

ENSURING THE CULTURAL RIGHTS OF KURDISH MINORITY IN TÜRKIYE: NECESSITY, CHALLENGES, SOLUTIONS

MOSTAFA FAZAELI¹, MOUSA KARAMI²

Abstract: Being in non-dominant position and forming one of the largest ethnic groups numerically in Türkiye (previously Turkey), Kurds constitute an ethnic minority. The main argument of this article is that neglecting and disrespecting the cultural rights (CRs) of this group has led to transformation of a social challenge to a political one which ultimately resulted in a security challenge through an armed movement by P.K.K. in the 1980s. Employing a descriptive-analytical method to analyse the content, the present article aims at investigating the necessity of, challenges to and solutions for ensuring CRs of Kurdish minority. It appears that ensuring the cultural rights of Kurdish minority in Türkiye is a pressing necessity particularly for preserving cultural diversity as the common heritage of humanity and maintaining national, regional and international peace and security. Furthermore, the main challenges with which ensuring CRs of Kurds in Türkiye is facing are weak international belief in cultural rights, lack of sufficient national and international monitoring bodies and effective enforcing mechanisms, and dominance of Kemalism as the founding ideology of Republic of Türkiye. Accordingly, the solutions for eliminating these challenges can be strengthening the foundations and developing the sources of cultural rights of ethnic minorities, activating the national and international monitoring bodies and criminalising certain examples of violations of cultural rights and predicting effective sanctions. No article has been written on the necessity of, challenges to and solutions for ensuring the CRs of Kurdish minority in Türkiye in a single piece. Addressing these factors from the perspective of CRs as human rights, this article contributes in filling the existing gap in literature in this regard.

Keywords: Cultural Rights, Ethnic Minority, Kurds, Human Rights, Türkiye.

SUMMARY: 1. INTRODUCTION. 2. GROUNDS FOR NECESSITY OF ENSURING THE CULTURAL RIGHTS OF KURDS IN TÜRKIYE. 2.1. Preservation and Promotion of Cultural Diversity as Common Heritage of Humanity: The Intrinsic Goal. 2.2. Maintaining National, Regional, and International Peace and Security: The Instrumental Goal. 3. CHALLENGES TO ENSURING THE CULTURAL RIGHTS OF THE KURDS IN TÜRKIYE. 3.1. Weak International Belief in Cultural Rights. 3.2. Lack of Sufficient National and International Monitoring Bodies and Effective Enforcing Mechanisms. 3.3. Dominance of Kemalism as the Founding Ideology of Republic of Türkiye. 4. SOLUTIONS FOR ELIMINATING THE CHALLENGES FACING THE ENSURING CULTURAL RIGHTS OF KURDS IN TÜRKIYE. 4.1. Strengthening the Foundations and Developing the Sources of Cultural Rights of Ethnic Minorities. 4.2. Activating the National and International Monitoring Bodies. 4.3. Criminalising Certain Examples of Violations of Cultural Rights and Predicting Effective Sanctions. 5. CONCLUSION.

1. INTRODUCTION

Culture connects the present to the past and the previous generations to the current ones. So, it can be claimed that culture is an integral part of human life and its different aspects. All human beings, regardless of their sex, ethnicity, religion, nationality etc.

¹ Associate Professor, Department of International Law, Faculty of Law, University of Qom, Qom, Iran (m.fazayeli@qom.ac.ir).

² PhD Candidate, Department of International Law, Faculty of Law, University of Qom, Qom, Iran.

are entitled to enjoy rights and freedoms. Put it another way, "we can imagine a world without human beings, but a human being without rights is unimaginable" (Ghaznavi, 2008, p. 534). Cultural rights, as culture-related rights, are considered to be the most marginalised, neglected and non-developed category of human rights in human rights discourse. However, as Polumernopoulou puts it, the enlargement of the concept of culture in the early 1990s and the development of minority and indigenous peoples' rights in the third millennium, along with the growth of UNESCO activities and NGOs' advocacy, have all significantly contributed to the empowerment of cultural rights. The 1993 Vienna Declaration proclaimed, among other things, that 'international human rights law has established individual and group rights relating to the civil, cultural, economic, political and social spheres; the 2005 UNESCO *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* was the first UN binding instrument giving teeth to both the concepts of cultural diversity and intercultural dialogue; the 2005 World Summit Outcome resolution has highlighted the importance of 'respect and understanding for religious and cultural diversity throughout the world; and the 2007 Fribourg Declaration on Cultural Rights considered that respect for diversity and cultural rights is a crucial factor in the legitimacy and consistency of sustainable development based upon the indivisibility of human rights' (Polumernopoulou, 2014, pp. 447-448). Accordingly, cultural rights are slowly replacing traditional narratives pertaining to cultural policies (such as cultural democracy, cultural democratisation, cultural diversity or creativity). However, it should be mentioned that this process is not unequivocal (Romainville, 2015, p. 408, footnote 20).

On the one hand, culture has gained a significant position through the realisation of cultural rights in international human rights law. On the other hand, generally speaking, the definition of cultural rights is closely affiliated with and dependent upon the concept of culture as "one of the most ambiguous and confusing concepts in contemporary era" (Eslami Nodoushan, 2012, p. 112). Taking this fact into account, cultural rights can be broadly defined as human rights that directly promote and protect cultural interests of individuals and communities and that are meant to advance their capacity to preserve, develop, and change their cultural identity. Such rights include rights that explicitly refer to culture, such as the right to take part in cultural life and the right of members of minorities to enjoy their own culture; and rights that have a direct link with culture, such as the right to self-determination; the rights to freedom of religion, freedom of expression, and freedom of assembly and association; and the right to education (Donders, 2015, p. 117). The culturalisation of political life has been on the rise within states as well as internationally. This "battle of the cultures" as some may see it, is part of more fundamental struggle: the struggle for the expression of identity, both personal and political (Stamatopoulou, November 2012, p. 1172). It is due to this fact that nowadays, respect for and promotion of cultural rights is firmly linked to peace in many parts of the world when it comes to minorities and indigenous peoples. From Basque of Spain and the Russians of the Baltic Republics to the Kurds in Türkiye and the indigenous peoples of Ecuador, defending cultural uniqueness is a profound demand and political rallying point (Stamatopoulou, 2007, p. 8). Ethnic minorities are among the groups the existence of which is completely dependent upon the preservation of their culture and its constituent elements. Needless to say, protection of the culture of these groups has a deep relationship with respect for and recognition of cultural rights and their enjoyment by groups' members.

Republic of Türkiye (previously the Republic of Turkey) is a multi-ethnic state in which the Kurds form one of the largest ethnic groups numerically. It is noteworthy that Türkiye is the most populated Kurdish country in the world. In the twentieth century, from the 1920s onwards, Turkish state's relations with its citizens of Kurdish origin have at times been rather problematic. Between 1920 and 1938 alone, that country faced 17 Kurdish rebellions, three of them, those of 1925, 1930, and 1937, being major ones. Then, between 1984 and 1999, Türkiye had been the scene of protracted armed conflict between Kurdish separatists and government forces. The estimated loss of life from both sides during that second round of 'troubles' was around 35.000 (Heper, 2007, p. 1). The tensions between Kurds and the state in Türkiye continues to exist. It appears that, at least, one of the main reasons behind the establishment of Kurdistan Workers Party (KWP-PKK) in the 1980s was the violation of cultural rights of Kurds in Türkiye. For instance, according to the statistics mentioned in Pierse's work, until 1991 it was illegal to speak Kurdish in Türkiye, even in private (Pierse, 1997, p. 325). It is undeniable that despite some positive developments in recent years, Türkiye's approach toward minority groups continues to fall seriously short of existing international standards.

In accordance with a definition offered in 1977 by Francesco Capotorti, the then- Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, "a minority is: A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language" (Capotorti, 1979, p. 96). Accordingly, apart from a sense of solidarity, two criteria must be met to consider a group as a minority in legal terms: 1. the numerical criterion or numerical inferiority to the rest of the population of a State; and 2. being in a non-dominant position (Capotorti, 1979, p. 96). According to *World Population Review*, the population of Türkiye as of January 2022 is about 85,434,479 which is mainly comprised of the Turkish people, who make up 75% of the total population, while Kurdish make up 18%. Other ethnic groups take up the remaining 17% of the total population. The languages spoken by the majority are Turkish and Kurdish, while minority groups speak other languages. The main religion, followed by 99.8% of the population, is Islam, while other religions are followed by the minute .02% of the population³.

The Kurdish language is a West Iranian Indo-European language and as Unal observes, an indigenous and regional one in the area (Unal, 2021, p. 262). In addition, Turkish majority population is comprised of Sunnis of Hanafi school while Kurds in Türkiye are Sunni Muslims who adhere to Shafi'i school. As can be seen, Kurds and Turkish majority in Türkiye differ both in terms of ethnicity and school of Sunni Islam (Fazaeli and Karami, 2016, pp. 54-55). Furthermore, due to the domination of Kemalism as the founding ideology of Republic of Türkiye, non-Turkish ethnic groups including

³ For more information as to the population of Türkiye see <https://worldpopulationreview.com/countries/Turkey-population>

Kurds are in a non-dominant position. As a consequence, in accordance with international law regulations, Kurds constitute an ethnic minority in Türkiye. The main argument of this article is that neglecting and disrespecting the cultural rights (CRs) of this group has led to transformation of a social challenge to a political one which ultimately resulted in a security challenge through an armed movement by P.K.K. in the 1980s. Employing a descriptive-analytical method in analysing the content, the present article aims at investigating the necessity of ensuring the cultural rights of the Kurdish minority in Türkiye, challenges meeting it and solutions for eliminating these challenges. In doing so, first and foremost, it deals with the grounds for the necessity of ensuring the cultural rights of the Kurds in Türkiye. Then, the main challenges existing in this regard would be addressed. Thereafter, the solutions for eliminating these challenges are discussed. It should be noted that examination of the cultural rights of minority groups⁴ is beyond the scope of this article.

2. GROUNDS FOR NECESSITY OF ENSURING THE CULTURAL RIGHTS OF KURDS IN TÜRKIYE

In this section, we attempt to address the main grounds for the necessity of ensuring the cultural rights of Kurds in Türkiye namely preservation of cultural diversity as common heritage of humanity as an intrinsic goal of international minority protection system and maintaining the national, regional, and international peace and security as the instrumental goal of the aforementioned system.

2.1. Preservation and Promotion of Cultural Diversity as Common Heritage of Humanity: The Intrinsic Goal

Where there are minority groups, there is cultural diversity as well and the system of minority rights law is inclined toward the preservation of cultural diversity (Montazeri et al., Winter 2020, p. 196). According to UNESCO, cultural diversity is a prime constituent of human identity and, as a result, it can be considered as humanity's common property. Far from seeing it as a concession to variety on the part of some imaginary singular identity, we must bear in mind the thought that diversity is the very essence of our identity. One strand cannot be set against the other, for they are intertwined. Cultural diversity basically means having to recognise and promote cultural pluralism in the broadest sense of the term. Yet equating human identity with cultural diversity equally means having to recognise that the very concept of diversity itself involves the presence of unity, without which diversity itself would merely amount to multiplicity. Diversity can only exist against a backdrop of unity, and widespread recognition of cultural differences, with all that it entails, is by nature an affirmation of the deep-seated unity of human action— all those differences being observed against a uniform backdrop. Diversity and culture are fundamentally interrelated: culture is diversity, an infinite tapestry of distinctions, nuance and change; a relentless return to all that exists in order to render it both new and the same, to understand it and bring it to life. Culture is, by nature, diverse. Yet, for that same reason, it gives diversity a dimension that surpasses and envelops it. Diversity per se does

⁴ For detailed analysis of cultural rights of minorities see: (Stamatopoulou, 2007, pp. 163-229).

not exist: it is even, in the absence of culture, incomprehensible, and everything looks the same to anyone lacking cultural depth. Diversity is constructed by culture. Culture is what shapes it, gives it scope and meaning. Diversity is essentially cultural, just as culture is diversity (UNESCO, 2002, pp. 3-4).

Pursuant to art. 1 of UNESCO Universal Declaration on Cultural Diversity: "culture takes diverse forms across time and space. This diversity is embodied in the uniqueness and plurality of the identities of the groups and societies making up humankind. As a source of exchange, innovation and creativity, cultural diversity is as necessary for humankind as biodiversity is for nature. In this sense, it is the common heritage of humanity and should be recognised and affirmed for the benefit of present and future generations". Currently, cultural diversity lies at the heart of contemporary world. For earlier multicultural societies, cultural diversity was a morally and politically marginal fact of social life; the former because it did not affect the values and the vision of the good society that animated the mainstream society, the latter because it gave minority communities no or little say in the conduct of collective affairs. By contrast, cultural diversity is a central moral and political fact of modern life, influencing all areas of life and posing problems that require urgent and untried answers (Parekh, 2005, p. 15). Nowadays, cultural diversity has opened its way to the world of human rights both as a value (common heritage of humankind) and a right (in the form of cultural rights, right to self-determination and rights of special groups) (Kardooni and Nikpay, Spring 2016, p. 66).

Cultural diversity is not only an ineradicable fact of modern life but also a value worth cherishing. It adds to the variety of life and has an aesthetic significance. It increases our range of choices and widens the ambit of our freedom. In so far as it alerts us to the fact that the good life can be lived in several different ways, cultural diversity highlights the contingency and mutability of our beliefs and practices. Since no culture is perfect and since each represents only a limited vision of the good life, it needs others to complement and enrich it. Cultural diversity is therefore an important constituent of human well-being. Since other cultures provide us with vantage points from which to look at our own, they enable us to appreciate its strengths and limitations and increase our capacity for self-consciousness, self-criticism and self-regeneration. The diversity of cultures alerts each to the diversity within it, guards it against the dangers of essentialisation and homogenisation, and encourages a most welcome internal debate between its different strands. Cultural diversity and the intracultural and intercultural dialogue it fosters thus expand and deepen our capacity for rationality by highlighting our conscious and unconscious cultural assumptions, and giving us the space and the power to challenge them (Parekh, 2005, p. 15). In the cultural sphere, freedom, diversity, comparison and competition are prerequisites of flourishing. By contrast, cultural monopoly undermines creativity, diversity and freedom. As political monopoly causes political tyranny, cultural monopoly leads the society to cultural tyranny. So, it could be argued that cultural diversity is a constituent component of and a precondition for the freedom of human being.

Furthermore, cultural diversity is promoted and protected through certain human rights and plays a pivotal role in promotion of human rights simultaneously. In fact, the relationship between human rights and cultural diversity is one of the main issues in

international human rights law (Heidari, Spring 2016, p. 44). As Donders states "it is widely agreed that human rights and cultural diversity have a mutually interdependent and beneficial relationship. Many human rights, such as the rights to freedom of expression, freedom of religion, freedom of assembly, as well as the rights to take part in cultural life and to education, play a direct role in the promotion and protection of cultural diversity. At the same time, the enjoyment of human rights is promoted by a pluralistic society. The 2001 Universal Declaration on Cultural Diversity provides that 'the defence of cultural diversity is...inseparable from respect for human dignity' and 'implies a commitment to human rights and fundamental freedoms' (Donders, 2012, p. 377). In another work, she remarks that the framework of human rights, with its system of limitations based on the principles of equality, non-discrimination, as well as the rights of others, could safeguard cultural diversity from being misused for the protection of cultural practices that infringe upon human rights. Within the general human rights framework, cultural rights have special importance for the promotion and preservation of cultural diversity. The category of cultural rights covers many different human rights. Cultural rights are more than merely those rights that explicitly refer to culture but include all human rights that protect or promote components of the cultural identity of individuals and communities as part of their human dignity (Donders, March 2010, pp. 31-32).

As Azizi has pointed out, the preservation of a minority group' identity necessitates the protection of the components of its culture (Azizi, 2015, p. 280). Therefore, it could be argued that respecting and protecting the cultural rights of Kurds in Türkiye seems to be necessary not only to realisation and preservation of cultural diversity, but also for safeguarding the human dignity and identity of persons belonging to this ethnic minority. Additionally, enjoying cultural rights is vital for enjoying other human rights. This is due to the fact that culture as a way of life encompasses all aspects of human life, and consequently, has a close relationship with other human rights. Therefore, any obstacle to implementing cultural rights affects the enjoyment of other categories of human rights negatively. As well, we should bear in mind that ensuring cultural rights is considered to be impossible without full-enjoyment of other human rights including civil, political, economic and social ones. Generally speaking, promotion and preservation of cultural diversity can be regarded as the intrinsic goal of international minority protection based on which it could be concluded that ensuring the cultural rights of Kurds in Türkiye is necessary for achieving this goal.

2.2. Maintaining National, Regional, and International Peace and Security: The Instrumental Goal

Peace, human rights and cultural diversity as universal values are interconnected and promote each other (Farrokhi and A'laie, Summer 2017, p. 198). In particular, the fundamental and undeniable link between human rights and international peace and security is enshrined in the UN Charter. The preamble of the 1948 Universal Declaration of Human Rights associated the protection of human rights with the prevention of violent conflict, stating that "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law". Within the United Nations, the protection of minorities aims

at fostering peace and security as well as the protection of human rights (Kugelmann, 2007, p. 236). That is to say, minority protection system serves as a prevention tool for maintaining and fortifying peace and security.

The history of hostility between Kurds and Turks is a long one and can be traced back to the reign of Suleiman the Magnificent of Ottoman Empire (Çakmak and Şur, 2022, p. 3) who was the first person to kill and imprison Kurds as well as the one who divide their lands for the first time through the 1555 Amasya Peace Treaty (Svanidze, 2009, pp. 191-196). This situation was continued until the establishment of Turkish state after the WW I and the dissolution of the Ottoman Empire. Turkish nationalism aiming at history-making and nation-building increased in the 1950s. The policies followed by the Turkish governments in the 1960s and the 1970s toward non-Turkish groups including Kurds, led to transformation of a social challenge to a political one which ultimately resulted in a security challenge through an armed movement by P.K.K. in the 1980s (Chegnizadeh and Asartamar, Summer 2009, p. 187).

Since the establishment of the Turkish Republic in 1923, the Kurdish issue has existed as a source of internal conflict and instability, but after the beginning of the armed insurgency in 1984 and the declared aim for a separate statehood it became the main threat and security concern for Turkish policy-makers. Till now the conflict has taken the lives of more than 40000 people, cost billions of dollars and has had a detrimental effect on social relationships, contributing to the escalation of ethnic polarisation and nationalism. The perception of the problem as an internal issue changed with the end of the Cold War and the increased dynamics in the Middle East. The Kurdish question turned into the main tool to be used against Türkiye and containing the PKK's threat has become the main focus of its foreign policy. At the same time, foreign policy was highly instrumentalised to achieve goals related to domestic politics (Todrova, 2015, p. 109).

Armed ethnic conflict between Turkish armed forces and PKK partisans, not only has seriously challenged Türkiye's internal security, but also can be a real danger for regional and international peace and security. Even if fought on a low level of intensity, protracted ethnic conflicts have a great impact on the affected society. In addition, these conflicts have very direct effects far beyond their epicentres. These involve refugee flows, internal displacement, regional instability, economic failures, environmental disasters, diffusion, effects, and establishing the conditions for organised crime and terrorism. Neighbouring countries are often overwhelmed and get drawn into the downward spiral following ethnic turmoil. However, neighbouring states, regional and international powers as well as international organisations, which pursue their own interests, directly influence the outcome and dynamics of ethnic conflict. Neighbouring states and the international community can thus be the victims of the troubles in the region or active contributors – sometimes deliberately, in other cases unintentionally- by providing military, economic, or political support of ethnic groups or engaging in negotiation and peace implementation (Kempin Reuter, 2006, p. 44).

Many ethnic conflicts start out as intrastate disputes and then become regional or international crises when foreign powers get involved. Regional instability is as much

as source as a consequence of ethnic conflict. Extensive refugee flows caused by ethnic conflicts can destabilise the ethnic demographics in a neighbouring country and thus lead to another conflict with ethnic dimensions. In some cases, trouble spills over into neighbouring countries. Ethnic conflicts spread in two ways: diffusion occurs when an ethnic conflict in one state stimulates conflict in another state with similar conditions. Successful movements provide images and moral incentives resulting in the motivation and mobilisation of other ethnic movements. Furthermore, escalation or contagion effects occur when a conflict in one country spreads across borders into neighbouring countries in which an ethnic minority has its kinfolk. This usually involves the engagement of new foreign fighters that are employed by local elites (Kempin Reuter, 2006, p. 45).

One of the neighbouring countries on which notable casualties and damages resulting from Kurdish-Turkish ethnic conflicts are imposed is Iran. Activities of PKK forces in west and northwest Iran as well as the establishment of the Kurdistan Free Life Party, or PJAK (Kurdish: Partiya Jiyana Azad a Kurdistanê), not only have caused social insecurity in border counties of the country, but also have led to gross danger for border security of Islamic Republic of Iran. Stimulation of ethnic feelings in Iran, as the motherland of Kurds all around the world, can be added to these effects that itself can be a source of intolerance and insecurity. Now, the Kurdish question in Türkiye is not merely an internal issue and has become a regional and even international one. To sum up, armed conflict between Turkish armed forces and P. K. K. partisans has endangered national security of Türkiye and regional and international peace and security as one of the most important goals of UN which necessitates the ensuring of cultural rights of Kurdish minority in Türkiye more than before.

3. CHALLENGES TO ENSURING THE CULTURAL RIGHTS OF THE KURDS IN TÜRKIYE

The main challenges to ensuring cultural rights of Kurds in Türkiye are considered to be the weak international belief in cultural rights, lack of sufficient national and international monitoring bodies and effective enforcing mechanisms, and ultimately, dominance of Kemalism as the founding ideology of Republic of Türkiye. Accordingly, this section deals with these challenges in 3 sub-sections.

3.1. Weak International Belief in Cultural Rights

Among the second generation of human rights, cultural rights are the most non-developed ones (Saffarinia, 2016, p. 78) that has gained the attention of international community in recent decades due to their role in and effect on the maintenance of regional and international peace and security. These rights are commonly characterised by international legal scholars specialising in the field as a category, which, until relatively recently, was neglected and underdeveloped as regards their normative content, scope of application and legal enforceability. Typically, they have been described as the Cinderella of the human rights family, as forgotten, ragbag, hazy, and almost a remnant category (Yupsanis, 2012, p. 346). In this regard, the cultural rights of minority groups that are among the most vulnerable ones in related societies are more neglected and marginalised (Fzaeli and Karami, 2017, p. 10). The definitional ambiguity as regards cultural rights

is partially to blame for their historical neglect in the human rights domain. Despite the fact that States have repeatedly affirmed the universal, indivisible, interdependent and interrelated nature of all human rights, cultural rights have been consistently overlooked and underdeveloped. It is stated that cultural rights are the failed Cinderella of the international human rights lexicon – pretty to pick sure but they don't quite make it to the ball. Civil and political rights have long been considered more important and prioritised above Economic, Social and Cultural (ESC) rights in human rights practice and discourse. Even when the literature focuses on ESC rights, it routinely does so without giving any real consideration to cultural rights. This neglect is reflected in numerous human rights instruments, which either omit any reference to cultural rights or, alternatively, place them towards the end of the document (quoted in: Luoma, 2021, p. 37).

Cultural rights are faced with certain challenges in terms of growth, development and implementation. Based on the findings of the research conducted by Taheri Hajivand and Jamali, the long-standing dominance of realism in international relations, the pessimistic attitude of international community toward the idealistic approaches, the impossibility of the progress of socialist ideals within the scope of world power, insufficient attention to anthropological foundations of cultural rights, and the issue of indivisibility of human rights are the main barriers to the growth of cultural rights. Furthermore, lack of an agreed upon definition of culture, lack of a common definition as to cultural rights, and lack of any list relating to the examples of human cultural rights are among the factors that hinder the development of cultural rights. Fragmentation of the cultural rights' foundations in different international instruments, inaction of national and international institutions as to the developmental measures as well as the false conceptual mixing of cultural rights with the question of cultural diversity should be added to these factors. In addition, non-existence of specialised institution to implement the cultural rights, the states concern as regards their implementation and lack of international awareness and education about this category of human rights are considered to be the main obstacles to the implementation of cultural rights (Taheri Hajivand and Jamali, May 2021, pp. 164-165).

Cultural rights have invoked, for some governments, the scary spectrum of group identities and group rights that they fear could threaten the "nation" state and territorial integrity. The other side of the coin is that governments may be wary of the threat that majorities may feel from promotion of minority cultures which may lead to claims for collective rights (Stamatopoulou, 2007, pp. 5-6). That being the case, some states including Türkiye maintain that there is no need to grant the minority groups rights beyond general human rights. Türkiye, however, takes the view that there is no need to grant minority status to people of different ethnic origin within the country, except for cases mentioned in the Treaty of Lausanne. Türkiye acknowledges the existence of different ethnic groups, including the Kurds, but it denies them the legal status of a minority. According to the Turkish view, all the country's ethnic groups together constitute the Turkish nation and are first class citizens enjoying equal rights (Arikan, Spring 2002, p. 25). Needless to say, this approach that is based on a formal understanding of equality can lead to indirect discrimination against minority groups and negate their ability and right to preserve their unique and distinct group identity.

3.2. Lack of Sufficient National and International Monitoring Bodies and Effective Enforcing Mechanisms

Lack of sufficient national and international monitoring bodies and effective enforcing mechanisms against the violations of cultural human rights in general and cultural rights of ethnic minorities in particular is another challenge with which Kurds are facing currently in enjoyment of their cultural rights in Türkiye. Undoubtedly, besides recognition and stipulation in legal instruments, monitoring bodies and effective enforcing mechanisms are vital for ensuring the implementation of human rights. Currently, there is no specific international instrument to address the cultural rights of minority groups, including ethnic minorities and their cultural rights, only marginally and non-sufficiently, are mentioned in certain international human rights conventions such as International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), Convention on Rights of the Child (CRC), Convention on Elimination of All Forms of Racial Discrimination (CERD), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) etc. Monitoring treaty bodies in general and the Committees monitoring the two 1966 International Covenants in particular have not had an acceptable performance regarding the cultural rights of minority groups. The primary and main reason behind this non-acceptable performance may be attributed to the aforementioned reasons for neglecting cultural rights in international law and community.

Political will and consent of states, which are yet the most important subjects of international law, are one of the most significant factors for ensuring the implementation of international law regulations including human rights rules and standards. Türkiye has signed (15 August 2003) and ratified (23 December 2003) the 1966 International Covenants as two international binding instruments encompassing certain rules regarding cultural rights⁵. However, due to non-efficacy and non-effectivity of monitoring system of these instruments as to cultural rights of ethnic minorities, actually it is not possible to monitor this state for violation of cultural rights of Kurds. The most significant and effective universal method to protect human rights and fundamental freedoms is individual complaint mechanism based on which the primary victim of violation of human rights can complain before an international body. It is noteworthy that on 10 December 2008, the UN General Assembly adopted the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights⁶. Despite the fact that this right is predicted in 1966 Covenants, is not satisfactorily implicating specifically for minority groups such as Kurds: first, this procedure is optional and dependent upon the consent of the state; second, this method is quasi-judicial and the final decision is not binding upon states. Türkiye has not yet accepted this procedure.

The European Convention on Human Rights and Fundamental Freedoms contains no minority rights provision. Therefore, there is no direct way for members of minority groups such as Kurds in Türkiye to claim minority rights before the European Court of Human

⁵ See <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>

⁶ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, adopted 10 Dec. 2008, G.A. Res. 63/117, U.N. GAOR, 63d Sess., U.N. Doc.A/RES/63/117 (2009).

Rights. Furthermore, besides France, Monaco and Andorra, Türkiye is another country which has neither signed nor ratified the 1995 Council of Europe Framework Convention for the Protection of National Minorities that has a progressive monitoring mechanism⁷. Lack of effective enforcing mechanisms, along with weak international monitoring system regarding the performance of states respecting cultural rights of ethnic minorities have posed a serious challenge on ensuring the cultural rights of Kurds in Türkiye. The significance of enforcing mechanism in legal sphere is such that its lack or weakness has been invoked for denying the legal nature of international law and even its existence as a legal system. Non-criminalisation of violation of certain cultural rights can be added to this challenge. Despite the incorporation of cultural genocide in the draft Convention on the Prevention and Punishment of Crime of Genocide, the opposition of the majority of states in the related negotiations led to its elimination in the final text of the Convention and currently, only physical genocide is criminalised as an international crime (Arashpour and Zahmatkesh, December 2018, pp. 198-199). It is despite the fact that physical and biological acts are not the exclusive ways to destruct a groups and acts measures aimed at the cultural destruction of a certain group can be addressed and criminalised in the framework of cultural genocide (Beigi and Teymouri, Vovember 2021, pp. 129-159). These lacks and lacunas cast the future of cultural rights of Kurdish minority in Türkiye in the doubt.

3.3. Dominance of Kemalism as the Founding Ideology of Republic of Türkiye

One of the permanent challenges and obstacles to recognition of distinct ethnic identity for Kurds in Türkiye and their enjoyment of cultural rights, has been the dominance of tremendously radical views of Kemalism as the founding ideology of Republic of Türkiye. Roots of the official manner of the Turkish state towards the Kurds go back to the formation of the Kemalist ideology and to the first constitution of the state in 1924. The founder of the modern Turkish Republic, Mustafa Kemal, frequently referred to the unity of interest between the Kurds and the Turks before the declaration of the new republic. For instance, Kemal emphasised: “the loyalty of the Kurdish people has been known to us for a long time. The Kurds have always been a valuable help to the Turks. One can say that the two peoples form one.” Whereas, the new Kemalist state had been based on the notion of ‘oneness’, in other words, the Kurds’ national claims had constantly been seen as a threat to the ‘indivisible integrity’ of Turkish lands. The young republic’s constitution, state officials and even the courts denied the Kurdish ethnic identity, and the new state’s policy toward the Kurds was based on denial of their language, culture, history, and continued with a systematic forced assimilation campaign through prohibiting the Kurdish language, use of the expressions of Kurds, Kurdistan, Kurdish and deportation of Kurdish population from the south eastern Türkiye to the western regions of country. The new Turkish state constructed new myths claiming that Kurds were really Turks, they were a clan linked to the original Turkish racial origins, or as it frequently declared by high officials they were the mountain Turks (Sangic, July 2010, pp. 128-129).

As Avci states, "Kurdish identity has been one of the “constant others” of the Kemalist ideology founders" (Avci, 2019, p. 127). In 1923 Mustafa Kemal (Atatürk) created

⁷ See <https://www.coe.int/en/web/minorities/etats-partie>

the modern Turkish Republic. The new government embarked on a radical programme of secularisation, and the creation of a unified, indivisible state based on one language, and one people. By necessity, this required the conversion of an ethnically and linguistically diverse people into a homogeneous population of Turks (Yildiz, 2007, p. 83). It appears that the Kemalist ideology has influenced the identity structure of Republic of Türkiye and it is clearly embodied, *inter alia*, in the first paragraph of the Türkiye's current Constitution⁸ which reads as follows: "Affirming the eternal existence of the Turkish Motherland and Nation and the indivisible unity of the Sublime Turkish State, this Constitution, in line with the concept of nationalism introduced by the founder of the Republic of Türkiye, Atatürk, the immortal leader and the unrivalled hero, and his reforms and principles".

Unlike the rest of the world, which perceives minority to mean groups that differ in ethnic, linguistic, and religious content, in the official discourse of Türkiye this term refers to only a very small portion of the population: non-Muslim citizens who make up in the twenty-first century approximately 0.1 percent of the population. The roots of this narrow understanding lie in the 1454 *Millet* system and the 1923 Lausanne Peace Treaty that came from it. Nearly a century has passed since 1923, during which the world made colossal advances in the area of human and minority rights through various international instruments. The Republic of Türkiye has signed and bound itself to a number of these, but major problems remain, particularly concerning non-Muslims, Alevites, and Kurds. Violations of the rights of the latter two groups, some 15–20 million each, which are not acknowledged as minorities by the state, constitute an existential problem for the existence of Türkiye (Oran, 2021, p. xi).

Dominance of Kemalism in the identity structure of the Republic of Türkiye throughout its history has led to the denial of distinct Kurdish identity, non-recognition of Kurds as an ethnic minority, and consequently their disproportionate enjoyment of cultural rights internationally recognised for ethnic minorities and even now is a really serious challenge for realisation of these rights for Kurds. This ideology and its consequent security approach toward minorities issue including Kurds in Türkiye has caused the lack of political will in Turkish government to sign the UN 1995 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities the only state voted against which was Türkiye. Although enjoying special rights by minority groups is not dependent on the recognition of minorities by states, in practice, the will and act of state is necessary to full enjoyment of human rights including cultural rights by minorities and persons belonging to these groups.

4. SOLUTIONS FOR ELIMINATING THE CHALLENGES FACING THE ENSURING CULTURAL RIGHTS OF KURDS IN TÜRKIYE

The solutions for eliminating these challenges can be strengthening the foundations and developing the sources of cultural rights of ethnic minorities, activating the national

⁸ For the full text of the Constitution of the Republic of Turkey see https://global.tbmm.gov.tr/docs/constitution_en.pdf

and international monitoring bodies and criminalising certain examples of violations of cultural rights and predicting effective sanctions. These solutions are discussed in the following sub-sections.

4.1. Strengthening the Foundations and Developing the Sources of Cultural Rights of Ethnic Minorities

As was seen, weak international belief in cultural rights in general and cultural rights of ethnic minorities in particular is one of the main challenges to ensuring the cultural rights of the Kurds in Türkiye. The authors of the present article maintain that even the other existing challenges, more or less, are resulting from this negative view toward cultural rights of minority groups. Being neglected nationally and internationally, cultural rights are not proportionally protected in national and international legislation. In other words, the sphere of cultural rights is facing with weakness in clarifying the foundations on the one side and shortage and even lack of sources on the other side. We believe that there is a direct and mutual link between strengthening human rights' foundations and development of their sources. That is to say, strengthening the foundations leads to development of sources in practice and developing the sources is one of the methods for strengthening human rights' foundations. In this regard, as it has been argued by Taheri Hajivand and Jamali, dealing with the anthropological foundations of cultural rights as an integral part of the family of human rights is a necessity to draw the attentions to these rights. Cultural rights are deeply rooted in the nature of human beings (Taheri Hajivand and Jamali, September 2016, p. 83); so, it can be claimed that human beings are in need of culture that provides the cultural rights with a base to be realised as human rights.

As one of the reasons behind the neglect facing cultural rights in general and cultural rights of minority groups in particular is related to their ambiguous normative content (Fazaeli and Karami, August 2020, p. 71), a way to strengthening the foundations of cultural rights of ethnic minorities is paying more attention to the normative content of these rights in national and international levels. Human rights are an indivisible and interconnected collection the realisation of one of which is dependent upon the implementation of the others. In the same vein, cultural rights of ethnic minorities can be realised through implementation of their rights and claiming the observation of other human rights without implementing cultural rights of ethnic minorities would not be compatible with reality. Establishing national human rights institutions, developing national plan of actions and promoting national educational programmes, are among the best methods to strengthening the foundations of human rights including those of cultural rights of ethnic minorities. In doing so, Turkish human rights institutions should plan programmes to improve and promote the cultural rights of ethnic minorities and take appropriate measures in this regard including recommending surveillance of existing problems and violations and development of laws to the Turkish authorities and government.

Human rights are among those fundamental issues the realisation, protection and promotion of which in a society is related to and dependant on its legal system (Sha'bani, 2004, pp. 6-25). Türkiye should protect the cultural rights of its ethnic minorities including Kurds through appropriate and effective legislation. As Yolacan states, "it is

unlikely that a permanent solution to the Kurdish Question shall be found without a new civil and democratic constitution. Such a constitution, produced through a transparent and participatory process based on social agreement, should not include any references to any official ideology, should have as its aim the protection of individuals and not the state, should not mention any ‘unamendable principles’ other than democracy, rule of law and the protection of human rights, should use language that shall embrace and be comprehended by all social segments, and should adopt a notion of citizenship that acknowledges Türkiye’s multi-cultural nature with no special emphasis on any ethnic, religious, sectarian, or linguistic identity. Having inclusive language in the preliminary chapter acknowledging Türkiye’s ethnic, religious, and cultural diversity as an asset, along with additional references to the EU’s Copenhagen Criteria, Accession Partnership Document, and other human rights treaties to which Türkiye is a signatory, shall help turn the constitution into a ‘social contract’ in literal sense. Similarly, having a provision acknowledging the right to protection against discrimination, where minority is defined broadly to include anyone who is different from the majority due to some individual characteristic or preference, shall help fight discrimination that Kurds and other individuals and groups confront in their daily lives" (Yolacan, 2008, p. 17).

Measures of Turkish governments as to cultural rights of minorities including Kurds are limited to elimination of certain previous prohibitions and affirmative measures, if any, are rare in this regard. Turkish authorities should provide the respect and promotion of cultural identity and cultural rights of ethnic minorities through enactment of protective laws and acts in the realm of, *inter alia*, linguistic rights and identity manifestations of minority groups. As was mentioned previously, Türkiye has not signed and ratified the Council of Europe's Framework Convention on the Protection of National Minorities that is a leading instrument to protect and promote the rights of minority groups such as Kurdish ethnic minority in Türkiye. The authors are of the opinion that one of the effective and practical steps that the Turkish state can take to realise and ensure the cultural rights of Kurdish minority and show its goodwill and political will to peaceful settlement of the Kurdish question to the Kurdish people and international community is signing and ratifying this Convention, accepting the protective regulations and mechanisms therein, and most importantly, observing them in practice.

Furthermore, the existing international norms as to cultural rights of ethnic minorities should be incorporated in the Turkish national laws. As was mentioned, Türkiye has ratified both 1966 International Covenants. Since international human rights instruments, besides introducing fundamental principles, oblige their state parties to take steps to apply the rights stipulated therein, another measure that can be taken by the Turkish state for ensuring the cultural rights of Kurds is conducting appropriate legal, judicial, budgetary and administrative in order to realisation of the maximum cultural rights internationally recognised for minorities in the Covenants and specifically art. 27 of the ICCPR and arts. 13 and 15 of the ICESCR. The role of the civil society in Türkiye in proceeding the cultural rights of Kurds should not be disregarded and underestimated. Civil society that reflects the improvement of democratic institutions in the world, has had and can play an increasing role in public policies of the states. In particular, activity of Kurd themselves in civil society as the real representatives of Kurdish people in Türkiye,

can pave the way for monitoring the status of Kurds in enjoying cultural rights and the performance of the state in this field.

The education system of the countries plays a pivotal role in proceeding and protecting human rights as long-term processes. Human rights education is both a human right and a mechanism for stopping violence, establishing peace and promoting the development of and respect for human rights (Eslami and Behrouzikhah, February 2014, p. 7). Moreover, there is a deep relation between media and human rights (Navakhti Moghaddam, 2005, p. 31). We believe that awareness-raising among individuals and groups of the nature and substance of human rights including cultural rights that is achievable through clarifying and strengthening the foundations of these rights, is one of the most significant solutions for realisation and promotion of cultural diversity and cultural rights. That is why awareness-raising processes as regards human rights play a notable role in promoting human rights culture and providing the required platforms for respecting and preserving human dignity. Undoubtedly, mass media are of outstanding importance specifically due to their role in awareness-raising and dissemination of information that are based on human right to freedom of information. These media have dual significance in Türkiye, since as was presented in the section regarding the challenges to ensuring cultural rights of Kurds, dominance of Kemalism based on Turkification and domination of Turkish ethnic group in the identity structure of the Turkish state and Turkish people is one of these challenges that has led to cultural intolerance among the Turkish majority and the Kurdish minority.

In the literature on minority rights, relying on the value of cultural diversity, is along with the justification of peace and security and human dignity, an important avenue that is available when advocating for minority rights (Quoted in: Lajcakova, November 2010, p. 2). The underlying idea is that minority cultures are worth protecting per se; they have an intrinsic value. Minority rights are necessary because they promote cultural diversity and protect the diversity of the cultural heritage (Lajcakova, November 2010, p. 2). Promoting cultural diversity and respecting cultural rights of minority groups fortifies cultural tolerance and peace in the multi-cultural societies. Media should put emphasis on the intrinsic value of minority cultures and their entitlement to preservation and protection. Turkish media including Turkish governmental media and Kurdish ones, while dealing with the different historical, ethnic, racial and cultural backgrounds of Kurds and Turks, should emphasise the equal and analogous value of Kurdish and Turkish culture and identity and thereby lay the foundations for cultural and political integrations in the country.

Measures should be taken at international level also to both strengthening the foundations and developing the sources of cultural rights. International organisations and organs pertaining to culture and cultural rights' affairs such as Human Rights Council, UN High Commissioner for Human Rights, UNESCO and international non-governmental organisations and civil society can play a progressive and effective role in this regard. Owing to the significance of cultural rights in maintenance of international peace and security as the main goal for the establishment of UN, the UN Human Rights council, through appointing the Independent Expert in the Field of Cultural Rights in 2010 has put emphasis on the necessity for paying more attention to these rights that can play a remarkable

role in promotion of normative content of cultural rights and monitoring the performance of states in this area. In addition, the special rapporteurs of the Human Rights Council regarding the situation of human rights in the countries address the status of cultural rights of minority groups in the related countries. Preparing the Fribourg Declaration on Cultural Rights by the civil society comprised of distinguished international experts in the field of cultural rights can be considered as a sign for a better future for the realisation of cultural rights and their institutional improvement as well. The landmark general comment no. 21 of the Committee on the Economic, Social and Cultural Rights (CESCR) on the right of everyone to take part in cultural life of Article 15 (1)(a) of the ICESCR and its positive aspects for safeguarding minority cultures is noteworthy in this regard⁹.

Putting emphasis on the indivisibility and interrelatedness of human rights, international bodies such as Human Rights Council, Human Rights Committee, CESCR etc. the mandate of which is, less or more, connected and related to cultural rights should give a special and centric position to cultural rights in human rights discourse. The UN programmes, funds and agencies dedicated to development as well as other governmental and non-governmental organisations should aim at clarifying the close link between economic-political development and cultural development specifically in vulnerable communities and groups such as minorities. It appears that concluding an international convention as to minority rights including their cultural rights that has always been among the main demands of these groups and can potentially play a fundamental role in preservation and promotion of the identity of persons belonging to minorities, is one of the best ways to universal realisation and recognition of cultural rights of minority groups.

4.2. Activating the National and International Monitoring Bodies

Monitoring the implementation of human rights is a vital step in protection and promotion of these rights in international community, beyond the mere standard-making in the realm of human rights, is strictly in need of ensuring the implementation of and respect for rights of human beings (Zamani, February 2006, p. 296). Lack and weakness of mechanisms aimed at monitoring the respect for and promotion of cultural rights of ethnic minorities is another significant challenge to ensuring the cultural rights of Kurds in Türkiye. As Stamatopoulou states, human rights protection through monitoring is the more intrusive arm of the international community aiming at protect human rights from governmental actions of omissions that violate them (Stamatopoulou, November 2012, p. 1177). On this subject, it is noteworthy that in addition to their main task of monitoring the implementation of human rights by governments, international monitoring mechanisms have also contributed considerably to the interpretation of international human rights instruments and the progressive development of human rights norms. This has been particularly valuable in the case of cultural human rights, where human rights treaty bodies have clarified the normative content of these rights (Stamatopoulou, November 2012, pp. 1178). These mechanisms can potentially play an effective role in combating and preventing the violations of human rights (Mehrpour, Winter 2007, pp. 7-42) including cultural ones.

⁹ For more information on the positive aspects of this general comment for safeguarding minority cultures and promoting their cultural rights see: (Yupsanis, 2012, pp. 345-383).

Among monitoring treaty bodies, CCPR and CESCR are of a considerable significance for monitoring the cultural rights of ethnic minorities all around the world including Kurds in Türkiye. These Committees are monitoring two instruments two articles of which namely art. 27 of ICCPR and art. 15 of ICESCR are closely linked to cultural rights of minority groups. In spite of their quasi-judicial nature and non-binding character of their decisions for states, these Committees can play a very effective role in encouraging and urging states to implement and protect cultural rights of ethnic minorities through reflecting the violations of cultural rights of ethnic minorities in international public opinion and employing "naming and shaming" as a tool and method. Both at the conceptual and at the monitoring level, the Committee on Economic, Social and Cultural Rights should demonstrate leadership in the area of cultural rights. The Committee's contribution is indispensable, as it is the most appropriate international expert forum to carry out this analysis and sharing it with states, other international bodies and civil society. The Committee should encourage the development of indicators and benchmarks in the area of cultural rights. It should convene a meeting and foster dialogue with other treaty bodies on the subject as well as with UN minority-related mechanisms (Stamatopoulou, 2007, pp. 251-252). It appears that the ratification of 2008 Optional Protocol to ICESCR by the Turkish state can be potentially an appropriate step toward ensuring the effective fulfilment of cultural rights of Kurdish minority. This new treaty mechanism permits individuals or *groups of individuals* to make complaints to the CESCR, if they have exhausted domestic remedies and believe a member State has failed to observe its obligations under the Covenant (our emphasis). It also provides for an optional inquiries procedure in cases of grave and systematic violations of Covenant rights. Accordingly, encouraging and urging Türkiye to acceptance of the Optional Protocol could be a good assistance in monitoring the cultural rights of Kurds internationally.

Extra-conventional mechanisms can and should play their parts in monitoring cultural rights of ethnic minorities as well. Human Rights Council which has undertaken the protection and promotion of human rights all around the world should pay more attention to cultural rights in general and those of minorities including ethnic minorities in particular, specifically through its special rapporteurs. Reflecting the situation of states as to observing the cultural rights of minority groups, Special rapporteurs of the Council can give the voice to voiceless and force the states such as Türkiye to respect the cultural rights of their minority communities such as Kurds. In this regard, the Special Rapporteur on Minority issues that was established by the Commission on Human Rights in its resolution 2005/79 of 21 April 2005, and subsequently extended by the Human Rights Council in successive resolutions is of particular importance. Focusing on increasing the visibility and raising awareness of minority issues, particularly those related to cultural rights, the Special Rapporteur on Minority issues is able to draw the attention of UN institutions and Member States, general public and other regional and international organisations to cultural rights of minorities thereby play a remarkable role in promotion of these rights for the mentioned groups¹⁰.

¹⁰ For more information about the Special Rapporteur on Minority Issues and specifically its reports to Human Rights Council and the UN General Assembly see: <https://www.ohchr.org/en/issues/minorities/srminorities/pages/annual.aspx>

The other actors that are expected to be influential in ensuring the rights of minority groups including their cultural rights are NGOs that are aimed at protecting human rights, monitoring the compliance of states in fulfilling their human rights obligations and human rights education (Askari and Saeedi, Winter 2016, p. 30). Facing the lack of political will by and inaction of states to pay attention to the situation of human rights in other countries, these organisations can act as an alternative and contribute to protection and promotion of rights of individuals and groups globally. As stated by Schinellbach, NGOs may use their resources to alter public actors' beliefs, ideas, cognitive frames and preferences. In the field of minority policy, NGOs are more likely to opt for arguing than bargaining, with arguing aimed at changing the beliefs and preferences of decision-makers. Information is not used in exchange for influence, but to convince public actors (Schinellbach, December 2012, p. 501). These organisations, at both national and international levels, can monitor the implementation of cultural rights of Kurdish minority in Türkiye. For instance, Amnesty International has played and continues to play a highly influential role in awareness-raising with respect to human rights issues including those related to minority rights and persons belonging to these groups. For instance, Amnesty International played an active and pivotal role in the process led to the release of Mrs. Leyla Zana from prison who was imprisoned in 2002 for speaking in Kurdish at her inauguration as a member of the Turkish parliament. Furthermore, groups and institutions belonging to the civil society in Türkiye as the monitors of the state policies as regards the minority groups in this country can utilise the national and international public opinions for ensuring and realising the cultural rights of the Kurdish minority. Participation of the representatives of the Kurds in these groups and institutions as well as prediction of a special institution aimed at dealing with minority rights in Türkiye that bridge these groups to the state is another way to ensure the cultural rights of Kurds.

4.3. Criminalising Certain Examples of Violations of Cultural Rights and Predicting Effective Sanctions

Since states have the primary responsibility for the protection and promotion of all human rights of people in their territories, including cultural rights, they should increase their attention to and action on these rights. First, states should act to implement cultural rights at the national level (Stamatopoulou, 2007, p. 251). Criminalisation of behaviours threatening these rights and freedoms and punishing the related perpetrators is considered to be a mechanism that should be employed to fulfil this obligation. The authors are of the opinion that criminalising certain examples of violations of cultural rights of ethnic minorities, both nationally and internationally, could be another solution to prevent the commitment of future violations and ensure the cultural rights of such groups including Kurds in Türkiye.

As was previously stated, in contemporary international law, the criminalisation of genocide is limited to its physical and biological aspects and destruction of cultural and identity-related manifestations of the protected groups namely national, racial, religious and ethnic groups is not considered to be an example of genocide under international criminal law-related instruments such as 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) and statutes of ad hoc international

criminal tribunals and International Criminal Court (ICC). In other words, international criminal law has only protected the physical and biological existence of these groups and their cultural and identity existence is not protected under international criminal rules. As Novic states, after 1948, international law primarily took the protective turn triggered by the Universal Declaration of Human Rights (UDHR) rather than the criminal turn initiated by the Genocide Convention. This is particularly salient when it comes to the protection of cultures as encompassed within the 'cultural genocide' concept. Despite its non- inclusion in the Genocide Convention, the international community did not remain completely passive and gradually acknowledged the importance of cultures in relation to fully realising human rights and preventing the perpetration of mass atrocities, as argued by Raphael Lemkin in the early 1930s (Novic, 2016, p. 96).

Reflecting on the definition of genocide in the present international law, one can understand that the motive of the perpetrators in committing such a crime against the protected groups is arising from the different character and identity of those groups. For instance, if an ethnic group being target of the crime of genocide had lacked those ethnic characteristics which make it distinct from the group to which the perpetrators of genocide are belonging and was similar to the late group in terms of culture and identity, genocide never would be committed. In fact, if the targeted group was not culturally distinct from the group the members of which had committed genocide, the commitment of genocide would not have been relevant at all. Consequently, the main and primary reason to commit the physical and biological genocide is to destruct the distinct identity of the targeted group. In other words, genocide is an instrument not a goal in itself. However, due to the costly and time-consuming nature of destructing the culture, perpetrators of genocide that usually are supported by the state, tend to resort to physical and biological genocide. This means that only the way to commit genocide or its actus reus is changed and the psychological motive of the crime that is the main origin of the intent and mens rea of this international crime is untouched. As a result, we believe that deterrence as the ultimate goal of criminalisation of genocide in international law is not realised in its actual meaning. By deterrence here we mean the maximum elimination of malice aforethought that is not appeared to be realised with respect to genocide.

It is noteworthy that according to Bilsky and Klagsbrun, the original conceptualisation of the crime of genocide, as presented by Raphael Lemkin, gave cultural genocide centre stage. In fact, Lemkin thought that a new legal category was needed precisely because genocide could not be reduced to mass murder. The novelty of the Nazi crime lay in the methodical attempt to destroy a group – well beyond typical war crimes and acts of repression. For Lemkin, therefore, the essence of genocide was cultural – a systematic attack on a group of people and its cultural identity; a crime directed against difference itself (Bilsky and Klagsbrun, 2018, p. 374). While its character as a substantial right is questionable, identity has become an important object of concern in international human rights law, one which is likely to be strengthened and to guide the interpretation of the existing framework of protection of cultural rights. The conceptualisation of identity as a guiding principle of international human rights law thus echoes the concept of cultural genocide, by introducing the specificity of the harm caused by certain violations of human

rights, especially concerning the collective right to property over indigenous peoples' ancestral land (Novic, 2016, p. 121).

We believe that certain examples of grave violations of cultural rights of ethnic minorities such as destruction of cultural and identity-related manifestations through absolute prohibition of using mother tongue in public and private spheres and forced, systematic and widespread transfer of minority populations should be regarded as genocide and be criminalised in international criminal law. This can lead to the strengthening the foundations and development of sources of cultural rights both at national and international levels. If it is crystal clear that the ICC may not exercise jurisdiction over offences which are not included in the Statute, states may well introduce in their internal legislation crimes which are not included in the ICC Statute and pave the way for future changes to be proposed also with respect to the ICC Statute (Frulli, 2011, p. 216). The states can speed up the incorporation of cultural genocide in the ICC Statute through criminalising the most serious violations of cultural rights of ethnic minorities and echo in in international circles and assemblies. Imposing the individual criminal responsibility on the perpetrators, this can ensure the cultural rights of ethnic groups such as Kurds in Türkiye.

It appears that certain acts committed already against Kurds in Türkiye can be considered as international crimes within the jurisdiction of ICC. An act proposed by Lemkin that was incorporated in the draft Genocide Convention and currently is stipulated in the final text of the Convention and statutes of international criminal courts and tribunals and most importantly ICC Statute is "forcibly transferring of children of the [targeted] group to another group". One may argue that forced transfer of Kurdish children from their homeland to Turkish-populated regions in order to be trained in Turkish language and acquisition of Turkish culture and identity and, as a consequence, forgetting Kurdish culture and identity can be regarded as an example of this act that has been called as killing children softly by Amir (Amir, 2015, pp. 41-60). Discussing the physical violence against minority children, *inter alia*, Kurdish children in Türkiye, Skutnabb-Kangas states that this violence has been used to separate them from their parents and their own group, and punishing them for speaking their own language. She continues arguing that first of all the children were separated from their parents and their own group. Schools were centralised in the areas where minorities lived. But even if these were sparsely populated or poor areas, which might have meant centralised schools for majority children, too, one can see the placing of minority children in different kinds of boarding school as a measure consciously aimed at assimilation. By isolating these children from their own groups the authorities prevented them from learning anything (or at least anything significant) about their own culture, history, language and traditions, their own values and characteristic occupations. They often felt strangers to their own culture and ethnic groups because they knew nothing of them. They no longer felt at home (Skutnabb-Kangas, 1987, pp. 308-312).

From the establishment of Republic of Türkiye up to last years of the 1990s, many Kurds were forced to leave their ancestral land that undoubtedly has an undeniable role in formation of minority groups' distinct culture and identity. According to Jongerden, as part of its counter-insurgency operations, Turkish Armed Forces evacuated and destroyed rural settlements on a large scale. According to official figures, 833 villages and 2,382 small

rural settlements, totalling 3,215 settlements, were evacuated and destroyed 14 provinces in the East and Southeast, namely Adiyaman (Semsûr), Ağrı (Qerekose), Batman (Êlih), Bingöl (Çewlik), Bitlis (Bidlîs), Diyarbakır (Amed), Elazığ (Xarpêt), Hakkari (Julemerg), Mardin (Mêrdîn), Muş (Mûş), Siirt (Sêrtê), Şırnak (Şirnex), Tunceli (Dêrsim) and Van (Wanê). In these provinces, the total number of rural settlements (villages and hamlets) had been 12,737. In other words, around a quarter of all rural settlements in the east-southeast region of Türkiye were emptied. Numbers provided by the Human Rights Association (HRA) in Türkiye and the Kurdish Human Rights Project (KHRP) suggest that most evacuations occurred in the period 1991-1995, peaking in 1993-1994. The approximate number of settlements evacuated and destroyed is not really in dispute, but the number of people affected has been a subject of great controversy. Government sources are extraordinarily precise. They report that 384,793 people were evacuated during the 1990s. Human Rights Organisations, however, claim that Türkiye deliberately presents low numbers to camouflage the magnitude of the displacement, and have estimated the number of displaced at as high as 3 to 4 million (Jongerden, 2010, p. 79). We think that these acts can be considered "deportation or forced transfer or forcible transfer of population" as one of the acts that in accordance with art. 7 of the ICC Statute fall under crimes against humanity. Para. 2(d) of this article reads:

"(d) Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law".

In accordance with the mentioned article, acts listed are crimes against humanity "when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack". It appears that all of these conditions are realised in deportation and forcible transfer of Kurds by Turkish authorities.

Another act that is provided for in art. 7(1)(h) of the ICC Statute is "persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognised as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court". According to art. 7(2)(g), it "means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity. Some scholars are of the opinion that acts against cultural heritage during peacetime is persecution and fall under the category of crimes against humanity (Frulli, 2011, p. 217) within the jurisdiction of the ICC. It is worth mentioning that Türkiye had had taken very adverse policies against historical-cultural heritage of Kurdish minority up to 1990s. It appears that making Turkish authorities accountable for these measures in international circles can play an important role in preventing similar future acts all around the world and strengthening the foundations of cultural rights specifically those of minority groups.

To conclude, we are in agreement with Stamatopoulou in her fantastic book that "for the sake of peaceful societies and peaceful relations among states, the vision of public

policies should be away from sustaining, encouraging and creating myths of a cultural or "blood" purity of society, but rather focus on the re-shaping of national identities to include today's multicultural realities. In this era of increasing awareness about the need for preventive measures, it is likely that sooner rather than later politicians shall have to deal with this issue, and international organisations should be able to assist in those processes. Human development, in order to be sustainable, shall have to take place in a culturally respectful and relevant policy environment that addresses people's cultural rights. Crucial as cultural rights are in the preservation or building peace and in development, they should not be viewed only in terms of their functionality in these crucial areas of each society. Cultural rights should also be appreciated and respected as distinct human rights, as part of each person's and each group's humanity and integrity" (Stamatopoulou, 2007, pp. 249-250). In fact, respecting cultural diversity and its promotion has an outstanding role in the realisation of international peace and security (Farrokhi and A'laie, September 2017, p. 179). Furthermore, we maintain that taking a cultural approach towards human rights is not only a useful strategy in promoting human rights, but also a necessary step toward the fortification of a human rights culture around the globe. In other words, there is a need to ground human rights in culture. As Stamatopoulou puts it in her paper, "grounding human rights in culture means listening to the local communities and peoples, dialoguing with the diversity of the world, and bringing the international/universal to the local. One of the best ways of doing that is by fostering genuine popular participation and by protecting and promoting cultural rights" (Stamatopoulou, November 2012, p. 1192). Accepting and respecting cultural diversity and protecting and promoting cultural rights of minority groups is a must-to-do for the realisation of multidimensional development and progress of multicultural societies.

5. CONCLUSION

No article has been written on the necessity of, challenges to and solutions for ensuring the CRs of Kurdish minority in Türkiye in a single piece. Addressing these factors from the perspective of CRs as human rights, this article contributes in filling the existing gap in literature in this regard. The authors believe that taking a human rights approach towards the security issues such as the Kurds' in Türkiye can be more effective in solving the tensions and reaching a peaceful agreement. Cultural rights are an integral part of human rights which are universal, inalienable and interconnected. However, due to some reasons such as the link between these rights and the variable and fluid notion of culture, lack of political will by states and international society to deal with these rights, the perceived threat for nation-state and doubt in their human rights nature etc., cultural rights are less-developed in comparison to other categories of human rights. Any individual, regardless of his/her group or social class, is entitled to enjoy cultural rights. Enjoying cultural rights by persons belonging to minorities is of great significance, because their cultural rights is more susceptible to breach due to the vulnerable and non-dominant position of minority groups. Consequently, paying attention to and recognition of cultural rights and taking special measures for persons belonging to minority groups seems to be necessary for preserving their human dignity.

Being in a non-dominant position, forming the one of the largest ethnic groups of Türkiye numerically and sharing characteristics such as common language, culture,

history, cultural heritage and ethnic identity, Kurdish population are considered to be an ethnic minority under the regulations and standards of international minority rights law and, as a consequence, are entitled to enjoy those rights recognised for ethnic minorities in international law including cultural rights. It appears that ensuring the cultural rights of Kurdish minority in Türkiye is a pressing necessity particularly in terms of both preserving cultural diversity as common heritage of humanity and maintain national, regional and international peace and security. Furthermore, the main challenges to the ensuring cultural rights of Kurds in Türkiye seem to be the weak international belief in cultural rights, lack of sufficient national and international monitoring bodies and effective enforcing mechanisms, and ultimately, dominance of Kemalism as the founding ideology of Republic of Türkiye. Accordingly, the solutions for eliminating these challenges can be strengthening the foundations and developing the sources of cultural rights of ethnic minorities, activating the national and international monitoring bodies and criminalising certain examples of violations of cultural rights and predicting effective sanctions. No article has been written on the necessity of, challenges to and solutions for ensuring the CRs of Kurdish minority in Türkiye in a single piece. Addressing these factors from the perspective of CRs as human rights, this article contributes in filling the existing gap in literature in this regard. The authors believe that taking a human rights approach towards the security issues such as the Kurds' in Türkiye can be more effective in solving the tensions and reaching a peaceful agreement.

For the sake of peaceful societies and peaceful relations among states, the vision of public policies should be away from sustaining, encouraging and creating myths of a cultural or "blood" purity of society, but rather focus on the re-shaping of national identities to include today's multicultural realities. In this era of increasing awareness about the need for preventive measures, it is likely that sooner rather later politicians shall have to deal with this issue, and international organisations should be able to assist in those processes. Human development, in order to be sustainable, shall have to take place in a culturally respectful and relevant policy environment that addresses people's cultural rights. Crucial as cultural rights are in the preservation or building peace and in development, they should not be viewed only in terms of their functionality in these crucial areas of each society. Cultural rights should also be appreciated and respected as distinct human rights, as part of each person's and each group's humanity and integrity. We have to give back an international human rights vision in a culturally specific way. Grounding human rights in culture means listening to the local communities and peoples, dialoguing with the diversity of the world, and bringing the international/universal to the local. One of the best ways of doing that is by fostering genuine popular participation and by protecting and promoting cultural rights.

REFERENCES

- AMIR, R. (2015). 'Killing Them Softly: Forcible Transfers of Indigenous Children'. *Genocide Studies and Prevention: An International Journal*, 9(2), pp. 41-60. doi: <https://dx.doi.org/10.5038/1911-9933.9.2.1289>
- ARASHPOUR, A. & ZAHMATKESH, M. (December 2018). 'The Capacity of the Contemporary International Law in Recognition of the Concept of Cultural

- Genocide'. *International Law Review*, 34(57), pp. 197-227. doi: 10.22066/cilamag.2017.27970 [In Persian]
- ARIKAN, H. (Spring 2002). 'A Lost Opportunity? A Critique of the EU's Human Rights Policy Toward Turkey'. *Mediterranean Politics*, 7(1), pp. 19-50. <https://doi.org/10.1080/713604550>
- ASKARY, P. & SAEEDI, N. (Winter 2016). 'Monitoring the Human Rights Implementation by International NGOs'. *Public Law Research*, 18(53), pp. 107-141. <https://dx.doi.org/10.22054/qjpl.2022.58734.2569> [In Persian]
- AVCI, E. U. (2019). 'Denial of the Kurdish Question in the Personal Narratives of Lay People'. *Ethnicities*, 19(1), pp. 156-173. <https://doi.org/10.1177/1468796818786307>
- AZIZI, S. (2015). *Minority Protection in International Law*. 2nd edition, Tehran: Shahr-e-Danesh Publication. [In Persian]
- BEIGI, J. & TEYMOURI, M. (November 2021). 'A Look at Cultural Genocide as an International Crime'. *Police International Studies Journal*, 12(47), pp. 129-159. doi: <https://doi.org/10.22034/interpol.2021.202589.1073> [In Persian]
- BILSKY, L. & KLAGSBRUN R. (2018). 'The Return of Cultural Genocide'. *European Journal of International Law*, 29(2), pp. 373-396. doi: <https://doi.org/10.1093/ejil/chy025>
- ÇAKMARK, Y., ŞUR, T. (2022). 'Margins of Allegiance and Revolt: Relations between Kurdish Tribes and the State from the Late Ottoman Period to the Early Modern Republic'. *International Journal of Conflict and Violence*, 16, pp. 1-15. doi: <https://doi.org/10.11576/ijcv-5952>.
- CAPOTORTI, F. (1979). *Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities*. New York: United Nations.
- CHEGNIZADEH, Gh. And Asartamar, M. (Summer 2009). 'Ethnic Movements of Kurds and Turkish National Security'. *Foreign Relations Review*, 1(2), pp. 185-218.
- DONDERS, Y. (March 2010). 'Do Cultural Diversity and Human Rights Make a Good Match?'. *International Social Science Journal*, 61(199), pp. 15-35. <https://doi.org/10.1111/j.1468-2451.2010.01746.x>
- DONDERS, Y. (2012). 'Human Rights and Cultural Diversity: Too Hot to Handle' (Column). *Netherlands Quarterly of Human Rights*, 34(4), pp. 377-381. doi: <https://doi.org/10.1177/016934411203000401>.
- DONDERS, Y. (2015). 'Cultural Human Rights and the UNESCO Convention: More than Meets the Eye', in C. D. Beukelaer, M. Pyykkonen and J. P. Singh (eds.), *Globalization, Culture, and Development: The UNESCO Convention on Cultural Diversity*, pp. 117-131, London: Palgrave Macmillan Publishing. https://doi.org/10.1057/9781137397638_9.
- ESLAMI NODOUSHAN, M. A. (2012). *Culture and Semi-Culture*. Tehran, Sahamy-e-Enteshar Company Publication. [In Persian]

- ESLAMI, R. and BEHROUZIKHAH, A. (February 2014). 'Human Rights Education for Banishing Violence'. *Journal of Legal Research*, 13(25), pp. 6-33. https://jlr.sdil.ac.ir/article_32615.html [In Persian]
- FARROKHI, R. & A'LAIE M. (Summer 2017). 'The Principle of Respecting Cultural Diversity in International Instruments and Its Relationship with Peace'. *Culmination of Law Journal*, 3(19), pp. 179-216. http://www.thdad.ir/article_186590.html?lang=en [In Persian]
- FAZAELI, M. and KARAMI, M. (2016). *Protecting the Cultural Rights of Ethnic Minorities in International Law: With a View on Kurdish People in Turkey*. Tehran: Shahr-e-Danesh Publication. [In Persian]
- FAZAELI, M. and KARAMI, M. (2017). 'Protection of Minorities' Culture and Cultural Rights in the Light of CESCR's General Comment No. 21'. *Public Law Research*, 19(56), pp. 9-32. <https://dx.doi.org/10.22054/qjpl.2017.11166.1262>. [In Persian]
- FAZAELI, M. and KARAMI, M. (August 2020). 'Analysing the Conceptual Development of Culture in International Human Rights Law and Its Impact on the Promotion of Cultural Rights'. *Journal of Legal Research*, 19(42), pp. 59-79. https://jlr.sdil.ac.ir/article_111300.html [In Persian]
- FRULLI, M. (2011). 'The Criminalization of Offences against Cultural Heritage in Times of Armed Conflict: The Quest for Consistency'. *European Journal of International Law*, 22(1), pp. 203-217. <https://doi.org/10.1093/ejil/chr002>
- GHAZNAVI, J. (2008). *Ontological View to Law*. Qom: Vahdatbakhsh Publication. [In Persian]
- HEIDARI, F. (Spring 2016). 'The Relationship between Human Rights and Cultural Diversity'. *Journal of Protection of Women's Rights*, 1(3), p. 44-57. <http://ensani.ir/file/download/article/20160712134511-10062-13.pdf> [In Persian]
- HEPER, M. (2007). *The State and Kurds in Turkey: The Question of Assimilation*. London: Palgrave Macmillan Publishing.
- JONGERDEN, J. (2010). 'Village Evacuation and Reconstruction in Kurdistan (1993-2002)'. *Études Rurales*, 186, pp. 77-100. <https://doi.org/10.4000/etudesrurales.9241>.
- KARDOONI, N. and NIKPAY, A. (Spring 2016). 'Multiculturalism, the State and Rights of Minorities'. *Law Research Journal*, 19(75), pp. 65-93. https://lawresearchmagazine.sbu.ac.ir/article_56223.html [In Persian]
- KEMPIN REUTER, T. (2006). *Ethnic Conflict and International Law: Group Claims and Conflict Resolution within the International Legal System*. Zurich: University of Zurich.
- KUGELMANN, D. (2007). 'The Protection of Minorities and Indigenous Peoples Respecting Cultural Diversity'. *Max Planck Yearbook of United Nations Law*, 11 (1), pp. 233-263. doi: <https://doi.org/10.1163/18757413-90000007>.
- LAJCAKOVA, J. (25 November 2010). 'Exploring Cultural Diversity as a Justification of Minority Rights in the Context of Slovakia'. Paper presented in seminar on

Heritage for the Future, Budapest, Bulgaria 2. Available at: http://cvek.sk/wp-content/uploads/2015/11/Lajcakova_Heritage_for_the_Future.pdf

- LUOMA, C. (2021). 'Closing the Cultural Rights Gap in Transitional Justice: Developments from Canada's National Inquiry into Missing and Murdered Indigenous Women and Girls'. *Netherlands Quarterly of Human Rights*, 39(1), pp. 30-52. <https://doi.org/10.1177/0924051921992747>
- MEHRPOUR, H. (Winter 2007). 'International Mechanisms and Their Deterrence Effect in Violation of Human Rights'. *Foreign Relations Quarterly*, 1(4), pp. 7-42. http://frqjournal.csr.ir/article_123507.html [In Persian]
- MONTAZERI, A., BASERI, B., FAQIH HABIBI, A. & BEHNIYA, M (Winter 2020). 'Studying the Relationship Between Cultural Diversity in Iran and Human Rights Law'. *Political Researches of the Islamic World*, 9(4), pp. 189-225. URL: <http://priw.ir/article-1-1016-fa.html>.
- NAVAKHTI MOGHADDAM, A. (2005). 'The Functional Role of Mass Media in Promotion of Human Rights and Establishment of Perpetual Peace'. *International Journal of Human Rights*, 4(1), pp. 31-48. https://humanrights.mofidu.ac.ir/article_21267.html [In Persian]
- NOVIC, E. (2016). *The Concept of Cultural Genocide: An International Perspective*. Oxford: Oxford University Press.
- ORAN, B. (2021). *Minorities and Minority Rights in Turkey: From the Ottoman Empire to the Present State*, Translated by J. William Day. Boulder, Colorado: Lynne Rienner Publishers.
- PAREKH, B. (2005). 'Dialogue between Cultures', in R. Maiz and P. Requejo (eds.), *Democracy, Nationalism and Multiculturalism*, London: Frank Cass Publishers.
- PIERSE, C. (1997). 'Violation of Cultural Rights of Kurds in Turkey'. *Netherlands Quarterly of Human Rights*, 15(3), pp. 325-341. doi: <https://doi.org/10.1177/092405199701500304>.
- POLUMERNOPOULOU, E. (2014). 'Cultural Rights in the Case Law of the International Court of Justice'. *Leiden Journal of International Law*, 27(2), pp. 447-464. doi: <https://doi.org/10.1017/S0922156514000107>.
- ROMAINVILLE, C. (2015). 'Defining the Right to Participate in Cultural Life as A Human Right'. *Netherlands Human Rights Quarterly*, 33(4), pp. 405-436. doi: <https://doi.org/10.1177/016934411503300404>.
- SAFFARINIA, M. (2016). 'The Cultural Rights in International Human Rights law: Reduced Speed in A Demanding Context'. *Comparative Law Researches*, 20(2), pp. 77-103. <http://clr.modares.ac.ir/article-20-6476-fa.html> [In Persian]
- SAGNIC, C. (July 2010). 'Mountain Turks: State Ideology and the Kurds in Turkey'. *Information, Society and Justice*, 3(2), pp. 127-134. <http://repository.londonmet.ac.uk/104/>

- SCHINELLBACH, C. (December 2012). 'The Role of NGOs in Promoting Minority Rights in the Enlarged European Union'. *Perspectives on European Politics and Society*, 13(4), pp...
- SHA'BANI, Q. (2004). *Constitutional Law and the Sovereignty's Structure of Islamic Republic of Iran*. Tehran, Ettela'at Publication. [In Persian]
- SKUN\TNABB-KANGAS, T. (1987). *Bilingualism or Not the Education of Minorities*, translated by L. Malmberg and D. Crane, Bristol: Multilingual Matters Limited.
- STAMATOPOULOU, E. (2007). *Cultural Rights in International Law; Article 27 of the Universal Declaration of Human Rights and Beyond*. Leiden: Martinus Nijhoff Publishers.
- STAMATOPOULOU, E. (November 2012). 'Monitoring Cultural Human Rights: The Claims of Culture on Human Rights'. *Human Rights Quarterly*, 34(4), pp. 1170-1192. doi: <https://doi.org/10.1353/hrq.2012.0065>
- SVANIDZE, M. (2009). 'The Amasya Peace Treaty between the Ottoman Empire and Iran (June 1, 155)'. *Bulletin of the Georgian National Academy of Sciences*, 3(1), pp. 191-197.
- TAHERIHAJIVAND, E. and JAMALI, H. (September 2016). 'Studying the Anthropological Origins of Human Cultural Rights'. *Intercultural Studies Quarterly*, 11(29), pp. 81-111. <https://www.sid.ir/fa/journal/ViewPaper.aspx?id=309169> [In Persian]
- TAHERI HAJIVAND, E. & JAMALI, H. (May 2021). 'Barriers to Growth, Development and Implementation of Human Cultural Rights'. *Journal of Culture-Communication Studies*, 22(53), pp. 139-168. doi: <https://doi.org/10.22083/jccs.2019.203520.2920> [In Persian]
- TODROVA, A. (2015). 'Turkish Security Discourses and Policies: The Kurdish Question'. *Information & Security: An International Journal*, 33(2), pp. 108-121. <https://dx.doi.org/10.11610/isij.3305>
- UNAL, Aynur (2021). 'Beyond Mother Language; Kurdish as a Regional and Indigenous Language'. *The Journal of Mesopotamian Studies*, 6(2), pp. 245-265. doi: <https://doi.org/10.35859/jms.2021.976874>
- UN General Assembly (10 December 2008). *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*. G.A. Res. 63/117, U.N. GAOR, 63d Sess., U.N. Doc.A/RES/63/117 (2009).
- UNESCO (2002). *Cultural Diversity: Common Heritage, Plural Identities*. Paris: UNESCO 2002).
- YILDIZ, K. (2007). *The Kurds in Iraq: Past, Present and Future*. London: Pluto Press.
- YOLACAN, S. (2008). *A Roadmap for a Solution to the Kurdish Question: Policy Proposals from the Region for the Government*. Translated from Turkish into English by: N. Ayan, Istanbul: Turkish Economic and Social Studies Foundations (TESEV) Publications.

YUPSANIS, A. (2012). 'The Meaning of Culture in Article 15 (1) (a) of the ICESCR – Positive Aspects of CESCR's General Comment No. 21 for the Safeguarding of Minority Cultures'. *German Yearbook of International Law*, 55, pp. 345-383. <https://www.jstor.org/stable/j.ctv1q69ns4.13>

ZAMANI, S. G. (February 2006). 'Universal Monitoring on Compliance with Human Rights: From UN Human Rights Commission to Council of Human Rights'. *Journal of Legal Research*, 5(9), pp. 295-314. https://jlr.sdil.ac.ir/article_44513.html [In Persian]

Received: August 4th 2022

Accepted: March 12th 2023

