to the reduction of threats to regional and international peace and security. However, what has happened in practice has also revealed another side of democratization.

Watts, examining the experience of more than 40 countries and more than 60 United Nations peacekeeping operations between 1989 and 2022, concludes that the mandate for democratic peacebuilding<sup>32</sup> remains incomplete and problematic more than three decades after the end of the Cold War. According to him, despite the unprecedented number of UN interventions to implement peace and establish democracy, we have rarely seen peace and democracy achieved simultaneously in countries torn apart by war; they have either fallen into an endless cycle of conflict or stability has been achieved through undemocratic governance.<sup>33</sup>

In his opinion, within the framework of democratic peacemaking or peacemaking through the path of democratization, serious issues arise in the fields of elections and political parties, the constitution, the sharing of power, transitional justice, human rights, amnesty,

<sup>26</sup> Democratic peace

<sup>27</sup> Irini Chila, "Ethnic Conflict and 'Democratic Peace': 20 Years Later," in: Nikolaos Tzifakis (ed.), *International Politics in Times of Change* (Berlin: Springer, 2021) 243

<sup>28</sup> . Perpetual Peace

<sup>29</sup> Azad Khademian, *Democratic Peace and Security Challenges in the Middle East*, Master's Thesis in Political Science (Kermanshah: Razi University, November 2012),

<sup>30</sup> . Neda Heydari, *Democratic Governance and Ethno-Religious Conflicts (Case Study: Africa after the Cold War)*, Master's Thesis in Political Science (Kermanshah: Razi University, October 2013),.

<sup>31</sup>.<sup>31</sup> Seung-Whan Choi and Henry Noll, "Democratic Peace: Does Ethnic Inclusiveness Reduce Interstate Conflict?," *International Political Science Review* 2, 42 (2021) 179.

<sup>32</sup> . Demoratice peacebuilding

<sup>33</sup> Izabela Periera Watts, *Peace or Democracy? Peacebuilding Dilemmas to Transition from Civil Wars* (London and New York: Routledge, 2023) xii

<sup>18</sup> Post-conflict peace-building

<sup>19</sup> An Agenda for Peace

<sup>20</sup> Graciana del Castillo, *Obstacles to Peacebuilding*, 1st published (London and New York: Routledge, 2017) 14.

<sup>21</sup> Fanny Badache et al., "Conflict Management or Conflict Resolution: How Do Major Powers Conceive the Role of the United Nations in Peacebuilding?," *Contemporary Security Policy* 43, 4 (2022) 551-552.

<sup>22</sup> Democratization

<sup>23</sup> Statebuilding

<sup>24</sup> . Nationbuilding

<sup>25</sup> Kordoni, *Culture in the Face of Law*, 417.



truth commissions and war crimes tribunals, disarmament, etc., and the solution of one leads to the emergence of another, creating a complex situation that hinders the restoration of peace and the establishment of a new political regime.<sup>34</sup>

In this context, it has been explained that since the 1990s, democratization has become a core part of post-conflict peacekeeping missions. Achieving democracy and peace are two main objectives in societies disrupted by war; However, examples such as Afghanistan, the Democratic Republic of the Congo, and Kosovo have shown that these two goals are sometimes incompatible, and democratization as a factor threatening peace and peacebuilding as a cause for threatening democratization are being exposed;<sup>35</sup> Thus, democratization, as a process, requires and even requires an open political space, and such a space can increase conflicts and the possibility of The return of violence. Especially if foreign and international intervention is added to this factor, the risk of nationalism and extremist actions increases.

On the other hand, reducing tensions for peacemaking may require measures such as promising future power in society even to human rights violators, which is clearly incompatible with any democratic principles.<sup>36</sup>

In other words, sometimes a contradictory duality is created between peacebuilding and democratization, which results in the emergence of challenges and a decrease in the possibility of resolving and ending ethnic conflicts. State-building and nation-building are also considered other challenges in this area.

In a general view, perhaps the main problem of minorities and ethnicities can be identified in the structure of the main actors of international law in the form of the nation-state. Although these two concepts are not mutually exclusive and have differences, nation-building can be seen as an attempt to provide public legitimacy to state institutions and, as a result, speak of a close connection between the two. Peacebuilding is intertwined with both of these and, more clearly, is necessary to establish lasting peace in societies fractured by ethnic conflict, through the processes of state-building and nation-building. Researchers have written that since the late 1990s and early 2000s, policymakers have made state-building, or investment in legitimate government institutions, a core component of peacebuilding.<sup>37</sup>

A wave of academic studies has also put pressure on this argument, and it was in this atmosphere that international peacebuilding has moved from ceasefires and the creation of safe zones to the creation of political institutions in the host state.<sup>38</sup>

In the language of researchers, state-building in this context sometimes overlaps with peace-building in terms of goals, but there are also differences between them. State-building is fundamentally about moving from lawlessness or arbitrary laws of the authorities to a legal government and general consent in society.

<sup>34</sup> Ibid., 45-282.

<sup>35</sup> . Kordoni, Culture in the Face of Law, 421

<sup>36</sup> Ibid.

<sup>37</sup> Roland Paris and Timothy D. Sisk, "Understanding the Contradictions of Postwar Statebuilding", in: Roland Paris and Timothy D. Sisk (eds.), *The Dilemmas of Statebuilding: Confronting the Contradictions of Postwar Peace Operations* (New York: Routledge, 2009) 1–20.

<sup>38</sup> bid., 1-2.

Indeed, one of the problems of societies involved in conflicts, including those of the ethno-cultural variety, such as the case of Kosovo<sup>39</sup> is the lack of effective state institutions, and from this perspective, peacebuilding through state-building is urgently needed.

However, case studies tell a different story. For example, research on the situation in the Democratic Republic of Congo reveals that despite the largest and most expensive peacekeeping mission in history in this country, which was designed to protect civilians and support comprehensive state institutions, the world has witnessed far-reaching results. For example, the number of armed groups in Congo has increased from 70 in 2015 and 120 in 2017 to 130 in 2019. Found.<sup>40</sup>

Throughout history, it can be seen that state-building has been accompanied by violence, in which one group, for the sake of imposing its policies and interests on other interested players. State-building, with its efforts to centralize power, control autonomous regions, and secure borders,<sup>41</sup> sowed the seeds of tension and conflict in a multicultural society, the result of which, of course, could not be anything other than the continuation of the roots of ethnic conflict.

Moreover, nation-building, which is essential for peacebuilding in terms of building or reconstructing a sense of community and creating a collective and shared national identity for a multicultural society, sometimes leads to the strengthening of group identities.<sup>42</sup>

In simpler terms, it seems that the idea of unity and unification that is expressed within the framework of state-building and nation-building programs, in itself, cultivates the seeds of division and divergence. In other words, these processes can reverse the situation and, by creating sensitivity among cultural and ethnic groups, lead to further politicization of identity and ethnicity and reinforce the cycle of conflict.

State-building is also problematic in the context of minorities, even outside the context of peace-building, as the issue of minority rights, as the main basis for the formation of ethnic conflicts within the framework of the modern state, is one of the most important issues raised in the context of the formation of ethnic attitudes, ethnic mobilization, and, as a result, the possibility of ethnic conflicts.

This is particularly evident in the Middle East and Africa, and in the process of nation-building during the early emergence of modern states. According to Will Kymlicka<sup>43</sup> who has also examined state-minority relations within the framework of liberal multiculturalism<sup>44</sup> nation-building politics seeks to make one

<sup>39</sup> . Gëzim Visoka, *Shaping Peace in Kosovo: The Politics of Peacebuilding and Statehood* (Cham: Palgrave Macmillan, 2017) 1-4.

<sup>40</sup> . Rachel Sweet, "Peacebuilding as State Building? Lessons from the Democratic Republic of the Congo," in: Terence McNamee and Monde Muyangwa (eds.), *The State of Peacebuilding in Africa: Lessons Learned for Policymakers and Practitioners* (Cham: Palgrave Macmillan, 2021) 295-296.

<sup>41</sup> Kordoni, Culture in the Face of Law, 419-417.

<sup>42</sup> ibid 424-425

<sup>43</sup> . Will Kymlicka

<sup>44</sup> Will Kymlicka, "Liberal Multiculturalism as a Political Theory of State–Minority Relations", *Political Theory* 46, 1 (2018) 81-91.

identity dominate over other identities.<sup>45</sup> Of course, he notes that nation-building policies vary from country to country.

According to the authors, one of the most important challenges of nation-states in their various forms is the confrontation of the cultural nationalism of the dominant group with the nation-state against groups that are in minority status.<sup>46</sup>

Indeed, one of the most common themes raised in ethnic nationalism, especially in post-colonial states, concerns the issue of ethnicities and their aspirations in the process of modern nation-building. In this process, minority groups have two somewhat conflicting desires and motivations: one is to have their distinct identity and political position publicly recognized, and the other is to be part of the modern state in order to benefit from its benefits and values.<sup>47</sup>

It is clear that such demands are incompatible even with the modern state itself, which is fundamentally aimed at imposing a specific identity and also has a fundamentally authoritarian form and appearance, and can create areas of tension and conflict, even along ethnic lines.

### **1.2. Absence or Insufficiency of Minority-Centered Approach in the Structure and Mechanisms of the United Nations Response**

Another reason that, from the perspective of this paper, has challenged international law in resolving ethnic conflicts is the absence or at least the insufficiency of a minority-centered approach<sup>48</sup> in the existing response mechanisms, especially within the framework of the United Nations.

A minority-centered approach is an approach in which, in the context of situations related to ethnic and cultural tensions and conflicts, the rights of minorities are placed at the center of the reactions, measures, and mechanisms used to resolve these conflicts. The emergence of ethnic conflicts cannot be summarized in a single factor or cause, as various factors are involved. On the other hand, it seems that the most important factor in the emergence of extreme ethnic nationalism and ethnocentrism<sup>49</sup> and, consequently, the possibility of ethnic conflict, can be traced to discrimination or the feeling of discrimination against ethnic-religious-linguistic groups and, in other words, the relative deprivation of these groups in various economic, cultural, political, social and similar fields.<sup>50</sup>

On this basis, one of the most important reasons in this field can be considered discrimination against minorities and their deprivation in various spheres of society, in other words, ignoring or violating the rights of minorities. Today, the role of human rights in preventing and resolving conflicts, especially in multi-ethnic societies, is no longer hidden from anyone. Undoubtedly, the

<sup>45</sup> Neda Korduni and Amir Nikpai, "Multiculturalism, the State and Minority Rights," *Legal Research*, 19 75 (2016):70

<sup>46</sup> Neda Kordoni, *State, Ethnic Traditions, Human Rights Challenges (Case Study of Khuzestan)*, Master's Thesis in Human Rights (Shahid Beheshti University, 2008), 66.

<sup>47</sup> Mohammad Shahabuddin, *Minorities and the Making of Postcolonial States in International Law* (Cambridge: Cambridge University Press, 2021) 25.

<sup>48</sup> Minority-oriented/Minority-centered

<sup>49</sup> Ethnocentrism.

<sup>50</sup> Seyyed Ayatollah Mirzaei, *Nationalism and Ethnicity in Iran* (Tehran: Agah Publishing, 2022), 63-68.

violation of human rights is one of the main reasons for the emergence of current conflicts; So if human rights are part of the problem, they must also be part of the solution.<sup>51</sup>

This anecdote, in short, makes clear the logic of adopting a human rights approach to conflict resolution. Based on this logic, it can be said that since the issue of minority rights is one of the causes, and indeed the most important cause, of ethnic conflicts, adopting an approach based on human rights and, of course, minority rights, is essential for resolving and resolving the aforementioned conflicts.

On the 30th anniversary of the adoption of the 1992 United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities in 2022,<sup>52</sup> UN Secretary-General António Guterres spoke of the failure, inaction and neglect to protect minorities at the UN level.<sup>53</sup>

The Special Rapporteur on Minority Issues<sup>54</sup> presented a report on how minority rights have been addressed within the United Nations framework in recent decades on 29 July 2022.

According to him, the expected progress in the field of minority rights has not been achieved and minority rights have been neglected in the United Nations system; This is while other marginalized and vulnerable groups are increasingly recognized and are the subject of binding treaties and various institutions and support schemes.

This reporter notes that in recent decades, interest and attention to minority rights have declined and no institutional plans have been dedicated to supporting minorities, while the situation regarding groups such as indigenous peoples, people with disabilities, migrants, women and children has improved significantly.

It is noted that in the treaties, documents, guidelines and plans of recent decades and years, such as the Sustainable Development Goals and the draft treaty on trade and human rights, minorities and their issues have been almost completely ignored and omitted.<sup>55</sup>

Furthermore, according to the 2024 report of the Office of the United Nations High Commissioner for Human Rights, two-thirds of the world's countries lack comprehensive anti-discrimination laws that guarantee equality in terms of housing and human rights. According to the report, multiple discrimination against minority groups severely affects the rights of minorities and requires appropriate and coordinated attention and action.<sup>56</sup>

If we look at the issue of minority rights in the context of the right to self-determination, we can see that this violation of minority

<sup>51</sup> Claudia Fuentes-Julio and Raslan Ibrahim, "A Human Rights Approach to Conflict Resolution," *Ethics in International Affairs* 33, 3 (2019) 261.

<sup>52</sup> 1992 UN Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities

<sup>53</sup> Retrieved from: <https://media.un.org/unifeed/en/asset/d293/d2935819>, Last accessed on July 10, 2024.

<sup>54</sup> . Special Rapporteur on Minority Issues

<sup>55</sup> . See: Special Rapporteur on Minority Issues (Fernand de Varennes), *Minority Issues*, A/77/246, 29 July 2022, paras. 21-70.

<sup>56</sup> Office of the United Nations High Commissioner for Human Rights, *Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities*, A/HRC/55/35, 10 January 2024, para. 76 and Summary

rights within the structure of a nation-state, in other words, is a violation of the right to internal self-determination of minority groups, which can use ethnic tension and conflict to demand their rights within the host society, to request separation from it and the formation of a new state, which has consequences beyond states and the principle of territorial integrity in international law.

In fact, this violation of the rights of minorities and their right to internal self-determination can be used as a window for the entry of separatism and the application for the right to external self-determination by minority groups. Indeed, it is within the framework of ethnic conflicts that the tension between the principles of territorial integrity and the stability of borders, on the one hand, which have their roots in the Westphalian system and the emergence of nation-states, and the principle of self-determination as a new and evolving concept, on the other hand, is raised<sup>57</sup> and the territorial integrity of States, as fundamental subjects of international law, is seriously challenged. The secession of Kosovo from Serbia can be interpreted in this context.

In current international law, which is based on liberal ideas of individualism and state neutrality, especially in the field of human rights, the rights of minorities cannot have an appropriate and acceptable position.

This inappropriate and unacceptable position becomes even more evident when crisis and emergency situations arise, of which ethnic conflicts are undoubtedly one of the most prominent examples. Situations that, when responded to by international institutions, increasingly, if not unjustly, undermine the rights of minorities in the vast galaxy of the international human rights system. In connection with this challenge, two simultaneous events have hampered the ability of international law to resolve ethnic conflicts.

On the one hand, in the structure and mechanisms of international law response to situations threatening peace, such as the deployment of peacekeeping forces, respect for human rights does not play a central, fundamental, or determining role. On the other hand, if human rights are considered, even if only marginally, in these mechanisms, the rights of minorities have been given a much lower status.

Regarding the first, it can be said that the structure and mechanisms of the United Nations response to the resolution of ethnic conflicts are more security-oriented and consider security issues rather than focusing on human rights.

Of course, the security-oriented approach in this context is the traditional and state-based security, not human security, which has various dimensions and is considered one of the pillars of conflict resolution. As a result of the dominance of political will and the consent of states over the main actors of international law, the minority rights system in contemporary international law can be called one of the most underdeveloped systems of human rights protection related to vulnerable groups. However, the second case is more serious;

The minority-centric approach in current international law towards the prevention and resolution of conflicts based on minority rights

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<sup>57</sup> Tina Kempin Reuter, *Ethnic Conflict and International Law: Group Claims and Conflict Resolution within the International Legal System*, Ph. D. Dissertation in International Law (Zurich: University of Zurich, 2006) 59.

is either non-existent or very weak. In fact, the differences between the general discourse of human rights and the specific system of minority rights are not taken into account in this field, and this itself is deeply rooted in the approach that has prevailed in the international human rights system, especially since the end of World War II and the establishment of the United Nations and the emergence of liberal views, including in the world of rights. Meanwhile, the abuse of the issue of minority rights and status by some countries to advance their own illegitimate political goals and desires, such as annexing new territories to their own territories, as happened after World War I, ultimately led to the failure of minority rights to be included in the United Nations Charter and the Universal Declaration of Human Rights, and a regressive trend toward supporting minorities in the post-World War II era and the United Nations system. It can provide an excuse and a means to block the path of achieving the desired rights of minorities in the hands of states and undermine the progress made in the international and regional system of support for minorities.

Perhaps, one can cite the two tragedies of Rwanda and Bosnia and Herzegovina as examples of the lack of follow-up and adherence to the human rights and minority rights-centered approach in ethnic conflicts, and of course, the late entry into the issue. Peacemaking is the process of concluding peace agreements in ethnic conflicts, with the aim of peacefully transitioning from a state of tension and conflict to a resolution and cessation of the conflict.<sup>58</sup>

In particular, in the Bosnian War, although the Dayton Peace Agreement<sup>59</sup> in 1995 ostensibly ended the war, it led to the institutionalization of ethnic nationalism in various groups and the creation of a structure of rule that in turn reinforced ethnic discrimination and tipped the scales in favor of the Serbs.<sup>60</sup>

Some writers have spoken of the positive role of the International Court of Justice in ethnic disputes by providing protection to minority groups. In their view, there is a potential role for the Court in situations involving ethnic conflicts, particularly in two respects: the request for provisional measures and the right of third States to intervene in cases brought before the Court on the basis of the right of action by the community<sup>61</sup> and the general obligations arising from the treaty.<sup>62 63</sup>

Given the non-implementation of the Court's interim order,<sup>64</sup> the outcome of these two positive points could be, for example, increasing political pressure on the one hand and providing a legal and moral basis for international intervention on the other against a state that is committing genocide or other widespread and serious human rights violations against a minority group such as

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<sup>58</sup> . David J. Scheffer, "U.N. Engagement in Ethnic Conflicts," in: David Wippman (ed.), *International Law and Ethnic Conflicts* (Ithaca and London: Cornell University Press, 1998) 172.

<sup>59</sup> Dayton Peace Agreement

<sup>60</sup> Aslihan Imdir-Akaras, "Ethnic Tensions and Global Response: Disentangling the Complexities of the Bosnian War," *Lectio Socialis* 8, 1 (2024) 66-67.

<sup>61</sup> Actio popularis

<sup>62</sup> Erga omnes partes

<sup>63</sup> See: Pok Yin S. Chow, "The International Court of Justice and Ethnic Conflicts: Challenges and Opportunities," *Texas International Law Journal* 56, 1 (2021) 30-45.

<sup>64</sup> . Ibid., 32.

Myanmar's Muslims and failing to comply with the Court's order.<sup>65</sup>

It seems that in the current situation, it may be possible to make positive use of cases involving genocide to prevent the lives of persons belonging to minorities from being endangered and to save their lives, with the points mentioned above.

Concerns about the inadequate position of minority rights in the current international legal framework, and consequently its challenge in preventing and resolving ethnic conflicts, will become more realistic when the Special Rapporteur on Minority Issues' views are considered on March 15, 2022. He listed the four main observations that dominate his report as follows:

- a) Most conflicts around the world are intra-state and most of them are rooted in the grievances of minority groups due to deprivation and discrimination;
- b) Although the Independent Expert on Minorities, in his December 2010 report, spoke of the need to develop a strategy for the prevention of conflicts involving minorities, more than a decade later, not only has such a strategy not been in place at the United Nations level, but even in the plans related to this organization and at the regional level, there has been no mention of minorities or respect for their rights as a priority approach in conflict prevention;
- c) In recent years, international and other actors have increasingly adopted a denialist<sup>66</sup> or even anti-minority stance, refusing to acknowledge that communities involved in conflict situations are minorities;
- d) Most of the actions taken within the framework of plans and strategies relate to post-conflict situations and processes, and prevention has been under-recognized in this context.

According to him, a comprehensive assessment of more than a decade of independent expert reports in 2010 showed various shortcomings and failures.

He argues that the United Nations and other global and regional institutions have been unable or unwilling to heed the warnings of independent experts about the necessary measures to combat the root causes of contemporary conflicts, which are linked to the underlying causes of minority grievances in terms of deprivation and discrimination and the protection of their rights.<sup>67</sup>

He also argues that the increasing marginalization and discrimination of minorities or group inequalities as the main drivers of conflicts are less studied and taken into account in the processes related to the collection of information and data on conflicts.<sup>68</sup>

The neglect of minority rights can also be examined from other perspectives. Despite the importance of the group in ethnic conflicts and the fact that these conflicts are considered group-

based, documents related to minority rights, including binding instruments at the European level, have avoided recognizing the independent legal status of the group and have only spoken of the rights of individuals belonging to minorities. As the Special Rapporteur on Minority Issues also noted in his February 2024 report, no rights have been recognized for minorities themselves in international law.<sup>69</sup>

Furthermore, according to Kymlicka, the concept of collective rights in the context of minority rights is seriously ambiguous.<sup>70</sup> Also, according to researchers, the normative understanding of the terms ethnicity, minority, nationality, linguistic grouping, race, etc. has caused domestic and international approaches to ignore the ambiguous and changeable nature of these terms. Such ambiguity has led to the emergence of different approaches towards minorities and their recognition at the national and international levels.

In other words, the ambiguity in the terminology of minorities on the one hand and the variability of the concepts related to it on the other hand, have led to the emergence of inefficiency or dysfunction in the identification process and, as a result, the enjoyment of their own rights by some individuals and groups.<sup>71</sup> This ambiguity and lack of clarity in terminology can be both the cause and the disability of security and political considerations surrounding specialized terminology such as minorities.<sup>72</sup>

It is not without reason that the combination of these ambiguities in the basic concepts and definitions, the security approach of states towards the category of minority rights, and the role of ethnic elites in politicizing the rights-based demands of distinct groups have been considered one of the important reasons for the continuation of discrimination and severe violations of the rights of minority groups.<sup>73</sup>

In such a state of confusion regarding the definition of minority groups and their rights, a situation may arise in which the central component of ethnic conflicts, namely the minority status of the<sup>74</sup> non-state parties to these conflicts, is ignored under the heavy shadow of inherent ambiguities built into the discourse on minority rights. It is obvious that in such a situation, it is fundamentally impossible to adopt an approach that is capable of resolving the ethnic conflict.

In this case, the root cause or causes of the situation will not be properly identified and, as a result, the cycle of violence will continue. It should not be forgotten that from a sociological perspective, multiculturalism, ethnicity, and more generally

<sup>65</sup> . See: ICJ, Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Provisional Measures, 23 January 2020.

<sup>66</sup> Denial phase

<sup>67</sup> Special Rapporteur on Minority Issues (Fernand de Varennes), Conflict Prevention Through the Protection of the Human Rights of Minorities, A/HRC/49/46, 15 March 2022, para. 22.

<sup>68</sup> Ibid., para. 26.

<sup>69</sup> Special Rapporteur on Minority Issues (Nicolas Levrat); Promoting Diversity on Minority Issues to Strengthen the Universal Dimension of Human Rights. A/HRC/55/51, 6 February 2024, para. 36

<sup>70</sup> Will Kymlicka, *Multicultural Citizenship: Liberal Theories on Minority Rights*, translated by Ebrahim Eskafi (Tehran: Shirazeh Publishing, 2019), 98-104

<sup>71</sup> Neda Kordoni, "The Effects of Terminology on the Legal Status of Minorities; A Study of the Rohingya Minority in Myanmar," *Legal Research*, 20, 47 (2021): 287-288.

<sup>72</sup> *ibid*

<sup>73</sup> *ibid*

<sup>74</sup> Minorityhood



identity, are fluid and changeable concepts<sup>75</sup> while in international documents, these concepts are considered static and fixed, and as a result, some groups, for example, are excluded from the umbrella of protection against genocide as an identity-based crime related to ethnic conflicts in international law.

In international cases, the International Court of Justice, in its judgment in the case of *Bosnia and Herzegovina v. Serbia and Montenegro* (26 February 2007), rejected the purely mental concept of protected groups and emphasized the positive and objective identification of the group; although, in paragraph 191, it also referred to the acceptance of a combination of objective and mental criteria in the definition of a protected group for genocide.<sup>76</sup> The objection to the Court's approach in this context is that, following it, Groups under the auspices of genocide are assumed to be fixed and permanent, whereas "the otherness of an individual or group is usually not eternal and is a social construct that is considered politicized; therefore, we can always witness the reproduction of nations, ethnic groups, and other identity groups."<sup>77</sup>

In the same vein, international law today has one of the main obligations of preventing and resolving ethnic conflicts, namely, paying special attention to the rights Minorities have ignored international law in response mechanisms and, as a result, have faced failure in resolving these conflicts.

### **3.1. Organizational incoherence and a one-dimensional approach within the United Nations framework to ethnic conflicts**

The third challenge is the organizational incoherence within the United Nations framework for resolving ethnic conflicts on the one hand and the adoption of a uniform approach to different situations involving these conflicts on the other. Despite all its failures and shortcomings, the United Nations can be considered the guardian of peace in the world.

This organization, whose structure was built on the ruins of World War II and came into existence through the efforts of the Allies after the end of that bloody war, has placed peace at the heart of its goals and, among other things, has published the elimination of threats to peace in Article 1, paragraph 1, and this sublime concept shines through the organization's founding document. Undoubtedly, ethnic conflicts are one of the threats to international peace and security are certain and, as a result, a serious challenge for the United Nations.

The United Nations, as an institution that was formed with the desire and mission of maintaining international peace and security, needs, above all, an organized, systematic, centralized and coordinated system in order to achieve and realize the aforementioned desire and mission, so that the various pillars of the organization can react in the form of a system. Effective and targeted to potential and actual threats to their primary goal.

This is currently far from the desired situation. One example of ethnic conflict that led to this disharmony was the Bosnian War in the 1990s, where the late intervention and entry of UN and even NATO peacekeeping forces was no longer able to prevent horrific tragedies that even reached the level of genocide against Muslims.<sup>78</sup>

It was previously stated that this situation has led to the perpetuation of inequalities even during the process of resolving the issue. One of the shortcomings of the current United Nations system in the field of preventing and resolving ethnic conflicts, despite the existence of a position such as the Special Rapporteur on Minority Issues, is the lack of a special and specialized institution for effective studies and measures regarding these conflicts within the framework of the main organs of the United Nations, especially the Security Council and the General Assembly. United Nations, and in particular in the form of human rights mechanisms.

Of course, the question that comes to mind in this regard is whether the recommendations and views of the Special Rapporteur on Minority Issues in areas related to minority groups, including the link between their rights and ethnic conflicts, are actually taken into account by the relevant United Nations bodies, especially the Security Council, and are they used in the activities of these bodies in relation to ethnic conflicts? No one can deny the significant role of ethnic conflicts in threatening international peace and security and violating human rights in the modern world, especially in the post-Cold War era. It is worth noting that the United Nations Security Council, partly due to differences of opinion among its permanent members, has refrained from recognizing ethnic conflicts as a threat to international peace and security.

However, for example, in Resolution 688 (April 1991), the treatment of the Iraqi government by the Kurds, the situation in the former Yugoslavia in Resolution 827 (May 1993), and the situation in Rwanda in Resolution 955 (November 1994) were considered a threat to international peace and security, which are prominent examples of conflicts that have developed around issues of identity and ethno-cultural identity. Moreover, according to the Special Rapporteur on Minority Issues, even seemingly inter-State conflicts, such as armed conflicts, Armenia and Azerbaijan over the region known as Nagorno-Karabakh and the border conflict and tensions between India and Pakistan over the Kashmir region have also been shaped by the issue of minority populations.<sup>79</sup> As a result, they can also be considered consequences of ethnic tensions and conflicts.

In addition to the above, and of course in connection with it, the article claims in this section that current international law, especially within the framework of the United Nations, has not taken into account the complexities and unique characteristics of each ethnic conflict and has prescribed a single version for all of them, and as a result, has not been successful in resolving these conflicts.

<sup>75</sup> . See: Siniša Malešević, "Ethnicity in Time and Space: A Conceptual Analysis", *Critical Sociology* 37, 1 (2010) 68-72.

<sup>76</sup> ICJ, Case concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia and Herzegovina v. Serbia and Montenegro*), Judgment of 26 February 2007, paras. 194 & 191.

<sup>77</sup> Gerdoni, *Culture before the Law*, 343.

<sup>78</sup> Igdir-Akaras, *Ethnic Tensions and Global Response: Disentangling the Complexities of the Bosnian War*, 66.

<sup>79</sup> De Varennes, *Conflict Prevention Through the Protection of the Human Rights of Minorities*, paras. 24-25



Moreover, even the current literature in the field of international law and the doctrine of humanitarian intervention tends to lump all types of internal conflicts together.<sup>80</sup>

Scholars have rightly noted the need to avoid prescribing a one-size-fits-all approach to peacebuilding in societies experiencing conflict and ethnocultural tension<sup>81</sup> and to take into account the specific factors of each conflict.<sup>82</sup> The reality is that although a general and comprehensive definition speaks of ethnic conflict in most continents of the world, a closer and deeper examination of the instances of ethnic conflict clearly indicates that many of them, except in their generalities and the title of ethnic conflict within the framework of that general definition, have very few similarities and cannot even be considered the tension and conflict of two different minority groups in a single country with the ruling state based on their components. The same explained and analyzed.<sup>83</sup>

In fact, not seeing the differences in various situations that may all be addressed under the title of ethnic conflict is one of the reasons for the failure of the international legal system to resolve ethnic conflicts. It seems clear that ignoring the fundamental differences of these conflicts leads to neglecting their root causes, and it is obvious that if the causes are not recognized, they will not be eliminated in the first place, and this itself provides the reasons for the failure of any attempt to resolve, resolve, or even prevent ethnic conflicts. What makes this matter even more important is that it is undoubtedly impossible to resolve ethnic conflicts without addressing their underlying causes.

The causes of ethnic conflicts vary from country to country and even from one region of a country to another. In today's world, phenomena are very complex and it is not possible to make a single judgment about all ethnic conflicts with a general analysis.<sup>84</sup>

For example, one of the components that has played a role in the emergence of ethnic conflicts, especially in recent years, and seems likely to increase its influence in shaping these conflicts in the future, is climate change. Based on the research conducted, climate change increases the risk of violent conflicts in various ways, and in particular, the two regions of the Middle East and North Africa are at risk.<sup>85</sup>

In fact, we are talking about the impact of climate change on international security and its role as one of the variables influencing internal and international conflicts.<sup>86</sup> It was in the mid-

1990s that Canadian political scientist Thomas Homer-Dixon<sup>87</sup> first proposed his theory on the link between the emergence of violent conflicts in vulnerable areas and environmental stresses caused by climate change. This theory did not find many supporters at the time, but in 2007, when former UN Secretary-General Ban Ki-moon said that the atrocities in Darfur, Sudan, were due to climate change, the debate on the link between climate change and ethnic conflict intensified.<sup>88</sup>

The question is whether attention to the role of climate change in efforts to resolve ethnic conflicts in multi-ethnic countries that are exacerbated by drought and the possibility of ethnic tensions between different ethnic groups and between these groups and the state over water resources has found a place in international law mechanisms and response planning, and in particular, the United Nations? Furthermore, even if there were the necessary will and awareness for this task in international and interstate law, is it possible in principle to implement climate justice among various ethnic groups through international and, of course, national mechanisms? It seems difficult to do so.

#### **4. International Law Approaches to Resolving Ethnic Conflicts**

In this speech, in light of the aforementioned challenges, the capacities and approaches of international law to resolve ethnic conflicts will be briefly examined.

##### **4.1 Using Consensus Democracy and Supporting an Inclusive Concept of National Identity**

It has been argued that the contradictions of peacebuilding processes such as democratization, state-building and nation-building are one of the challenges for international law in resolving ethnic conflicts. In relation to the challenge of democratization, it has been argued that the emergence of democracy is an unnatural process outside the normal course of politics and requires the formation of a set of unnatural factors.<sup>89</sup>

On this basis, as researchers have also noted, the promotion and consolidation of democracy in multi-ethnic societies requires, above all, the existence of democratic political institutions<sup>90</sup> and if such institutions do not exist or are not created, it cannot be expected to be successful in preventing and resolving ethnic conflicts. Researchers have pointed to the lack of coverage of important issues in multicultural societies and ethnic conflicts within the framework of democracy. They have also identified the lack of political and party organizations in post-conflict societies, and the resulting intensification of marginalization and ethnic-based grouping, as factors contributing to the return of violence to a fragmented society.<sup>91</sup>

Intensification of Comprehensive International Security Crises," Foreign Relations, 11 43 (2019)

<sup>87</sup> Thomas Homer-Dixon

<sup>88</sup> . Emely Vanegas, "Can Climate Change Cause Violent Ethnic Conflict?," Undergraduate Journal of Political Science 5, 1 (Spring 2021) 142

<sup>89</sup> Hossein Bashirieh, Transition to Democracy: Theoretical Discourses (Tehran: Negah Moasar Publishing, 2015), 93.

<sup>90</sup> Qodrat Ahmadian and Neda Heidari, "Challenges of the United Nations in Democratizing Ethno-Religious Societies (Case Studies in Post-Cold War Africa)," International Organizations, 1 4 (2013), 133-163.

<sup>91</sup> Korduni, Culture in the Face of Law, 423

<sup>80</sup> Kordoni, Culture in the Face of Law, 393.

<sup>81</sup> *ibid.* 420

<sup>82</sup> *ibid.*, 268

<sup>83</sup> See: Steve Odero Ouma, Constitutional Mechanisms for the Management and Settlement of Identity Conflicts: The Cases of Sudan, Kenya and Somalia, Ph. D. Dissertation in History and Political Science (Rome: Luiss University of Rome, October 2011) 25-294

<sup>84</sup> Karl Cordell and Stefan Wolf, Ethnic Conflicts. Translated by: Abdollah Ramezanzadeh (Tehran: Farhanshahani/Mizan Publishing, 2014), 169-228

<sup>85</sup> . Kyungmee Kim and Tania Ferre Garcia, "Climate Change and Violent Conflict in the Middle East and North Africa", International Studies Review 25, 4 (December 2023) 1.

<sup>86</sup> Masoud Akhavan Kazemi, Tayebah Sadat Hosseini and Fereshteh Bahramipour, "Analyzing the Impact of Climate Change on International Security," International Relations Studies, 12 46 (2019); Bahadur Gholami, "Climate Change: The Emergence and

In addition to the necessity of the existence or creation of democratic political institutions before the democratization of multi-ethnic societies and the transition to majority democracy in multi-ethnic societies, sufficient attention should be paid to another very important point: the necessity of the same kind of democracy for all multi-ethnic/cultural societies. Taking into account the historical causes of the current situation of ethnically fragmented societies, as well as the social and cultural fabric of each society and the relations between various ethnic, religious, and other groups within them, etc., is among the musts and must be taken into account in providing a way to prevent the emergence and reduction of ethnic conflicts.

A version that is effective in a European country may itself exacerbate and perpetuate the situation in an African or Asian country. These and more have led to democratization, which is considered a prerequisite for peacebuilding, itself becoming an obstacle to achieving peace in some cases. That is why some have called the model of majority democracy in multi-ethnic societies a failed experiment and have spoken of the need for a visionary approach to consensual/associative/participatory democracy<sup>92</sup> in deeply divided societies.<sup>93</sup> Consensual democracy emerged in response to the failures of majority democracy in the participation of all ethnicities and minorities and groups and their consent in multi-ethnic societies, and its originator was Arendt Lijffart.<sup>94</sup>

In the framework of majoritarian democracy, the ethno-cultural group that holds the majority will prevail in the voting process and minorities will not have a share of power in this democratic process. Although the basis of democracy is meritocracy and the absence of secondary values such as ethnicity and religion, this is true for countries that have undergone the process of modernization and at the same time have gone through the democratic path and, with the passage of time, in the process They have moved away from secondary values and have reached primary values such as development, progress and national interests.

Consensus democracy is a type of non-majoritarian democracy that, by sharing and proportionalizing power and positions, emphasizes above all the cooperation and agreement of elites of different power spectrums and parties involved in heterogeneous societies. This type of democracy is an extension of the theory of power sharing<sup>95</sup> and in it, for the sake of attention Minorities, sharing power based on ethnic and religious geography is considered so that the minority is not a victim of the opinion and right to vote of the majority.<sup>96</sup>

The consensual model of democracy brings groups that were previously outside the circle of power into this valley and, at first, negates the government of a particular majority group by involving other important political groups. In consensual democracy, ethnic,

religious, etc.<sup>97</sup> On the other hand, the emergence of the modern state in the sense of the national-centric state has been one of the most important factors in the politicization of the issue of ethnicity in many countries.<sup>98</sup>

Researchers have rightly pointed out the inability of the political structures existing within the framework of the nation-state to solve the issue of minority rights. The reality is that man is a complex being and It is considered a multifaceted and pluralistic entity, of which ethnic identity is only one dimension, and this feature must be taken into account in political and legal structures in order to take into account the needs of vulnerable groups such as minorities.<sup>99</sup>

A group of writers, adopting a critical and fundamental approach, analyze the history of international law in general based on colonialism and Eurocentrism and conclude that within the framework of such rights An international community that can observe the roots of colonialism in its place, especially in the area of protecting minorities, can hardly hope to realize the rights of minorities, and for this reason, they consider reviewing the foundations of international law and introducing a new plan as a solution.

If the application of consensual democracy in societies deeply divided along ethnic lines, the path or the capacity of international law to deal with occasional contradictions of democratization within the framework of a majoritarian democratic model with reconciliation, is considered, the pursuit of an inclusive national identity will be an antidote to the exclusiveness latent in the processes of state-building and nation-building.

Explain that one of the most fundamental, if not the most fundamental, factors in the politicization of ethnicity and the resulting increase in the possibility of ethnic conflicts in the processes of state and nation-building is the neglect of at least some important ethno-cultural identities in multi-ethnic societies. The formation of a nation-state and nation-building, as two interconnected processes, require the formation of a common national identity.

However, if some identity groups do not see the manifestation of their ethno-cultural identity in the definition of national identity, and this definition only or at least largely reflects the manifestation of the identity of the majority and dominant group, the aforementioned sense of community in the area of challenges will not be created in them, and on the contrary, a sense of otherness and alienation will emerge in them, which, if played by elites and other factors, could potentially lead to tension. The crisis and ultimately the conflict will be centered on ethnicity and identity. It seems that the solution that can be offered to this situation is to define national identity in a comprehensive way so that all ethno-cultural identities are taken into account in it.

What is seen in Iran is indeed a proof of the existence of a comprehensive national identity, in a way that encompasses all

<sup>92</sup> . Consociational democracy

<sup>93</sup> Sattar Azizi, "Peace, Justice and Democracy in Multiethnic Societies: Consensus Democracy with Emphasis on Comparative Comparison of Bosnia and Herzegovina and Iraq," Human Rights, 9, 1 and 2 (2014): 36-37.

<sup>94</sup> . Arend Lijphart

<sup>95</sup> Power sharing

<sup>96</sup> Majid Mohammadi et al., "Associational Democracy and Examining Future Scenarios in Iraq," Strategic Policy Research, 12, 46 (2023), 250-251.

<sup>97</sup> Timofey Agarin, "The Limits of Inclusion: Representation of Minority and Non-Dominant Communities in Consociational and Liberal Democracy," International Political Science Review 41, 1 (2020) 22.

<sup>98</sup> Ahmadi, *ibid.*, 327-176.

<sup>99</sup> Dovile Budryte, "The "Nation" State on Trial: Minority Rights, Othering, and Exclusion in Europe during Times of Crisis", Nationalism and Ethnic Politics 23, 2 (2017) 247

ethnicities and linguistic, religious and cultural groups; To the extent that one can speak of Afghan peoples and not ethnic minorities in Afghanistan.

One of the cognitive problems in the political sphere of Afghanistan is the lack of clarity about the boundaries and conceptual gaps of some terms and phenomena, which has led to the use of some similar concepts with synonymous meanings, without paying attention to their construction and origin, and is generally the result of the dominance of the journalistic and public space over the general atmosphere of society. A clear example of this claim is the occasional use of the title of ethnic minority to refer to the peoples of Afghanistan in journalistic circles and ethnic circles.

The reality is that, considering the definition of a minority in the general sense of the word and, in particular, the elements that constitute an ethnic minority in international law, and considering the criteria required for classifying an ethnic minority as an ethnic group, considering the overall ethnic composition of Afghanistan, taking into account the structure of the Afghan political and governmental system, its Islamic character, and taking into account the legal system of the Islamic Republic of Afghanistan, none of the ethnic groups in Afghanistan can be included within the framework of the international system of protection. Minority rights include ethnic minorities. Therefore, when it comes to the ethnic groups of Afghanistan, one should speak of Iranian ethnic groups or ethnic groups of Iran, and not ethnic minorities in Afghanistan.<sup>100</sup>

In the legal and political system of the Islamic Republic of Afghanistan, no ethnic group is outside the sphere of sovereignty<sup>101</sup> and recognized religious and sectarian minorities are also subject to special protection under the Constitution, including freedom to perform religious ceremonies and practice the Hanafi religious doctrine, and in personal matters and religious teachings, the validity of their religious laws in the courts in the field of personal matters, and the presence of their representatives in parliament, in areas where they constitute the majority of the population. They say that their internal affairs are governed by the councils according to their religion.<sup>102</sup>

A brief look at the role of minority group identity in the formation of national identity in the 2024 report of the Special Rapporteur on Minority Issues, mentioned earlier<sup>103</sup>, is not without merit. In the opinion of this reporter, one of the key issues in recognizing and supporting minorities is allowing them to maintain and promote their identity as a group distinct from the majority population. For this reason, Article 1 of the 1992 United Nations Declaration on

the Rights of Persons Belonging to Minorities<sup>104</sup> includes, in addition to protecting the existence of minorities, safeguarding the identity of these groups and promoting conditions for the promotion of their identity among the obligations of States paragraph (37). And it does not consider this obligation to be solely for the benefit of persons belonging to minorities, but also speaks of its benefit to society as a whole paragraph (38).

And in this case, two levels of It refers to the concept of community. At the first level, it refers to the international community. This aspect helps to strengthen friendship and cooperation between nations and States, which has its roots in the formation of peace treaties or minority treaties during the time of the League of Nations.

In the opinion of the Rapporteur, the protection and promotion of the rights of persons belonging to minorities is an important and powerful factor for peacemaking<sup>105</sup> in the international community and fosters friendly relations between States. It does not, of course, ignore the use of minority rights as a tool to justify armed conflict, and it mentions it as a constant threat to peace in the international community (paragraph 39). Another level that the rapporteur has in mind relates to the benefits of protecting and promoting minority rights for domestic societies; this is mentioned in the fifth preamble to the 1992 United Nations Declaration, and on the basis of that, protecting and promoting Minority rights contribute to political and social stability in their host countries.

The Rapporteur believes that the recognition, protection and promotion of minority identities not only benefit persons belonging to minority groups, but also play a significant role in the formation of a diverse<sup>106</sup> vibrant<sup>107</sup> and sustainable<sup>108</sup> national identity (paragraph (40)).

On this basis, it is necessary to recognise the independent identity of minority groups as part of national identity and not as an Beside or opposite to that, recognition and protection should be provided. This is the way in which the feeling of discomfort and alienation among minority groups will decrease, and the possibility of their integration into society will increase.

#### **4.2. Making minority rights a mainstream issue at the United Nations**

In the previous speech, the violation of minority rights was discussed as one of the most important causes of ethnic conflicts on the one hand, and the inappropriate position of the rights of these groups on the international human rights agenda, especially the United Nations, on the other.

Among the institutions that address the link between minority rights and the prevention and, consequently, resolution of conflicts in multicultural societies is the Special Rapporteur on Minority Issues and, before that, the Independent Expert on Minority Issues<sup>109</sup>.

For example, the Independent Expert on Minority Issues in 2010 clearly states that the violation of minority rights is, in most cases,

<sup>100</sup> Mostafa Fazaeli and Musa Karami, "Ethnic Minorities in Iran or Iranian Ethnicities; From a Journalistic to a Legal Perspective," *Journal of Legal Studies*, 9, 25 (Fall 2017): 219-248.

<sup>101</sup> It is worth noting that by September 2024, in the 14th government, Abdul Karim Hosseinzadeh was appointed as the Deputy President for Rural Development and Deprived Areas and Mohammad Nabi Shahiki as the Deputy Minister of Science, Research and Technology and Innovation. The former is a Sunni Kurd and the latter is a Sunni Baluch.

<sup>102</sup> *ibid*

<sup>103</sup> Special Rapporteur on Minority Issues (Nicolas Levrat); Promoting Diversity on Minority Issues to Strengthen the Universal Dimension of Human Rights. A/HRC/55/51, 6 February 2024, paras. 37-41.

<sup>104</sup> . 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

<sup>105</sup> Pacification

<sup>106</sup> Diverse

<sup>107</sup> Vibrant

<sup>108</sup> Stable

<sup>109</sup> Independent Expert on Minority Issues

one of the main causes of conflicts and that minority rights must be respected in order to prevent ethnic conflicts.<sup>110</sup>

The Special Rapporteur on Minority Issues also stated in his 2018 report to the Human Rights Council that the peaceful resolution of conflicts involving minority groups is achievable through targeted, participatory and interactive approaches that address discrimination in areas such as education, political participation, access to employment and public services.<sup>111</sup>

In his report to the UN General Assembly in 2023, the Secretary-General also stressed the need for a proactive approach based on the human rights of minorities to combat discriminatory and discriminatory factors against minorities, such as political and economic deprivation, in order to prevent ethnic conflicts.<sup>112</sup>

The report of this Rapporteur, dated March 15, 2022, focuses on conflict prevention through the protection of the human rights of minorities. In this report, Barha emphasizes the importance of addressing the rights and grievances of minority groups in preventing ethnic conflicts, and considers the neglect of this issue to be one of the most important factors in the formation and perpetuation of conflicts in multi-ethnic societies.<sup>113</sup>

Indeed, based on the views of independent experts and special rapporteurs, particularly in the 2022 report, the peaceful resolution of ethnic conflicts requires, above all, an approach in which the human rights of minorities and a minority-centered understanding of the fundamental concepts of the international human rights system, namely equality and non-discrimination, play a central role and position. In order to achieve ethnic peace in multi-ethnic countries, instead of relying on security approaches and, as a result, security-oriented agreements and efforts in this field, approaches should be pursued in which the rights of minorities in their true sense have a primary role and position.

It should be said that the avoidance of security and security-oriented approaches by those concerned should not be interpreted as their neglect of security issues; The aim is to avoid the dominance of security over human rights issues in particular and minority rights in general, which is undoubtedly one of the factors that cause problems in societies based on cultural and ethnic diversity, which reproduces anti-security. Therefore, supporting minorities and paying sufficient and appropriate attention to the rights of these groups are considered essential for preventing and resolving ethnic conflicts. With this explanation, the violation of minority rights can be considered one of the most important factors in the politicization of ethnicity and, as a result, the possibility of ethnic conflict. This makes clear the link between respect for minority rights and peace and security at the domestic, regional and international levels.

Therefore, the very important role of attention to minority rights in the prevention and resolution of ethnic conflicts can be defended.

<sup>110</sup> Independent Expert on Minority Issues (Gay McDougall). Report of the Independent Expert on Minority Issues. A/HRC/16/45, 16 December 2010, paras. 31-44.

<sup>111</sup> Special Rapporteur on Minority Issues (Fernand de Varennes), Report of the Special Rapporteur on Minority Issues, A/HRC/37/66, 16 January 2018, para. 47.

<sup>112</sup> . Special Rapporteur on Minority Issues (Fernand de Varennes), Minority Issues, A/78/195, 16 August 2023, para. 34.

<sup>113</sup> . De Varennes, Conflict Prevention Through the Protection of the Human Rights of Minorities, paras. 20-69.

That is why Rutter considers effective and proactive attention to minority rights and issues after ethnic conflict to be vital to achieving lasting peace. He places minority rights at the heart of ethnic conflicts. Therefore, in his view, it is essential to include minority rights in peace processes and agreements. However, he believes that merely referring to ethnic issues and minority rights is not enough and, for this to be beneficial, he emphasizes the need for the existence of relevant institutions.<sup>114</sup> The concept of adequate and appropriate attention to minority rights is of great importance in both the prevention and resolution of ethnic conflicts.

Can one hope to establish and conclude an ethnic peace agreement in a society that has been embroiled in ethnic conflict, but turn a blind eye and neglect to include the rights of minorities in a peace agreement or any arrangement or measure that aims to resolve and end ethnic conflict? What observers observe in this situation is the confrontation of states and their will and consent on one side of the conflict and international civil society on the other.

In fact, the progress made in the human rights discourse in particular and the system of protection of minorities in general, rather than being the result of cooperation and solidarity between states, is the result of the tireless efforts of human rights institutions and civil society in general, both national and international, which have forced states to step back from their undisputed position.

On this basis, one of the requirements and ways to resolve these conflicts is to pay more attention to the rights of minorities, or in other words, to mainstream the rights and issues of minority groups<sup>115</sup> in the structure and level of the United Nations.

In this context, it is useful and even necessary to take a brief look at the views and recommendations of the Special Rapporteur on Minority Issues in his report of 26 January 2023<sup>116</sup> which can be considered as avenues and ways to mainstream minority rights and issues at the United Nations level. In the first section of his thematic report on strengthening and mainstreaming minority rights in the United Nations, he speaks of the inadequate and deplorable state of minority rights thirty years after the adoption of the 1992 UN Declaration (paragraphs 29-51). However, he goes on to state that it is in the darkest moments that one must seek light (paragraph 52). In this regard, he draws attention to the efforts of civil society organizations and other institutions outside the United Nations. The United Nations recalls (paragraph 53) that, in international law, shaped by the will of States and shaped by the Westphalian bed, national and international civil societies can act as a remedy for the failures and injustices of State institutions and, in this way, help to strengthen support for the rights of minorities at various levels, including the United Nations. However, it is also

<sup>114</sup> Tina Kempin Reuter, "Including Minority Rights in Peace Agreements: A Benefit or Obstacle to Peace process after Ethnic Conflict?", International Journal on Minority and Group Rights 19, 4 (2012) 359

<sup>115</sup> Mainstreaming

<sup>116</sup> . See: Special Rapporteur on Minority Issues (Fernand de Varennes), Strengthening and Mainstreaming the Protection of the Rights of Minorities at the United Nations: An Assessment of the Implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, A/HRC/52/27, 26 January 2023



necessary to encourage States to cooperate in order to achieve a situation It was more appropriate to focus.

That is why, in the Special Rapporteur's view, the most fundamental, most comprehensive and most frequent request in the field of minorities is the conclusion of a treaty to better recognize and protect the human rights of minorities, which would include an implementation mechanism and innovative mechanisms to intervene and assist States in fully complying with their human rights obligations towards minorities. According to the Rapporteur, the time has come to The United Nations should continue to demonstrate that the protection of minorities is an integral part of its mandate and that the promotion of their rights is essential for promoting political and social stability and preventing conflict within and between States (paragraph 64). In this regard, his first recommendation to States, the Human Rights Council and the United Nations is to begin the process of developing a binding instrument on the protection of minorities, based on the draft treaty proposed by the Special Rapporteur on the 2022<sup>117</sup> paragraph (68).

It cannot be denied, of course, that achieving such a document at the global level faces a less than persuasive hurdle for States. Among the Special Rapporteur's other recommendations is the issuance of a new guidance note for the operationalization of the Secretary-General's guidance note on racial discrimination and protection of minorities<sup>118</sup> towards mainstreaming the rights of minorities into all United Nations affairs and activities. Paragraph (69)

It is worth noting that the aforementioned guiding note is, in fact, a guiding light for the United Nations system in confronting racial discrimination and promoting the protection of minorities.

In the same paragraph, the Special Rapporteur calls on the United Nations system to reactivate and implement the integration of minority rights in its activities at the global, regional and national levels paragraph (69)

He further calls on States, the Human Rights Council and the General Assembly to establish a permanent Minorities call for the improvement of the capacity of the United Nations to deal effectively with the pressing problems of minorities (paragraph 70), which is an appropriate way to make minority rights a core issue at the United Nations level.

He said that, in line with the precedents of the Permanent Assembly on Indigenous Issues<sup>119</sup> and the Permanent Assembly on People of African Descent<sup>120</sup> the new Assembly should be inclusive of representatives of minority groups, with due regard to diversity, regional balance and gender equality. be formed to serve in their personal capacity as experts.

This assembly should be held on a rotating basis in New York and Geneva to allow for its simultaneous coordination with the human rights and security mechanisms of the United Nations, and voluntary financial support funds should be established to include organizations, institutions and individuals representing minorities throughout the world.

<sup>117</sup> : [https://www.ohchr.org/sites/default/files/2023-02/Annex1.-A-HRC-52-27\\_0.docx](https://www.ohchr.org/sites/default/files/2023-02/Annex1.-A-HRC-52-27_0.docx)

<sup>118</sup> The Guidance Note of the Secretary-General on Racial Discrimination and Protection of Minorities

<sup>119</sup> The Permanent Forum on Indigenous Issues

<sup>120</sup> The Permanent Forum on People of African Descent

Such an initiative would involve the participation of minorities and the institutions and organizations that are Groups shall have a voice in the United Nations on matters affecting them (paragraph 70).

The adoption by the General Assembly of a day, year or decade for minorities with a view to formally promoting minorities at the national and global levels by the international community and the United Nations, and also to drawing attention to the need to raise awareness of minorities in the world, to encourage action to strengthen understanding and support for the human rights of these groups (paragraph 71) and to promote education in the rights of minorities. minorities at the global, regional and national levels to their staff (paragraph 73), is one of the Rapporteur's other practical recommendations. He also calls on the specialized agencies and other bodies of the United Nations system, within the framework of their fields of activity, to provide training content and programmes on minority rights in relevant languages and through the participation and cooperation of minority organizations and representatives, in the full realization of the rights and principles set forth in the Participate in the 1992 United Nations Declaration on the Rights of Persons Belonging to Minorities (74) and benefit from the useful resources and expertise of central institutions such as the Åland Islands Peace Institute<sup>121</sup> the Institute for Minority Rights at the Academy of Europe in Bolzano<sup>122</sup> and the High Commissioner on National Minorities of the Organization for Security and Co-operation in Europe<sup>123</sup> and their recommendations and guidelines on conflict prevention and protection of minorities (paragraph 75).

Other recommended actions by the Rapporteur include: requesting the Office of the High Commissioner for Human Rights and other United Nations bodies to update their guidelines, policies and other documents on the basis of new developments and perceptions related to minority rights, including in the reports of the Special Rapporteur (paragraph 76), including support for minorities in the implementation of the MDGs in order to ensure that minority groups are addressed in this area, and in the voluntary reports of States in Regarding relevant measures in this field (paragraph (77), the submission of a report by the United Nations Network on Racial Discrimination and Protection of Minorities to the General Assembly on Minority Issues<sup>124</sup> on the activities of each of the Organization's agencies in the field of the rights of minority groups (paragraph (78), the establishment of a position of a Minority Rights Officer in the national and regional offices of the United Nations to provide advice, promote and monitor the implementation of the 1992 Declaration on the Rights of Persons with Disabilities minorities and its transformation into a core issue in the United Nations system (paragraph (79), the issuance of separate guidelines for national human rights institutions by the United Nations (paragraph (80)) and finally the adoption of a resolution by the General Assembly on improving the participation of representatives and institutions related to minorities in the meetings of the United Nations organs on issues affecting them and ... (paragraph (81).

In addition to what was stated in the January 2023 report of the Special Rapporteur The establishment of a specialized institution

<sup>121</sup> The Åland Islands Peace Institute

<sup>122</sup> The Institute for Minority Rights at the European Academy of Bolzano

<sup>123</sup> The OSCE High Commissioner on National Minorities

<sup>124</sup> Forum on Minority Issues

for ethnic conflicts at the United Nations level is another way to promote minority rights at the global level and mainstream them, which is related to the third challenge mentioned above in resolving ethnic conflicts and, for this reason, will be examined separately below.

### **4.3 Establishment of a Specialized Institution for Ethnic Conflicts at the United Nations Level**

In the third section of the first speech, it was said that one of the most pressing challenges of international law in The resolution of ethnic conflicts is a result of the incoherence of the United Nations structure and the one-sided approach to ethnic conflicts. The next step is to establish coordination within the United Nations to address ethnic conflicts and to adopt a comprehensive and, of course, case-by-case approach to these conflicts. The level of attention and attention paid to ethnic conflicts within the United Nations and its components is commensurate with the importance of these conflicts, making them one of the most serious security threats. The post-war world is not cold.

It seems that, given the serious threat that ethnic conflicts pose to international peace and security, special coordination between the various organs of the United Nations, as well as scientific and specialized investigation of the various factors that lead to the emergence of ethnic tensions and conflicts in each case, are necessary. The formation of a specialized institution in this field could lead to greater coordination between the various organs of the United Nations for more effective and better measures in the prevention phase, management and resolution of ethnic conflicts and, in fact, be the center for coordinating related actions in this field.

In addition, such an institution can, by providing a platform for a specialized and case-by-case view of ethnic conflicts, take into account the diversity of causes and roots of these conflicts and target a dimensional approach to them.

It seems that one of the functions, tasks, and of course the benefits of such an institution and mechanism can be It is possible to utilize its capabilities and capabilities for a detailed and on-the-ground study of situations prone to ethnic conflicts in multicultural societies, as well as situations involving conflict and its characteristics in terms of the level of conflict, the intensity of these conflicts, the players involved, and, most importantly and fundamentally, the causes and contexts of their occurrence; especially since international law in the field of ethnic conflicts, a sociological perspective It does not, and the central concepts of these conflicts, such as identity and ethnic identity, are considered, contrary to reality, static and less dynamic.<sup>125</sup>

In fact, the lack of such a framework within the United Nations has led to inconsistency at the level of the organization and, from this point of view, has significantly reduced the ability of international law to resolve ethnic conflicts and, of course, prevent these conflicts in the first place, making it impossible to plan accurately, objectively and, as a result, to adopt A multifaceted approach to the complex and diverse ethnic conflicts of today has also faced a major obstacle. The Peacebuilding Commission<sup>126</sup> which was established as an intergovernmental consultative body of the United Nations in 2005 by the Security Council and the General Assembly, and whose main objective was to coordinate

peacebuilding players around a common strategy, has also been challenged by the competition for control within the Security Council. The General Assembly and the Economic and Social Council, among other factors, have failed to achieve their goals.<sup>127</sup>

In this context, the authors have noted that despite the establishment of this commission with the aim of integrating peacebuilding efforts by various institutions of the international community, the world is still witnessing a fragmentation of policies and actions in this area, which has led to the ineffectiveness of peacebuilding activities by the international community.<sup>128</sup>

Of course, at the regional level, and particularly within the framework of the Organization for Security and Cooperation in Europe, the situation is different from this point of view.

The ultimate goal of supporting minorities is to prevent minority-majority conflicts; This is what the Permanent Court of International Justice, in its famous advisory opinion on the case of minority schools in Albania, referred to when speaking of the intellectual basis of the system of protection of minorities, namely the peaceful coexistence<sup>129</sup> and sympathetic cooperation<sup>130</sup> of the majority and the minority within the framework of a State.<sup>131</sup>

It was in this context and to achieve such an objective that the position of High Commissioner on National Minorities was created. The main mission of this position is to provide early warning and appropriate first steps at the earliest possible stage of potential conflicts arising in the context of issues related to national minorities.<sup>132</sup>

Although the situation in the European region is not ideal, it is by no means better than in other regions of the world, and it is for this reason that it has been recommended that United Nations institutions, in facing various challenges, benefit from the experience of regional organizations, especially European ones, in developing frameworks related to minority issues.<sup>133</sup>

One of the notable developments and appropriate measures in the field of minority protection at the United Nations level is the creation of the position of Special Rapporteur on Minority Issues in the United Nations Human Rights Council, which, of course, first appeared within the framework of the Commission on Human Rights and through resolution 2005/79 on April 21, 2005 under the name of Independent Expert on Minority Issues, and continued to work under the same title from the first report on January 6, 2006 to the report of January 6, 2014, and from the report of August 6, 2014 He works under the name of Special Rapporteur. The mission of the former independent expert and current Special Rapporteur on minority issues is to strengthen the implementation of the Declaration on the Rights of Persons Belonging to National or

<sup>127</sup> Taken from: Kordoni, Culture in the Face of Law, 416.

<sup>128</sup> Ibid 128

<sup>129</sup> living peaceably

<sup>130</sup> co-operating amicably...

<sup>131</sup> PCIJ, Minority Schools in Albania (Advisory Opinion), 1935 P.C.I.J. (ser. A/B) No. 64 (Apr. 6), 6 April 1935, p. 17.

<sup>132</sup> Ulrike Barten; Minorities, Minority Rights and Internal Self-Determination (Cham: Springer, 2015) 156

<sup>133</sup> McDougall, Report of the Independent Expert on Minority Issues, para. 77.

<sup>125</sup> Kordoni, Culture in the Face of Law, 262.

<sup>126</sup> . The Peacebuilding Commission (PBC)

Ethnic, Religious and Linguistic Minorities, in particular through consultations with Governments.<sup>134</sup>

Due to the specialization of this position and its focus on serious issues related to minority groups, it is more likely than in the past to strengthen the minority-oriented perspective on issues related to these groups. This is particularly important in relation to ethnic conflicts, as, for example, one of the 2022 reports of the Rapporteur addresses the role of supporting minority rights in preventing conflict in ethno-culturally diverse societies, and provides valuable insights, suggestions and recommendations in the field of preventing ethnic conflicts.<sup>135</sup>

However, the lack of institutional expertise in the field of ethnic conflicts is still acute. The composition of such an institution should be a mix of representatives of states most at risk of ethnic conflict, representatives of civil society and representatives of minority groups on the one hand, and experts and thinkers from various fields of knowledge on the other.

For example, this institution can rely on the views and information of the institutions monitoring the implementation of the core human rights treaties, as well as the reports of the Special Rapporteurs of the Human Rights Council for fragile states, its thematic rapporteurs, and most importantly, the reports of the Special Rapporteur on minority issues. On the other hand, by submitting reports to the two important institutions of the United Nations, the General Assembly and the Security Council, it can contribute to the agility and equipping of this organization. It should play a positive role in a beneficial, timely and effective confrontation.

The existence of such a special institution for ethnic conflicts can make a significant contribution both to the operational, direct or short-term prevention<sup>136</sup> (the goal of preventing ethnic conflicts and tensions from turning into armed conflict) and to the structural, indirect or long-term prevention<sup>137</sup> (drying up the roots and sources of ethnic conflicts) of the aforementioned conflicts.

Especially by equipping such an institution with an early warning system<sup>138</sup> for identifying situations that are prone to ethnic conflict, there is increasing hope for preventing the outbreak of violent ethnic conflicts. As a result, the existence of this institution can also keep alive the glimmer of hope for resolving these conflicts. It was observed that both the triple challenges and the corresponding approaches are interconnected and reinforce each other.

Although it seems that the magnitude of the challenges of international law in resolving ethnic conflicts and their complexities exceeds the capacities and methods available in this branch of law, it is undoubtedly a futile attempt to remain idle<sup>139</sup> and we must keep the beacon of hope burning brightly for the establishment of peace in a multicultural world.

<sup>134</sup> Special Rapporteur on Minority Issues (Rita Izsák-Ndiaye), Report of the Special Rapporteur on Minority Issues, A/HRC/28/64, 5 January 2015, para. 1

<sup>135</sup> De Varennes, Conflict Prevention Through the Protection of the Human Rights of Minorities, paras. 25-77.

<sup>136</sup> . Operational direct or short-term prevention

<sup>137</sup> Structural, indirect or long-term prevention

<sup>138</sup> Early warning system

<sup>139</sup> Saadi's Poetry Collection, Ghazal No. 45

Perhaps the adoption of a global convention on the rights of minorities, proposed by the Special Rapporteur on Minority Issues in 2022, could provide the basis for such a desire and make the groundwork for supporting minorities a little more level.

## Conclusion

Sometimes processes such as state-building, nation-building, and democratization, which are supposed to be peace-building measures in societies embroiled in ethnic conflicts, themselves become a factor in the escalation of ethnic tensions and differences and the continuation of conflicts based on group identity.

In fact, these processes, which are necessary and effective for achieving lasting peace and reconciliation in post-conflict situations in multicultural societies, can have the opposite effect if the specific situation and characteristics of the target society are ignored and become an obstacle to peace and lead to the return and even intensification of conflicts.

In the current international law approach to resolving ethnic conflicts, a dichotomy has emerged between security and security calculations and human rights, and through the first, minority rights. In this struggle, security has taken the upper hand, and there is no balance in this field. In this unequal struggle, one of the most important and perhaps the most important reasons for the emergence of these conflicts, namely the lack of sufficient attention to the rights of minorities and discrimination against them, is ignored, and as a result, their resolution is faced with a serious challenge.

The lack of a specialized and coordinating institution at the United Nations level for ethnic conflicts has also made it difficult to take effective, focused, comprehensive, and case-by-case action to resolve ethnic conflicts.

Although not all the internal wars that have preceded international armed conflicts in number, intensity, and consequences in modern times have been based on ethnicity, there is no doubt that a significant number of these conflicts have arisen around ethnic issues, including the tragic events in the former Yugoslavia, Rwanda, Sudan, northern Iraq, Burundi, Uganda, Georgia, Nigeria, and Myanmar. For this reason, the need for greater, more precise, and deeper attention to these disputes in international law is clear and self-evident.

In light of the aforementioned challenges, the use of consensual democracy in societies deeply divided along ethnic lines and the support of a comprehensive definition of national identity by international actors, the mainstreaming of minority rights as a core issue at the United Nations level, and the creation of a specialized institution for ethnic conflicts within the United Nations structure can be considered among the capacities and mechanisms available in international law to resolve the aforementioned conflicts.

By supporting a comprehensive definition of national identity, it is possible to give groups from which there is a possibility of divergence a sense of belonging, and to prevent the politicization of ethnicity and, as a result, the transformation of ethnic tension and crisis into ethnic conflict, and if this has happened, to help reduce and eliminate it.

Also, efforts should be made to conclude a binding document on the protection of minorities, to establish a permanent assembly on minorities in order to improve the capacity of the United Nations to effectively deal with the problems of minorities, to adopt a day,

year or decade for minorities by the General Assembly in order to formally recognize minorities at the national and global levels by the international community and the United Nations, and to pay attention to the need to address the concerns of minorities in the world. Measures to strengthen understanding and support for the human rights of these groups and to educate their staff on minority rights at the global, regional and national levels, etc., are among the most important proposals for mainstreaming minority rights at the United Nations level as one of the ways to resolve ethnic conflicts.

In addition, the establishment of a specialized institution in the field of ethnic conflicts within the United Nations could lead to greater coordination among the various components of this organization for more effective and better action in the prevention, management and resolution of ethnic conflicts, and by providing a broader platform for a specialized and case-by-case approach to ethnic conflicts, it would take into account the diversity of causes and roots of these conflicts and aim for a holistic approach towards them. Of course, it should be noted that all proposed solutions must be considered in light of the guiding principle of preserving the territorial integrity of States.

It is practically impossible to resolve minority issues without taking into account the security concerns of States, and ignoring these concerns in the discourse on minority rights, as well as ignoring the rights of minority groups, can itself become one of the challenges for international law in dealing with minority issues.

In the face of rapid changes in the international community, international law is being overshadowed by a relatively new class of conflicts, each of which seriously threatens its effectiveness and future. Ethnic conflicts have seriously challenged the pillars of international law, namely states and their territorial integrity, and its heart, namely international peace and security.

With this analogy and interpretation, the task is somewhat clear, and if the failures and shortcomings of international law in preventing, managing, and resolving ethnic conflicts continue, there is a possibility of regression in international law. Also, the behavior of some lawless states in these years, months, and even days of writing this article draws attention to the nineteenth century in the history of international law developments, which was a time of extreme nationalism and unilateral imperialism and oppressive unilateralism.

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