

**ETHNO-POLITICAL CONFLICTS IN POST-COMMUNIST SOCIETIES:
PROSPECTS FOR RESOLUTION AND PREVENTION
IN THE CONTEXT OF INTERNATIONAL LAW**

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INTRODUCTION

On the threshold of the 21st century, the international community tries to do its best in order to guarantee that our civilization, entering the new millennium, puts an end to any form of domination of one peoples over another, to the reasons for such domination, and to the whole idea of inequality. The contemporary world is facing now a very serious problem - contradiction between nations in the realm of multinational states. The integration processes, taking place all over the world, have their opposites - the people's aspiration to preserve or even increase their identity, promote their national values, develop their culture, etc. Unfortunately, these processes often lead to inter-national collision. The new expectations and hopes, stimulating national self-consciousness in all fields, require new approaches to reconcile national and ethnic interests.

Ethnic conflict appears to be a permanent form of social and political struggle in the modern world. No major region is free from it. In its more acute manifestation, it may turn into murderous, destructive violence. One recent study demonstrated that between 1945 and 1980, state-sponsored massacres of members of ethnic and political groups were responsible for greater loss of life than all other forms of deadly conflict combined, including international wars and colonial and civil wars. Since World War II, some 40 ethnic or communal groups have been victimized in this fashion, in some cases including genocide.¹

Ethnic conflicts pose a threat not only to international peace and stability, they are also a threat to the very countries involved in the conflict. Conflicts tend to divert the parties' attention, efforts, material and human resources from more important tasks. They create a nourishing environment for increasing the amount of crimes inside the countries, for developing extremism, even terrorism, for the violation of political as well as socio-economic human rights, etc., thus undermining the most important foundations of vitality of these states and occasionally leading to the complete disappearance of the states themselves.

The recent events in the former communist countries of Central and Eastern Europe may be used as an example of it. The situation between Czechs and Slovaks escalated to such an extent that the state, which was a homeland for both Czechs and Slovaks for most of the 20th century, has now been formally dissolved, and two new states, the Czech Republic and Slovakia, have emerged. More graphically, Yugoslavia ceased to exist as well, and the wounds from the most destructive war of the 90's will require many years to heal. The dissolution of the former USSR brought to light a number of

¹ See Kumar Rupesinghe, "Theories of conflict resolution and their applicability to protracted ethnic conflict", Kumar Rupesinghe, ed., *Ethnic Conflict and Human Rights* (Oslo: Norwegian University Press, and Tokyo: United Nations University Press, 1988).

serious ethnic problems, which in some former Soviet republics took the form of nationalistic extremism, and in the worst scenario led to violence and war in Central Asia and the Caucasus.

This paper does not seek to describe the factual events which took place in Eastern Europe and the former USSR,² but rather it will analyze the roots of ethnic conflicts in these countries, trace the correlation between the characteristics of states (democratic and totalitarian) and their reaction to ethnic issues, and will focus on an analysis of the conflicts deriving from the denial of the right of peoples to self-determination, from the violation of the rights of minorities, and from policies of nationalism. Specific emphasis will be put on assessing the effectiveness of political and legal means at a national, regional, and international level in resolving inter-ethnic conflicts.

THE ROOTS OF ETHNIC CONFLICTS IN THE POST-COMMUNIST SOCIETIES

The ethnic tensions in different forms were imminent to all communist societies, and the governments of the former Soviet Union, Yugoslavia, and Eastern European countries dealt with their particular "nationalities question" using a variety of legal and political means during the years of Communist rule. However, major problems remained unresolved and had surfaced into open political conflicts in the late 1980-s. Early in 1990, after period of *glasnost* and *perestroika* latent Baltic and Ukrainian nationalism became more open; Lithuania unilaterally declared its independence from the Soviet Union. In Eastern Europe, as the Soviet domination faded, disadvantaged minorities like Turks in Bulgaria, Hungarians in Romania, Albanians in Yugoslavia became more insistent on voicing their complaints.

Before identifying the roots of contemporary conflicts, a definition of "ethnic conflict" is needed. Often this term is used widely, to address a wide range of interstate conflicts that are actually not ethnic in their character.³ Chaim Kaufmann defines "ethnic conflicts" as "disputes between communities which see themselves as having distinct heritages..."⁴ Michael Brown limits ethnic conflict to "a dispute about important political, economic, social, cultural, or territorial issues between two or more ethnic communities."⁵ Rodolfo Stavenhagen adds that "ethnic conflicts generally involve a clash of interests or a struggle over rights: rights to land, education, the use of language, political representation,

² For the description of the factual events in Central Europe, Eastern European countries and former USSR, see Suzanne Goldenberg, *Pride of Small Nations. The Caucasus and Post-Soviet Disorder* (London and New Jersey: Zed Books Ltd., 1994); Fiona Hill, "Russia's Tinderbox". Conflict in the North Caucasus and its Implications for the Future of the Russian Federation", *Strengthening Democratic Institutions Project* (September 1995); "Report on Ethnic conflict in the Russian Federation and Transcaucasia, *Strengthening Democratic Institutions Project* (July 1993); Stephan Iwan Griffiths, "Nationalism and Ethnic Conflict. Threats to European Security", *SIPRI Research Report No. 5.*(Oxford University Press, 1993), pp. 16 - 87.

³ For example, Rodolfo Stavenhagen thinks that the term "ethnic conflict" covers a wide range of situations. See Rodolfo Stavenhagen, *The Ethnic Question. Conflicts, Development, and Human Rights* (New York: United Nations University Press, 1990), p.76.

⁴ Chaim Kaufmann, "Possible and Impossible Solutions to Ethnic Civil Wars", *International Security*, vol. 20, no. 4 (Spring 1996), p. 138.

⁵ Michael E. Brown, "Causes and Implication of Ethnic Conflict", Michael E. Brown, ed., *Ethnic Conflict and International Security* (Princeton, New Jersey: Princeton University Press, 1993), p. 5.

freedom of religion, the preservation of ethnic identity, autonomy, or self-determination, etc."⁶ Thus, ethnic conflict arises as a result of the clash of ethnic group interests or group rights.

In many instances, ethnic conflict is not violent in character (for example, the struggle of French Canadians in Quebec, or Czechoslovakia's "velvet divorce"), but it may become so with the involvement of full-scale military hostilities and actions, such as war in Bosnia or in the Caucasus. When ethnic conflict becomes violent, it tends to be particularly destructive, leaving people homeless, causing massive refugee flows, and serious violations of human rights. That is why international community is so preoccupied with the impact of ethnic conflicts not only on the domestic situation, but also on international peace and order.

Ethnic conflicts can be foreseen in certain circumstances, but often they emerge suddenly and unpredictably. Usually, these conflicts are disguised for long periods under the surface of apparently stable societies, and states are unaware or unwilling to recognize the potentially explosive nature of the underlying contradictions, until the conflict suddenly bursts.

There may be a number of reasons why ethnic conflicts arise: reaction of the ethnic groups to their discrimination or oppression; the dissatisfaction of an ethnic group with its status in the society, and so on. It is generally recognized that poor economic conditions are the major reasons for many contemporary ethnic demands. Although true in most cases, one should not simplify the problem by reducing it to a form of simple economic struggle. No matter how ethnic conflict manifests itself, there are usually several reasons underlying this conflict.

Some observers believe that ethnic conflict is fundamentally a psychological problem, the solution to which could be found in "conflict-management" techniques. This approach underlines the subjective, psychological elements in ethnic identification and confrontation. Emphasis is placed here on so-called primordial affiliations: the in-group feeling that characterizes every human group, the hostility felt for all "others", the rejection of "them" by "us". Ethnic conflict, according to this viewpoint, is simply the open expression of latent, permanent attitudes.⁷

Others see in ethnic conflict more "structural" forces at work, such as unequal access to resources, economic benefits, or political power between different ethnic groups.

Some theories pay attention to the social organizational aspects of the ethnic group and the maintenance of ethnic boundaries. Within this perspective, ethnic conflict represents a specific kind of conflict between two different types of social organization. It is the society that defines the ethnicity of an individual, of the member as well as of the outsider, and not the individuals who crystallize the ethnic identity of a society.⁸

⁶ Rodolfo Stavenhagen, *The Ethnic Question. Conflicts, Development, and Human Rights*, p. 77.

⁷ See Paul Brass, ed., *Ethnic Groups and the State* (London: Croom Helm, 1985).

⁸ About different approaches to the explanation of ethnic conflicts, see Ted Robert Gurr, Barbara Harf, *Ethnic Conflict in World Politics* (Doulder, San Francisco, Oxford: Westview Press, 1994), Chapter 5.

While some theories emphasize that conflicts tend to break out when the forces (usually legal and political institutions of the state), which keep inter-group hostility under control, break down for any reasons, still others stress political power and its distribution within the wider society. In a society ethnic groups are unequal and they tend to struggle over political power. Ethnic conflict within the pluralistic society is, therefore, a purely political struggle which should be resolved only by political means.⁹

All these alternative approaches to ethnic conflict are not mutually exclusive. There may be structural causes to ethnic conflicts, but the dynamic of the conflicts themselves involves group psychology. In reality, the underlying causes of ethnic conflict are usually much more complex. A combination of all of the above mentioned factors as well as the fact that the issues at hand are politically sensitive should be taken into account.

Unfortunately, no comprehensive and widely accepted theory of the causes of ethnic conflicts exists. Rather, there are only approaches and hypotheses that seek to explain particular aspects of ethnic conflicts. In addition to above mentioned theoretical explanations there are also the "domino" theory, the modernization theory,¹⁰ the theory of the end of ideology.¹¹

Traditional Marxist analysis related ethnic problems to the dynamics of the class struggle. Some authors would even deny any reality whatsoever to ethnicity, labeling it merely as an ideological ploy used to distract attention from more serious matter of the class struggle.

Michael E. Brown in his recent book "The International Dimensions of Internal Conflict" attempted to summarize the scholarly literature on the courses of ethnic conflict in modern world by examining four main groups of factors for ethnic conflicts: structural factors, political factors, economic\social factors, and cultural\perceptual factors.¹²

Among structural factors three major components were identified: weak states; intra-state security concerns, and ethnic geography. A weak state, according to Brown, lacks political legitimacy, politically sensible borders, and political institutions capable of exercising control over its territory. The weakening of the state structures may often lead to the eruption of violent ethnic conflicts, because in a weak state, ethnic groups tend to be more able to assert themselves politically by claiming more autonomy or even independence. The second structural prerequisite for ethnic conflict deals with the state security systems in which ethnic groups operate and the security concerns of these groups. A weak state can not ensure the security of individual groups, and these groups must then provide for their own security. As Barry Posen explains, in system where anarchy prevails, individual groups have

⁹ Ibid., Chapter 5.

¹⁰ About modernization theory, see, for example, Walker Connor, "Nation-Building or Nation-Destroying?", *World Politics*, 24 (April 1972), pp. 319-355; Arend Lijphart, "Political Theories and the Explanation of Ethnic Conflict in the Western World: Falsified Predictions and Plausible Postdictions," *Ethnic Conflict in the Western World* (Ithaca and London: Cornell University Press, 1977), p. 57.

¹¹ About the theory of the end of ideology, see Robert Melson and Howard Wolpe, "Modernization and the Politics of Communalism: A Theoretical Perspective," *American Political Science Review*, 64 (December 1970), p. 1122.

¹² See Michael E. Brown, ed., *The International Dimensions of Internal Conflict* (Cambridge, Mass.; London, England: The MIT Press, 1996), p. 14.

to provide for their own defense, and worry about whether other groups pose security threats.¹³ The problem groups face is that, in taking steps to defend themselves - mobilizing armies, etc. - they often threaten the security of others. Groups are often unaware of, or are insensitive to, the impact that their actions will have on others. This, of course, is the situation in Eastern Europe and the former Soviet Union, where central authority has collapsed, and groups emerging from an old empire have to provide for their own defense. Ethnic geography is the third structural prerequisite for ethnic conflict, which means that states with ethnic minorities are more prone to conflicts than others, and certain kinds of demographics are more problematic than others. Countries with different kinds of ethnic geography are likely to experience different kinds of internal problems.¹⁴

Among the political factors which can predetermine ethnic conflicts, discriminatory political institutions, exclusionary national ideologies, inter-group politics, and elite politics are considered to be the most important. The prospects for the conflict in a country depend significantly on the type of a state's political system. Authoritarian systems are more likely to generate resentment from the discriminated groups, than democratic systems, although the latter do not absolutely guarantee peace in the society, especially when some groups have inadequate representation in the government, political parties, etc. If a state employs the policy of oppression and violence towards some groups, then conflicts will almost inevitably occur. The same is true for the nature of the prevailing national ideology. Countries where citizenship is based on ethnic distinctions, rather than on the idea of equality of all people, are more prone to develop ethnic tension and conflicts. The prospect for ethnic conflict is also great in countries where ethnic groups have ambitious objectives, strong senses of identity, and confrontational strategies. Finally, ethnic conflict is often provoked by elites in times of political and economic turmoil.¹⁵

Some economic and social factors, such as economic problems, discriminatory economic system, and the trials and tribulations of economic development and modernization have been identified as potential sources of ethnic conflict. Economic problems, especially economic slowdown, stagnation, deterioration, and collapse can greatly contribute to intra-state tensions and destabilization. A discriminatory economic system with unequal economic opportunities and unequal access to resources for different members of the society, can also aggravate the ethnic problems. The process of economic development places strains on existing social and political system as well, which can result in instability and internal conflict.¹⁶

Two cultural and perceptual factors are also considered to be sources of ethnic conflicts. The first is discrimination against minorities. The second factor has to do with group histories and group perception of themselves and others. Groups' histories become part of a groups' lore. They tend to be highly selective in their coverage of events and biased in their interpretation of these occurrences.

¹³ See Barry R. Posen, "The Security Dilemma and Ethnic Conflict", Michael E. Brown, ed., *Ethnic Conflict and International Security* (Princeton, New Jersey: Princeton University Press, 1993), pp. 104-111.

¹⁴ For a more detailed observation of the structural factors, see Michael E. Brown, "Introduction", Michael E. Brown, *The International Dimensions of Internal Conflict*, pp. 13 -16.

¹⁵ For detailed observation of the political factors, see Michael E. Brown, *The International Dimensions of Internal Conflict*, pp. 16-18.

¹⁶ For an overview of economic/social factors, see Michael E. Brown, *The International Dimensions of Internal Conflict*, pp. 18-20.

Grievances are enshrined, and other groups are portrayed as inherently vicious and aggressive. Group members typically treat these ethnic myths as received wisdom. These kinds of beliefs and perceptions create tremendous escalatory pressures. Serbs, for example, see themselves as heroic defenders of Europe and they see Croats as belligerent thugs; Croats see themselves as valiant victims of oppression and Serbs as congenital aggressors. Under such circumstances, the slightest provocation on either side simply confirms deeply held systems of beliefs and provides the jurisdiction for a retaliatory response. These problems are particularly pronounced in countries which authoritarian regimes suppress ethnic histories. Therefore, it is not a surprise that the effects of ethnic mythology are especially pronounced today in Eastern Europe and the former Soviet Union.¹⁷

Having considered all these factors which might cause ethnic conflict, one should keep in mind two things. First, these theoretical explanations are limited and none of them by themselves could give a sufficient explanation of why ethnic strife rises in certain regions, or in certain parts of the same region; Second, while all these causes could make ethnic conflict possible and sometimes make it highly probable, the question is whether these factors by themselves will be sufficient for ethnic conflict to break out. The answer is not clear cut.

A better understanding of the nature and causes of ethnic conflict in the contemporary world could be achieved by exploring the nature of the ethnic state and its relations with ethnic groups. Almost all societies in the world accommodate more than one ethnically distinct group or community. The vast majority of modern states are multinational. However, not all these states have adequate constitutional or other legal provisions for their diverse ethnicities. While some multinational states adopt the government structures which reflect the cultural, linguistic, and religious diversity of its population, others choose to ignore their multiple ethnicity altogether, or provide for it in such a fashion that it provokes misunderstanding, tensions, friction, and sometimes violence between different ethnic groups or between the state and a specific ethnic group. Thus, a contradiction between the ethnic composition of the population and the nature of the state may lead to potentially serious ethnic conflicts.

Another model of the multinational state is a state which has the structure of multinational empire. The former Soviet Union was a typical multinational empire where different nations co-existed with a number of minority nationalities within the framework of a federal union. In the USSR the rights of all republics were legally recognized and incorporated into the Constitution of the Soviet Union and various national laws. Although, according to the Soviet constitution, all republics had the formal right to secede from the Union, in reality it was expected that the republics would remain in the Union, and any open expression of separatist nationalism was strongly discouraged. This “stable” situation was changed in early 1990’s by the Baltics states decision to withdraw from the Soviet Union and become independent. Before the events of 1989-90, the official policy of the Communist Party tended mostly towards economic, social, and cultural development and the abolition of socio-economic inequalities between nations and peoples within the socialist States. The main objective of the Soviet policy towards its nationalities was to achieve the merger of its different constituent nations and the emergence of a new “historical community” - the Soviet people. National differences were thought to be diminishing and actually disappearing in the communist societies.

¹⁷ See Michael E. Brown, *The International Dimensions of Internal Conflict*, pp. 20-22.

With the break-up of the USSR yet another pattern of relationship between a state and its ethnic components with another set of problems has arisen in the Soviet successor states and the states of Central Europe free from Soviet domination. The first set of problem is related to the citizens' main expectation from their country. Generally, citizens expect that the state should provide security and promote economic prosperity for them. In parts of Eastern Europe and the former Soviet Union, where state structures have weakened or collapsed altogether, the feeling of insecurity among the population has increased over the recent years. New state structures are being established, and in many cases these countries are not yet in the position to provide for the security and well-being of their citizens. Thus, it is not surprising that in some cases, ethnic minorities feel persecuted by the new states in which they find themselves. The second set of problems is connected to the fact that the newly emerged states have been organized according to a "nationality principle". At the same time, sizable national minorities live on the territory of some of them and occasionally these minorities are related to the majority ethnic kin groups in neighbouring countries. In such cases, the problem of "national minorities" can become a major issue in these countries, particularly when the government tries to deny that minorities exist at all, such as the government's attitude towards the Hungarian minority in Romania, or Bulgaria's treatment of its Turkish minority.

There is a tendency among journalists, policy makers, and academics to explain the outburst of ethnic conflicts in Eastern Europe and the former Soviet Union as a result of the collapse of authoritarian communist rule which has created such conflicts. "The Soviets ... created a host of ethnic problems that they proved incapable of dealing with in the final years of the USSR, and left as their legacy to their successors" - states Roman Szporluk.¹⁸ There is some truth in this statement. Many policies were undertaken during the socialist regime which added to the aggravation of ethnic tension in these countries. Take, for example, the deportation of whole nations - the Chechens, the Ingush, the Crimean Tatars, the Volga Germans, and the Meskhetian Turks - under Stalin in the former USSR. The creation of Nagorno-Karabakh, for instance, lacked not only national legitimacy, but a capacity to function as an administrative and political entity. In Bulgaria during the assimilation campaign of 1984-85 the authorities denied the existence of ethnic Turks in the country and the inhabitants of Turkish villages were forced to change their names from Turkish-Islamic ones to those deemed more Bulgarian.

At the same time, one must not forget that ethnic problems existed in these countries long before communist rule. It is not fair to assume that the communists are to blame for all the ethnic conflicts that have emerged during the recent years. This single-factor explanation is too simplistic and inadequate. It does not explain why conflicts have broken out in some places, but not in others, and why some of ethnic disputes grow into ethnic wars, while others remain more or less nonviolent in character (Ukrainians and Russians are getting along relatively well; Serbs and Slovenians had a short, sharp clash; Serbs, Croats, and Bosnian Muslims have waged open warfare; Armenians and Azeris were fighting a protracted war for years). As Rein Mullerson rightfully points out in his works, "the ideology and practice of communism undoubtedly influence them (ethnic conflicts) and often made their

¹⁸ Roman Szporluk, "Introduction. Statehood and Nation Building in Post-Soviet Space", Roman Szporluk, ed., *National Identity and Ethnicity in Russia and the New States of Eurasia* (Armonk, New York, London: M.E. Sharpe, 1994), pp. 4-5.

resolution more painful. But communism rarely created them."¹⁹ Even the main idea of the Soviet leadership about the elimination of all ethnic differences and the creation of the Soviet people was not very different from assimilationist policy pursued by many Western countries.

Ethnic contradictions can develop in any country. Recent years have witnessed the emergence of ethnic conflicts not only in Eastern Europe and the former USSR but all over the world. In the early eighties, ethnic violence broke out in Asian countries (for example, in Sri Lanka between the Tamil minority and the Singhalese majority, in India between the Indian State and the Sikh minority). The escalation of ethnic tension has led to destructive conflicts in Africa (bloody civil war in Nigeria between ethnically differentiated regions and segments of the population; massacres and persecution of one ethnic group by another in Rwanda and Burundi; ethnic-political struggles in countries such as Mozambique, Zimbabwe, Zaire, Chad, and Angola). In Western Europe ethnic problems have become a matter of concern as well. Some countries face the renewal of ethnic problems which were considered to be resolved long ago (the Britons and Corsicans in France; the Scottish and Welsh in Great Britain; the linguistic conflict between the Flemish and Walloons in Belgium; the conflict in Ulster between Catholics and Protestants; in Spain between Basque and Catalans). In Canada linguistic and ethnic demands by the francophone population and the native Canadians have become controversial political issues in recent years, leading to constitutional changes.²⁰

Such diverse conflicts lead to the conclusion that there is hardly a direct correlation between ethnic problems and nature of social system existing in a country. One must admit that the Soviet totalitarian regime, instead of addressing unresolved nationality questions, suppressed them for a long period of time, and then to some extent created additional grievances by deporting entire peoples, by creating or changing the territorial boundaries, and by encouraging the migration for work which created new courses of friction. However, in order to understand the depths and scope of ethnic politics in post-communist Eastern and Central Europe, it is insufficient simply to connect ethnic problems with the socialist systems and communist rule. In reality, the roots of most ethnic problems lie much deeper.

It is evident that the roots of almost all ethnic conflicts are in the history of the individual country. In the case of the former Soviet Union it is the development of the Russian empire and after that the development of the Soviet unitary state which increased the division between the society and the state, between the people and the government, and between different social groups.

Historically, Russia was always the totalitarian state (either it was the Russian empire or the Soviet Socialist state) with the strong power and ability to repress any kind of instability, including ethnic conflicts. The state had a strong power to regulate the ethnic development and ethnic correlation. The democratization process led to a decrease in the repressive power of the state. On the other hand, democratization triggered the division of the society which manifested itself, among other things, in massive opposition consolidated by the populist slogan of "self-determination." And this is true not only for Russia and the newly independent states of the former Soviet Union, but Eastern European

¹⁹ Rein Mullerson, "Minorities in Eastern Europe and the Former USSR: Problems, Tendencies and Protection", *The Modern Law Review Limited*, 1993, pp. 795.

²⁰ See *Ethnic Conflict in the Western World*, Milton J. Esman, ed., (Ithaca and London: Cornell University Press, 1977).

countries as well. Since the collapse of the USSR virtually all East European states have been profoundly racked by ethnic and autonomist movements demanding some degree of political self-determination, a share in national decision making, and a more equal economic redistribution. Minorities as well as majorities were preoccupied with the revival of their ethnicity. On several occasions the aims of different national groups have clashed, resulting in the conflicts that threatened to undermine the further progress of democratic reform in these countries.

Along with the ethnic conflicts which were inherited from the past, Russia has a new phenomenon - a so called "new generation" of ethnic conflicts. The roots of these conflicts are also in the past of the former Soviet Union, but they are provoked today by new political realities, by the redistribution of political power in newly independent states. These conflicts are initiated by ethnic groups in order to change their political, social, and cultural status, or to declare more prominently their existing status. The conflicts in Nagorno-Karabakh, Sumgait, and Ossetia are examples of the "new generation" of ethnic conflicts.

Thus, ethnic conflicts in post-communist societies are pre-determined by historical circumstances, triggered by the difficulties of the current transitional period, mainly by the underdeveloped political system which lacks the clear mechanism for conducting a dialog with nationalities. At the same time, the direct reason for the activation of the old ethnic conflicts and emergence of the "new generation" of conflicts is the transformation of the whole socio-political and state systems which have led to the complete collapse of the old regime and old model of ethnic status and ethnic relationship, but has not established the new norm of the functioning of the political system which will determine the new democratic model for the status of ethnicities.

Additionally, in analyzing the roots of ethnic conflicts in the Eastern European countries and new states of the former Soviet Union one should also not forget to take into account geopolitical considerations: by nature most of these countries were created artificially after World War I. For example, Yugoslavia and Czechoslovakia were created without much regard for the aspirations of the nations that were forced into them. The borders of Hungary were drawn in a manner that left nearly a third of the Hungarian nation of 15 million outside the limits of Hungarian state.

The newly emerged states of Eastern Europe are still multi-ethnic. In many of these states such ethnic diversity has existed for centuries. Some of this diversity, however, is due to the Soviet regime. But the future of these new states depends to a great extent on how they resolve the ethnic problems within their boundaries.

Many of the current ethnic conflicts that are taking place in many countries all over the world, including the East European region and the countries of the former Soviet Union, have become associated with assertions of the right of self-determination.

Historically, the right of self-determination of peoples is associated with Woodrow Wilson, although the very concept of self-determination may be traced to Aristotle. Woodrow Wilson used the term "self-determination" in the context of nation-building after World War I and thought of self-determination as a right for colonial peoples. He tried to incorporate the concept of self-determination into the Covenant of the League of Nations, but was unable to succeed because the concept was considered too amorphous.

Today, self-determination, having been proclaimed in the United Nations Charter (Article 1(2) and Article 55), the International Covenants on Human Rights, the Helsinki Final Act and in other international documents, has become an integral part of international law, and is recognized by the world community as one of the most important principles governing the international cooperation in the field of human rights.²¹ In 1952 the UN stated: "the right of peoples and nations to self-determination is a prerequisite to the full enjoyment of all fundamental human rights."²²

According to international documents, self-determination is a right belonging to all peoples. "By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development."²³ In general, self-determination is an expression of people's will regarding their political status in relations with other nations and states in the world community, and regarding their internal political organization. Therefore, the right of peoples to self-determination combines two interrelated rights: the right to freely determine their future international status, and the right to choose political, economic, social and cultural system. Thus, there are two aspects of self-determination: external and internal. Theoretically, one may discuss "external" and "internal" self-determination, although, in practice, the two are closely interconnected.

External self-determination, as determined by the UN General Assembly Declaration on the Granting of Independence to Colonial Countries and Peoples (1960),²⁴ was to be applied in the first place to peoples of non-self-governing territories or the colonial peoples, and it has been interpreted as such for a long time. According to that interpretation, peoples have the right to freely choose their place in the world community and to liberate itself from "alien" rule. States governing the colonies have an obligation to guarantee to peoples the possibility to exercise this right. According to the General Assembly Resolution 2625 (XXV), in exercising this right peoples can decide upon the creation of independent state, joining another independent state, unification with another state, or establishing any

²¹ About the status of self-determination in international law, see Ian Brownlie, *Principles of Public International Law* (4th ed., Oxford, 1990), p. 513, 515.

²² UN General Assembly Resolution 637 (VII).

²³ International Covenant on Civil and Political Rights, Article 1; International Covenant on Economic, Social, and Cultural Rights, Article 1.

²⁴ UN General Assembly Resolution 1514 (XV).

other political status. No matter what form of self-determination is chosen, freedom of choice should be the main condition observed.

The question whether the right to self-determination has been recognized as applicable outside the context of de-colonization is widely debated in the literature. For a long time self-determination has been interpreted as a right applicable only to colonial peoples, or rather, territories. Many authors agree, that despite the references in General Assembly Resolutions 1514 and 2625 to the self-determination of “all peoples,” in practice the right of self-determination has been limited to “colonial peoples.” Rupert Emerson, for example, affirms that the purpose of self-determination was to end overseas colonialism, and once this is achieved, self-determination ceases to exist.²⁵ Hector Gross Espiell stated: “The United Nations established the right of self-determination as a right of peoples under colonial and alien domination. The right does not apply to peoples already organized in the form of a state which are not under colonial and alien domination.”²⁶

In my opinion, such interpretation of the principle of self-determination is outdated. It would be more proper to suggest that this principle went through several stages of its development. Initially, it was developed in the UN mainly in the context of de-colonization process. Later, by the virtue of its inclusion in Article I of the International Covenants on Human Rights, self-determination received a broader meaning and should be understood as the right applicable to *all* peoples, regardless of whether they live in colonies or not. Self-determination presumes the right of peoples of independent state to be free from any kind of foreign intervention. That means that the use of military or economic force by one state in order to influence internal or external policy of the other state should be regarded as serious violation not only of such principles of international law as “non-use of force” and “non-interference”, but also of the principle of self-determination. The same can be applied to the situation where one state occupies the territory of another state, as a result of which peoples are unable to freely determine their destiny on the occupied territory.

The latest stage in the development of the principle of self-determination is connected with the Helsinki process and filling the context of this principle with humanitarian contents. The Document of the Copenhagen Conference on Human Dimension of 1990 introduces a novelty: the freedom to choose political, social, economic and cultural system in the society is limited to the respect for international standards of human rights. This requirement in no way diminishes the very principle of self-determination; it only imposes parameters for a society to be democratic which is (or should be) the aim of the self-determination principle. I will return to this subject later.

While the application of the self-determination principle to the peoples living on the occupied territory is more or less clear, the situation with peoples living within the territory of independent and internationally recognized states is more complicated. Do they possess the right to external self-determination according to international law? In light of the dissolution of the USSR and Yugoslavia, the question about legitimacy of secession often rises. The latter is a controversial question, and the

²⁵ See Rupert Emerson, "Self-Determination", *American Society of International Law*, 135, 1966, pp. 136-137.

²⁶ *The Right of Self-Determination. Implementation of the United Nations Resolutions*. Study prepared by Hector Gross Espiell, Special Reporter of the Sub-Commission on Prevention of Discrimination and Protection of Minorities (New York : United Nations, 1980), p.10.

recent events in Eastern Europe and the former Soviet Union have to some extent contributed to its clarification.

THE RIGHT TO SECESSION? International doctrine on this matter suggests that the concept of self-determination does not include the right to secession for peoples living in an independent and sovereign state.²⁷ At the same time, several authors have argued that some form of a “right to secession” should be recognized as part of the right to self-determination.²⁸ As for international law itself, it does not contain any provisions, encouraging secession. Moreover, I would suggest that one should be cautious in using the term “the right to secession,” since there is no positive international right to secession.

Within the UN the doctrine of self-determination has been applied in regard to de-colonization and implementation of the mechanisms for the non-self-governing territories with clear meaning to put an end to multinational empires, but not to promote the fractious divisions of existing states, which clearly follows from paragraph 6 of the 1960 Declaration which states: “any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a country is incompatible with the Purposes and the Principles of the Charter of the United Nations.”²⁹

The UN Declaration on Friendly Relations of 1970 added an important new dimension from which some conclusions on the legitimacy of the claim for secession could be drawn. According to the Declaration, the principle of self-determination should not be interpreted as “authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples ... and thus possessed of a Government representing the whole people belonging to the territory without distinction as to race, creed or color.”³⁰

Thus, the principle of self-determination does not include as its integral part the right to secession, since the latter would mean the division of the state’s territory and would undermine territorial integrity. However, when a state is not acting in compliance with the principle of equal rights and self-determination, when the government is unrepresentative in its character, and some part of the population is discriminated against, exploited or denied basic human rights, then peoples should be allowed to exercise the right of self-determination in the form of secession in order to regain their independence.

So, the 1970 Declaration disassociates secession from the right to self-determination and at the same time provides justification for secession when a state does not observe and respect the principles of international law and human rights. A government in the independent state which exercises a policy of discrimination over part of the population within its borders cannot hide behind the principle of

²⁷ See Rupert Emerson, “Self-Determination”, *65 American Journal of International Law*, 1971, pp. 459, 464.

²⁸ See, for example, Antonio Cassese, “Political Self-Determination - Old Concepts and New Developments”, Antonio Cassese, ed., *UN Law/Fundamental Rights* (Alphen aan den Rijn: Sijthoff & Noordhoff, 1979), pp. 155-157; Michla Pomerance, *Self-Determination in Law and Practice* (the Hague: Martinus Nijhoff, 1982).

²⁹ U N General Assembly Resolution 1514 (XV).

³⁰ U N General Assembly Resolution 2625 (XXV).

territorial integrity and political unity. This does not mean, however, that every case of deprivation of human rights, exploitation or any other form of oppression can be immediately corrected by secession.

It is not easy to draw a line on how much deprivation of human rights is acceptable. But when people are so oppressed that their own very existence is threatened, the world community cannot ignore it anymore. The world community has acknowledged the independence of Bangladesh very quickly, because the separation of East Pakistan and the proclamation of the independence of Bangladesh was the result of the discrimination policy towards East Pakistan and the refusal to grant it autonomy and to make some necessary socio-economic improvements.

Hence, modern international law does not recognize the right to secession as an integral part of the right to self-determination. The legitimacy of secession might be recognized only when peoples or territories are oppressed as the result of the violation of international law. There is no ground to expect that in the future the absolutist version of the right to self-determination, to the point of the right of secession, would be recognized in international law. First of all, many states are afraid of separatist movements. Secondly, according to the Declaration of 1970, contemporary international order is based on the equal and interrelated principles. None of the international events should be governed only by one principles of international law. That means that the realization of the principle of self-determination, especially through secession, separation from the sovereign state, requires the compliance with other international principles, such as “territorial integrity” and “political independence.” This is a clear-cut position of the world community.

The Final Act of the Conference on Security and Co-operation in Europe stresses that all international principles should be interpreted by taking into account all other principles. The United Nations accepted the same position on the subject, which later was manifested on several occasions. For example, the UN condemned the separatist’s movement in Katanga, Biafra, and Kashmir on the grounds that they threatened the sovereignty and state’s territorial integrity. The same was the case with East Sudan. In none of these cases was it proposed to stop aid or mobilize world public opinion against the dominant country unless it immediately accepted the independence of a suppressed and incorporated nation.

It would be ludicrous even to think about imposing sanctions against France for its stand on Corsican, Breton, and New Caledonian separatism; against Spain for resistance to a separation of Catalonia or the Basque region; or against Great Britain for its denial of Scots or Irish the rights to vote on immediate separation. These proposals for national independence or autonomy were seen as problematic issues that need, at the least, to be debated and negotiated.

The contemporary doctrine of self-determination looks increasingly conservative. The Helsinki process and its documents, although championing the principle of self-determination, emphasize the inviolability of existing boundaries as a integral part of this process. As Max Kampelman points out, this is necessary "not because the boundaries are necessarily sound or just, but because respect for them is necessary for peace and stability."³¹

³¹ Max M. Kampelman, "Secession and the Right of Self-Determination: An Urgent Need to Harmonize Principle with Pragmatism," *The Washington Quarterly* (Summer, 1993), p. 10.

I also agree with professor Rein Mullerson that “human suffering in the inter-ethnic conflict... should make every responsible person think twice before speaking in favor of any secession.”³²

As to the issue of secession, it is worth pointing out that the contemporary world tends to be more and more interdependent. The integration and unification processes become the priority. Secessionist movements contradict these processes and restrain them. Therefore, the international community is cautious about such movements and, I believe, will be reluctant to approve of them in the future. While condemning the brutality of the Russian attacks on Chechnya in 1994, the international community at the same time did not encourage or support the Chechen’s claim to secede from Russian Federation. Nor do the claims of South Ossetia, Nagorno-Karabakh, Abkhazia, and Crimea find support from international community as legitimate. For that matter, the same is applicable in other parts of the world. There is not even a hint of recognition for Tamils in Sri Lanka, rebels in the Southern Sudan, Timor in Indonesia, or self-proclaimed Turkish Republic of Northern Cyprus.

Why then did the claim for self-determination in the form of separation work for the USSR, Yugoslavia, and Czechoslovakia? Some authors suggest that the self-determination claims of peoples in the Central and Eastern Europe have common grounds with the de-colonization process.³³ If the dissolution of the former Soviet Union, and perhaps Yugoslavia, could to some extent be explained as a de-colonization process, more emphasis, from my point of view, should be put on the Declaration of 1970 in part that states that the territorial integrity or political unity of those sovereign and independent states which conduct themselves in compliance with the principle of equal rights and self-determination of peoples should be respected, and each should be allowed a government to represent the entire population belonging to the territory without distinction as to race, creed or color. The principle also prohibits the use of force to deprive peoples of their national identity.

It seems that according to this provision the principles of territorial integrity and political unity could be reserved only for democratic states with democratic governments representing the entire population and conducting a policy of respect for human rights of all individuals on its territory. It was obvious that the USSR and East European countries were far from democratic. The non-representative, totalitarian regime which suppressed peoples ideologically and politically, and which also suppressed national feelings, was the main characteristic in all communist countries. And although the regime did not make a distinction between different races, creeds or colors, it was absolutely clear that frequent violation of human rights happened not only in the former Soviet Union but in other East European countries as well.

Though the reasons for the disintegration of the Soviet Union lay mainly in the totalitarian and non-representative character of the communist regime, which did not comply with the international principles of human rights (there were economic and other reasons as well), the world community was

³² Rein Mullerson, “Self-Determination of Peoples and the Dissolution of the USSR”, *Essays in Honor of Wang Tieya*, p.580.

³³ For more details about dissolution of the USSR as a continuation of the process of de-colonization, see Rein Mullerson, *International Law, Rights and Politics. Developments in Eastern Europe and the CIS* (London and New York: Routledge, 1994), pp. 64-67.

reluctant at the beginning to recognize all the newly independent states except for the Baltic States.³⁴ The caution with which the international community was dealing with the separation of the former USSR explains much about the contemporary attitude of the majority of states towards the secession. States, especially Western states, did not want to give the wrong impression that they encourage secessionist movements. They recognized the separation of the USSR only when it became evident that the republics could no longer remain together and that all attempts to keep them in the Union would create more problems and might lead to violence. Moreover, the term “secession” was never used by the United Nations or individual states during the recognition.

Another distinctive feature is that the dissolution of the Soviet Union and Czechoslovakia were based on the consent of the constituent parts of those states. The international community only recognized the simple fact of dissolution. In case of Yugoslavia, where the dissolution was not achieved through an agreement, the first response of the international community was to support the continuation of the existing state.³⁵

Does all this mean that self-determination in the form of separation from an independent state is illegal according to international law? Not quite. In particular circumstances, the separation may be the most equitable and just solution to a tension-producing conflict and may be exercised as an extreme form of self-determination. However, this should be the last resort, when the attempt to preserve the current situation may endanger peace in the whole region, and, of course, this goal should be sought peacefully, through negotiation. There is also a strong requirement to comply with all norms of international law, especially regarding human rights and minority rights in order to recognize the legitimacy of separation. Exercising the right to self-determination through secession, the rights of other peoples living in the country should be taken into consideration as well as the rights of minorities and individuals. During the separation process, the rights of individuals and national minorities living on the separated territory cannot be violated. At the same time, the procedure on how to conduct separation was left to internal law. As was pointed out in the first opinion of the Arbitration Commission established by the International Conference on Yugoslavia, since the functioning of the essential organs of the Yugoslav Federation no longer met “the criteria of participation and representation inherent in a federal State, ...Yugoslavia is engaged in the process of dissolution” and it was up to the republics to resolve any problems of the state secession which might result from this process, “in keeping with the principles and rules of international law, with particular regard for human rights...”³⁶

³⁴ The situation of the Baltic states was quite different from the situations in other former Soviet republics. Most of the countries of the world have never accepted the Baltic states' incorporation into the Soviet Union, through the Hitler-Stalin pact, as legitimate. About the special case of Baltic States, see Rein Mullerson, “The Continuity and Succession of States, by Reference to the Former USSR and Yugoslavia”, *The International and Comparative Law Quarterly*, vol. 42, 1993, pp. 480-483.

³⁵ See Marc Weller, “The International Response to the Dissolution of the Federal Republic of Yugoslavia”, 86 *American Journal of International Law*, 1992, 569.

³⁶ Conference on Yugoslavia Arbitration Commission, Opinion 1 (7 Dec. 1991), 31 *International Legal Materials*, 1992, 494, 1495.

Thus, the contemporary claim for self-determination can most likely be triggered by the lack of democracy and, as a consequence, by the violation of human rights, both of which were obvious in former communist countries.

Very often claims for self-determination involve not only legal, but also economic, political, and other aspects which also need to be taken into consideration. Rein Mullerson is correct when he points out that politically sensitive questions require a political approach too.³⁷ That means that when dealing with secessionist claims, international community should also take into account the character of the state from which secession is sought (democratic or non-democratic³⁸); the status of the ethnic group claiming secession in the society as a whole; the character of the secessionist movement (whether they represent the whole group seeking secession); what methods they use in order to achieve their goal; possibilities of meeting demands of the group within the existing state; potential viability of a new state; and the consequences of the secession for neighbouring states and regional stability.

Today, the international community is moving toward interdependence. As national boundaries are buffeted by change, the nations of the world become ever more interdependent. It is also true that ethnic, national aspirations are rising throughout the world, and the drive for self-determination is strong in various parts of the world. Evidently, it is necessary to harmonize these two tendencies. The only sensible way to provide self-realization for the individual and the group is by peaceful means and with the respect to others living in the state. Unfortunately, historical experiences, as well as the present declarations of many of the nationalists, are not reassuring here. Some nationalists in Latvia and Estonia would deprive almost 40 percent "minority" population, including those born there, of voting and civil rights.

In this context, the principle of self-determination of peoples should contribute to the peace and stability in the world, but not to stimulate ethnic separation, hatred and wars. As Gidon Gottlieb has observed, "there is simply no way in which all the hundreds of peoples who aspire to sovereign independence can be granted a state of their own without loosening fearful anarchy and disorder on a planetary scale."³⁹ The identification of ethnic pride or national self-aggrandizement with sovereign independence becomes self-defeating and counterproductive.⁴⁰

DOMESTIC OR INTERNATIONAL JURISDICTION? Since self-determination is recognized as one of major principles of international law, its implementation is not always an internal affair of a state, but could be an international issue. This does not mean, however, that any questions concerning the implementation of the right to self-determination should qualify as international. The world community should be guided in this case by the nature of the conflict. Ordinary riots and other forms of rebellion are purely internal matters. But there could also be a localized insurrection which, even without jeopardizing the structure of the international system, could warrant international attention. For

³⁷ See Rein Mullerson, *International Law, Rights and Politics*, p. 86.

³⁸ For more information on this subject, see chapter "Self-Determination and Democracy" of this paper.

³⁹ Gidon Gottlieb, *Nation against State: A New Approach to Ethnic Conflicts and the Decline of Sovereignty* (New York: Council of Foreign Relations Press, 1993), p. 26.

⁴⁰ See Max M. Kampelman, *op. cit.*, p. 11.

example, with allegations of genocide, intervention should be given international consideration. Thus, where open warfare results, it becomes imperative for the UN to look at the nature of the conflict.

A starting point would therefore be to recognize the fact that it is not possible to draw an error-free line between the matters that are within the domestic jurisdiction of the state and those that could be said to result in a threat to international peace, making it imperative for the Security Council to exercise its powers under Chapter VII of the UN Charter. Hence, a case-by-case approach should be used.

How does the world community determine what matters are within the domestic jurisdiction of a state? I think that until a claim has escalated into any open warfare in that state, it remains an internal matter. But where a strife is a continuing one and eventually a civil war erupts, then the matter should no longer be confined to internal affairs. More than just the question of a civil war erupting, it is the way such a war is fought - the sophisticated weapons, claims of genocide, blockades of any form, especially economic blockade - that would certainly show that international intervention may be necessary to mitigate the danger to individuals within that state and surrounding territories.

SELF-DETERMINATION AND DEMOCRACY. There is a belief among international lawyers that the right to self-determination is not applicable to peoples in independent states.⁴¹ According to Rupert Emerson, this right is exercised once a state attains its independence. In such cases the right is extinct. Therefore the population of such an area retains no residual right to self-determination as the initial decision to join a society was a legitimate exercise of that right.⁴²

This seems to be a narrow way of approaching this issue. Even if peoples of a particular state have already exercised their right to external self-determination, the circumstances in the country may change dramatically. Thus, peoples residing within an independent state should not suffer or be penalized as a result of the denial of the applicability of the principle of self-determination to independent state.

Furthermore, very often the right to self-determination is used as a synonym for independence. Self-determination, however, has many facets, only one of which implies political independence or secession. It may be exercised through other means, such as free association, integration, or the emergence into any other political status freely determined by such people.

In addition, one must recall that the right to self-determination has an internal aspect - peoples have the right to select the desired system of government and to choose their political, social, economic and cultural system. Not trying to characterize all these forms, it is important to mention that the only legitimate basis for a political structure is self-government of peoples; all peoples have the right to select their own form of government. And this right for self-government can not be exercised once and for all. The peoples' wishes are ascertained periodically; therefore democracy is seen to embody, in essence, a continuing right of self-determination. And this permanent and continuing right should

⁴¹ See, for example, Rupert Emerson, "Self-Determination", p. 459.

⁴² Ibid., p. 464.

always belong to peoples. Peoples should not be denied this right because they have already exercised it.

As to the contemporary principle of self-determination, the emphasis, in my opinion, should be shifted from external self-determination to internal, which means the further development of internal self-government and protection of minorities within the independent states, because a government without the consent of its people and the lack of internal mechanisms for human rights protection would mean constant instability which would disturb the internal order of a state and consequently threaten international peace. The existence of a truly representative government should be considered as a guarantee of "self-determination" right for all the peoples within the government's jurisdiction.

The Council of the European Communities has adopted in 1991 the "Guidelines on the Recognition of the New States in Eastern Europe and in the Soviet Union." Among the criteria for recognition of new States, it refers specifically to the rule of law, *democracy*, respect for human rights and guarantees for the rights of ethnic and national groups and minorities.⁴³ This means that in order to be recognized by the world community the newly independent states must have *democratic* government and should respect human rights, particularly the rights of minorities.

Taking into consideration this, other relevant international documents, and the recent experience of the East European countries and the former Soviet Union, we may conclude that currently the principle of self-determination should be understood more as an entitlement for democracy, for greater protection of human rights and protection of minorities, rather than secession. Secession could be tolerated by international community only when the seceding group of people seeks independence from totalitarian and unrepresentative regime, and this seceding community of people is devoted to establishing *democratic* society, where human rights and especially the rights of minorities will be respected.

Thus, the components of the self-determination principle range from simple self-identification, on the one side, to full self-government, on the other. Between the extremes, different forms of self-determination may be identified, the applicability of which will depend in each case on particular historical circumstances. Rodolfo Stavenhagen says that "until now, the United Nations has preferred not to move into the finer complexities of the problem of self-determination."⁴⁴ That is why there exists an obvious contradiction between the proclamation of the right to self-determination of "all peoples" on the one hand and its restrictive application in practice. But if the principle of self-determination in the contemporary world is to have any meaning at all, it should not be limited only to colonial peoples. This right definitely belongs to people living within independent territories, but who are clearly governed without their consent.

WHO ARE THE PEOPLES? A lack of clarity with respect to the right of self-determination outside the colonial context has contributed to the political violence and anarchy we are witnessing now on the territory of the former Soviet Union and some East European countries. While the former USSR republics were seeking independence from the Soviet Union and vigorously claimed their right to self-

⁴³ See EPC Press Release 128/91, December 16, 1991.

⁴⁴ Rodolfo Stavenhagen, *The Ethnic Question. Conflicts, Development, and Human Rights*, p. 69.

determination, different ethnic minority groups living within these republics (the Tatars and Chechens in Russia, the Abkhazians in Georgia) also started to use the same slogan of self-determination in furthering their claims. This led to a chain of secessionist movements threatening to tear Russia apart.

All this reveals that a pivotal question regarding the right of peoples to self-determination is the definition of a people: who are the peoples entitled to the right of self-determination?

According to the International Covenant on Civil and Political Rights, the direct holders of the right to self-determination are the "peoples." But except for that provision, there is no legal definition of *a people* as well as there is no official interpretation of that notion, which creates serious theoretical and especially practical difficulties.

In 1990 the UNESCO meeting of experts on the future study of the rights of peoples identified some criteria in deciding which group of individuals is "a people". Among such criteria common historical tradition, racial or ethnic identity, cultural homogeneity, linguistic unity, religious or ideological affinity, territorial connection and common economic life were named as the most important.⁴⁵

Although the criteria proposed above may be to some extent useful in identifying peoples in the context of self-determination principle, unfortunately they do not clarify all questions. As Rein Mullerson stresses, these criteria are applicable to hundreds of ethnicities which do not form their own individual nation-state, and many apply also to populations which belong to different states.⁴⁶

We have to admit the fact that today it is impossible to find a generally accepted criteria for identifying the people, since the latter varies considerably from one region to another, from country to country. Maybe that is why the UN has carefully avoided defining the term "peoples". In addition, I would like to point out that the definition of "peoples" never was an objective in itself. The necessity for such definition appears usually in conjunction with the question of whether particular group of people has the right to claim self-determination. Therefore, each case should be judged on its own merit. A territorial concept of "peoples" prevailed when the right for self-determination was exercised during the de-colonization period. In that case, "peoples" were considered to be the inhabitants of a colonial territory. At the same time, as practice shows, beyond the colonial context the priorities were given to the other criteria in identifying "peoples". For example, the reason for the recognition in the UN the right of the population of East Rhodesia (Zimbabwe) for their freedom and independence was the discrimination of the population by their government, the denial of their right to participate in the governing of the country.

Although the international documents refer only to the right of peoples to self-determination, that does not mean that "nations" do not possess such right. The notion of "peoples" is wider and overlaps with the notion of "nations". If nation and people are the same and these peoples have created their own state (national state), then this nation also has the right for self-determination. Although, this is true only in regard to unilateral formation. In general the contemporary principle of self-determination is not

⁴⁵ "Self-Determination", *Report of the Martin Ennals Memorial Symposium on Self-Determination* (Saskatoon, Canada, 1993), p. 3.

⁴⁶ See Rein Mullerson, *International Law, Rights and Politics*, p. 74.

limited by nation; according to the self-determination principles this right belongs to peoples, under which we should assume *all population* permanently living on the self-determining territory. Because the right to make a decision about self-determination should be exercised by all individuals living on the territory, regardless of their nationality, in the case of multinational state the right-holding entity is peoples, not nations. That means that when the question of self-determination rises, during a plebiscite or referendum, any discrimination on the grounds of nationality should not be permitted.

International law theory tends to interpret the notion "peoples" in a wide sense: the right to self-determination belongs to all peoples regardless of the fact whether they have their own state or not, whether they reach nationality status or not. At the same time it emphasizes that the notion "people" does not incorporate "minorities" in terms that people and minorities have different rights.

RIGHTS OF MINORITIES

Unlike the right of peoples to self-determination, the rights of minorities are defined not in Article 1, but in Article 27 of the International Covenant on Civil and Political Rights. Do minorities have the right to determine their political destiny? Can they secede?

In order to be able to answer these questions, it is necessary to answer first the key question: who constitutes a national minority and how can one distinguish peoples from minorities? This is not a rhetorical academic question. The whole international system of the protection of minorities is based on the definition of a "minority", and in many countries national legal structure and policies may reflect, and in turn may have an impact upon, the existence and recognition of minorities.

There is no widely accepted definition of "minority", though almost all attempted definitions are based on a common-sense characteristics of minority as a numerically smaller, non-dominant group distinguished ethnically, religiously, or linguistically from the rest of the state's population. The closest to the official legal definition of minority is the definition presented to the UN Sub-Commission for Prevention, Discrimination and Protection of the National Minorities by its member Jules Deschenes.⁴⁷ Although the Sub-Commission did not approve the presented definition and decided to postpone further consideration, during the discussion of this issue the Sub-Commission pointed out that minorities constitute a separate group of individuals within the population of a state, which possesses consistent ethnic, religious or linguistic characteristics which are quite different from the characteristic of the other part of the population. In quantity this group should be less than the rest of the population.

⁴⁷ According to Jules Deschenes "minority" constitutes "A group of citizens of a State, constituting a numerical minority and in non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in the fact and in law". - United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities, *Proposal concerning a definition of the term "minority" submitted by Mr. Jules Deschenes*, UN Doc. E/CN.4/Sub.2/1985/31 & Cor. 1 (1985).

It should not have a domineering power in the country, should not be composed of immigrants. And finally, such a group should be motivated by seeking to preserve their characteristics.⁴⁸

It is worth pointing out that we can judge about the intention of a group to preserve its ethnic characteristics only when such a group continues to express its ethnic identity on a daily-life basis, continues to use its language in spite of any difficulties, and according to its lifestyle considers itself and is considered by others as an ethnic minority group. If a group was assimilated to such an extent that it did not follow its tradition, religion or language, it can not be considered as a minority group in terms of Article 27 of the Covenant.

Although these criteria can be to some extent helpful in identifying minorities, it is still a very difficult and confusing task to divide ethnicities into peoples and minorities. On the basis of these criteria and in order to eliminate the confusion which usually accompanies the question of the definition of minorities, for the purpose of self-determination peoples could be defined as the whole population of a state, whereas minorities constitute only a part of such population with distinctive ethnic characteristics.

The Covenant makes a clear distinction between the rights of peoples to self-determination and the rights of ethnic, religious, or linguistic minorities to enjoy their own culture, to profess and practice their own religion, or to use their own language (Article 27). Hence, the Covenant does not address political or economic rights of minorities. It guarantees only minimal traditional rights and makes it clear that these rights are applied to “persons belonging to such minorities.” Contemporary international law puts an obligation on the states not to promote self-determination for minorities, but to protect their individuality and not to conduct a discriminatory policy towards the individuals belonging to national minority group.⁴⁹ “It seems that minorities, whatever depredations are inflicted on them, must attempt to find justice within the boundaries of existing states and be reconciled with them. Self-determination is not the right of minorities,” Patrick Thornberry rightfully points out.⁵⁰

This does not mean, however, that state activity towards its minorities and the compliance with the international standards on minority protection is less important than the compliance with Article 1 of the Covenant. As recent international practice shows, when states have difficulties in recognizing minority rights, that could lead to interethnic conflicts which frequently undermine the political structure of the very country.

Every state fears to some extent that the recognition of minority rights will encourage fragmentation or separatism and may undermine national unity. For the fear of that a state may opt to ignore its obligation to preserve the ethnic identity of minority groups living on its territory, or to exercise the mandatory assimilation or discrimination policy towards its minorities. But such policies lead only to an increased fear among minority groups themselves. Minorities may fear a complete loss of their identity.

⁴⁸ See UN Doc. E/CN.4/Sub.2/384/Rev.1, n. 566, 567.

⁴⁹ I agree with some scientists on the point that it would be incorrect to assume that there is no right of self-determination for minorities. It would be more correct to say that they can exercise the right to self-determination together with the rest of the population of a state, or as a part of this population. See, for example, Rein Mullerson, *International Law, Rights and Politics*, p. 73.

⁵⁰ Patrick Thornberry, “Minorities and Human Rights Law”, *The Report Published by Minority Rights Group*, 1991, p. 10.

As a result of this confrontation many minority groups today, especially the oppressed minorities, are no longer satisfied with the rights traditionally accorded to them. They choose broader economic and political goals; they start to demand more autonomy or even independence from a state. The reaction of a state is very important here. If state tries to deny such demands for the fear of jeopardizing a state's territorial integrity or for any other reason or even takes repressive actions, this only radicalizes claims of minorities. The conflicts in Nagorno-Karabakh, Trans-Dniestr region in Moldova in their initial stages were based on this model.

A state can significantly reduce the potential danger of the serious national conflicts by following its obligation to protect minority groups on its territory. The protection of minorities is one of the real and effective ways to resolve the national issue in multinational societies (I will come back to that point later). It was recognized as such in the Preamble of the UN General Assembly Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted in December 1992, which states that protecting minority rights will "contribute to the political and social stability of States in which they live," and also "contribute to the strengthening of friendship and cooperation among peoples and States."⁵¹ By refusing to recognize and guarantee the minimum standard rights for minorities, states place themselves in danger of the resurgence of minority demands, which in recent years have become more radical. "In many states, a new partnership must now be created between minorities and the majority, and it may be too late for that partnership to be founded solely on a few minority schools and newspapers," stresses Hurst Hannum.⁵²

The global evidence suggests that two different kinds of dynamics drive the political grievances of contemporary minorities. Political and economic disadvantages motivate communal groups to demand greater access to political system and greater economic opportunities, whereas a history of political autonomy leads groups to attempt secession.⁵³

At the beginning of the 1980s in Eastern Europe and the USSR, there were about 32 politicized minorities.⁵⁴ It is interesting that the term "minority" was never used in these countries because of its negative connotation, and was replaced by the term "nationality." In general, national minorities did not experience deliberate economic or political discrimination (with a few exceptions⁵⁵), which was the result of Marxist-Leninist doctrine and Communist party practice, directed at establishing equality in the political participation and economic opportunities of all national peoples and minorities. At the same time, this policy encouraged cultural originality of different nationalities. That explains why the first erupting conflicts in this region were motivated mainly by the desire for the restoration of group autonomy and revenge against old enemies, but not grievances over inequalities.

⁵¹ UN Doc. A/47/678/Add.2, reprinted at 32 *ILM* 911 (1993).

⁵² Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination. The Accommodation of conflicting rights* (Philadelphia: University of Pennsylvania Press, 1996), p. 73.

⁵³ *Ibid.*, p. 86.

⁵⁴ See Ted Robert Gurr, *Minorities at Risk. A Global View of Ethnopolitical Conflicts* (Washington, D.C.: United States Institute of Peace Press, 1993), table 14, p. 19.

⁵⁵ The Turkish minority in Bulgaria, the Albanians of Yugoslavia's Kosovo region, and several displaced nationalities in the USSR.

Right now the situation with minorities in former communist societies is not deadlocked. Take, for example, the situation with Russian minorities in all former Soviet republics. It would be wrong to assume that all Russian and Russian-speaking minorities in the NIS are discriminated against. In Ukraine, Belarus, and Kazakhstan, where Russian population is sizable, ethnic Russians and Russian-speakers have been enjoying equality with the rest of the population. In Central Asia and Transcaucasia, Russian and all other minorities are vulnerable because of general instability and political conflicts, which have caused many people to become refugees; however, there has been no formal discrimination against Russians in these regions, either. The only region of the former USSR where the legal status of Russians and Russian-speakers raises real concern is the Baltics, more specifically, Latvia and Estonia.⁵⁶

Why then are minorities throughout Eastern Europe dissatisfied with their status? Many minority groups feel that the rights they possess as individual citizens are simply insufficient to guarantee the maintenance of their cultural and ethnic identity, particularly during an unsteady process of political and legal transition. This raises a theoretical question as to whether minorities are entitled to individual or collective rights.⁵⁷

It was long argued that the norms of Article 27 of the International Covenant on Civil and Political Rights are addressed to individuals, since it mentions “persons belonging to ... minorities.”⁵⁸ At the same time, proponents of collective rights have also gained some ground through the formulation of this article, since it recognizes that the rights in question are being exercised “in community with other members of the group.”⁵⁹

It seems that minority rights are at the juncture between individual and collective rights and Article 27 reflects the complexity of these rights and difficulty of differentiating between individual and collective rights in this junction.⁶⁰ According to Luis Sohn, “such individual rights have an inherent collective character.”⁶¹

Jay Sigler has summarized what he calls a “provisional theory of minority rights”:

1. Minority rights are group rights. They may be claimed by an individual, but they are asserted as a result of membership in a group that seeks a measure of differential treatment distinct from the majority of the population. Equal treatment is not the basis of the rights.

⁵⁶ About the discrimination of Russians in Baltics see, Nikolai Rudenski, “Russian Minorities in the Newly Independent States. An International Problem in the Domestic Context of Russia Today,” Roman Szporluk, ed., *National Identity and Ethnicity in Russia and the New States of Eurasia*, pp. 67 -71.

⁵⁷ For a discussion of the collective rights of minorities, see Francesco Capotorti, “Are Minorities Entitled to Collective International Rights?”, Y. Dinstein and M. Tabory, ed., *The Protection of Minorities and Human Rights*, pp. 505-511.

⁵⁸ See Felix Ermacora, “The Protection of Minorities before the United Nations”, *182 Recueil des Cours*, 1983, p. 247. Also, Luis B. Sohn, “The Right of Minorities”, Luis Henkin. ed., *The International Bill of Rights: The Covenant on Civil and Political Rights*, 1981, p. 274.

⁵⁹ See Henry J. Steiner, “Ideals and Counter-Ideals in the Struggle Over Autonomy Regimes for Minorities”, *66 Notre Dame Law Review*, 1991, p. 1543.

⁶⁰ See Tibor Varady, “Minorities, Majorities, Law, and Ethnicity: Reflections of Yugoslav Case”, *Human Rights Quarterly*, vol. 19, no. 1 (February 1997), p. 33.

⁶¹ Luis Sohn, “The Rights of Minorities”, p. 274.

2. Minority rights may include individual rights, as in the well-recognized principle of non-discrimination to be found in most of the world's constitutions and in the basic United Nations documents...
3. Multicultural societies must, at least, consider whether they have significant groups that are effectively treated as minorities and should develop some principle basis for the recognition of the legitimacy of minority group status...
4. Minority rights include the idea that individuals should be free to remain in the minority group or, if able, to leave it voluntarily...
5. Minority rights should not be compulsory or a pretext for discrimination...
6. A failure of multicultural societies to recognize the existence of a substantial minority is a denial of minority rights...
7. Under condition of extreme deprivation, minority rights justify special treatment and advantages for groups victimized by persistent prejudice.
8. Minority rights do not include rights to political representation and to social and economic justice.
9. Minority rights do not include the right to revolution and secession upon the same basis as do individual rights..."⁶²

Today the collective dimension of minority rights is recognized in the 1990 Copenhagen Document of the Conference on Security and Cooperation in Europe, in the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, in Recommendation 1201 of the Council of Europe of 1993, and in the 1994 Framework Convention for Protection of National Minorities. All the documents contain similar provision about protection of "national minorities" as a group and of "persons belonging to those minorities."⁶³

The concept of collective rights have gained significant support in a number of post-socialist countries in Central and Eastern Europe as an approach to resolve or to avert ethnic conflicts. The reflection of this concept can be found in the 1989 Lithuanian Act on Ethnic Minorities, in the 1991 Act on Unrestricted Development and Right to Cultural Autonomy of Latvia's Nationalities and Ethnic Groups, in the 1992 Ukrainian Act on National Minorities, in the 1992 Constitutional Act on Human Rights and Freedom of National and Ethnic Communities or Minorities in the Republic of Croatia, in the 1993 Hungarian Act on National and Ethnic Minorities. All these documents contain the provisions in different wording addressing the collective rights of minorities. For example, the preamble of the Act on Unrestricted Development and Right to Cultural Autonomy of Latvia's Nationalities and Ethnic Groups states: "This law is adopted to guarantee to all nationalities and ethnic groups in the Republic of Latvia the rights to cultural autonomy and self-administration of their culture."⁶⁴

⁶² Jay Sigler, *Minority Rights. A Comparative Analysis* (Westport, Conn.: Greenwood Press, 1983), p. 195-196.

⁶³ For example, Article 1 of the UN Declaration reads: "States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories, and shall encourage conditions for the promotion of that identity". - Declaration on the Rights of Persons Belonging to National or Ethnic Religious and Linguistic Minorities, adopted 18 Dec. 1992, *G.A. Res. 47/135 Annex, U.N. Doc. A/Res/47/135/Annex*, 1992, Article 1.

⁶⁴ "Act on Unrestricted Development and Rights to Cultural Autonomy of Latvia's Nationalities and Ethnic Groups", *Augustas Padomes Un Valdibas Zinotajs (Latvian Official Gazette)*, 21/1991.

Although increasing number of states are recognizing *de jure* or *de facto* the collective minority rights, Russian Federation, the Federal Republic of Yugoslavia, consisting of Serbia and Montenegro, are still reluctant to follow this path, in spite of the fact that the past decade gave enough reason to recognize the collective dimension of minority rights.

Summarizing the lessons learned from the disintegration of the Soviet Union and the dissolution of some East European countries, we can conclude that the policy of discrimination against, or persecution of minorities by the state, or suppression of the ethnic identity is a major provoking factor for secessionist demands. The states conducting this policy should recognize that suppression of the population, including ethnic minorities, constitutes a violation of international law, and a possible outcome would involve not only an end of the repressive regime, but also independence for the suppressed population. States are fully responsible for the treatment of minorities and should take all necessary steps to prevent a situation where the very existence of a minority group is threatened, and members of this group see their only salvation in secession.

NATIONALISM

Every time the question of secession arises, the issue of nationalism surfaces immediately. Nationalism has many different definitions and interpretations, but most experts would agree that nationalism is an extreme devotion to one's ethnic group. According to Stephen Griffiths, nationalism can be understood as both "an ideology, including a cultural doctrine of nations and the national will and prescriptions for the realization of national aspirations and the national will," based on ethnic and genealogical grounds, as well as "a social and political movement to achieve the goals of the nation and realize its national will."⁶⁵

Nationalism has become the most common feature for the collapse of "communism" in almost all Eastern Europe. The reemergence of nationalist challenges in Eastern Europe and former USSR did not come as a big surprise since historically nationalism in these countries was and is a powerful force, with strong support from governments and political parties. Kristian Gerner and Kerstin Nystrom correctly point that nationalism was never dead in the USSR and Eastern Europe: what developed new in the late 1980s, was that it became legitimate.⁶⁶ Indeed, ethnic nationalism had been an ideological and political factor in the communist states of Eastern Europe since the late 1950s when Khrushchev initiated de-Stalinization campaign. After the exposure of the Stalinist model, the communist rulers of Eastern European states used the appeal to national sentiments in order to reinforce their political legitimacy.

In the late 1980's the reemergence of nationalism in East European countries resulted from the policy of *glasnost* and democratization introduced by the ruling communist parties. These policies opened the

⁶⁵ Stephen Iwan Griffiths, "Nationalism and Ethnic Conflict. Threats to European Security", *SIPRI Research Report No. 5* (New York: Oxford University Press, 1993), p. 13.

⁶⁶ Kristian Gerner and Kerstin Nystrom "Nationalist Challenge to State Integrity", *Restructuring Eastern Europe. Towards a New European Order*

way to a Western-style democratic system, with a stress on national consensus to revive politics and on a peaceful distancing from the Soviet Union and the Soviet model for the organizing societies.

However, in 1988 the evaluation had changed. The democratization processes led to unanticipated popular nationalist movements. An array of nationalist challenges to the established order poured out within the USSR (from Estonia to Tatarstan) and in different ways in the states of Eastern Europe. These challenges can be classified in three major sets. The first concerned the Soviet Union, where the challenge from the non-Russians was against Russian dominance, communism, and the Soviet state as such. This was a challenge from within and posed a threat to the survival of the existing system and the integrity of the state. The second challenge concerned the Warsaw Pact states, where the issues were Soviet-Russian dominance, internal communism, and demands for increased autonomy for the national states. This was primarily a challenge to the remaining communist power-holders within the respective states and a threat to the cohesion of the Soviet bloc.⁶⁷ The third challenge concerns Yugoslavia, where the structural position of the Serbs is reminiscent of that of the Russian in the Soviet Union, and the grievances of other nations bear a similar character. The challenge is both to the survival of the state and to the political system as such. The main difference from the other two cases lies in the fact that non-aligned Yugoslavia was not a member of the Warsaw Pact and thus not directly linked to the question of the viability of the Soviet empire, as the other two cases are.

The *glasnost* period allowed for long-suppressed nations at last to express their national identity and national culture. Additionally, other forces were also fueling nationalism in post-communist societies. As recent events show, nationalism rises in response to economic instability and insecurity. For many people in Eastern Europe and the former Soviet Union the reality of the post-communist experience meant falling living standards and increasing insecurities. People felt that they were not being adequately protected from unregulated markets. All this creates a favorable environment for the emergence of ethnic nationalism. Michael Brown writes that: "it is not surprising ... that there are strong currents of ethnic nationalism in Eastern Europe and the former Soviet Union, where state structures and political institutions have diminished capacities..."⁶⁸

When the state goes through the period of turbulent changes and social uncertainty, people feel a need for security and stability. And they find this sense of security in identifying themselves with members of a national group. The nation was already a focus for resistance to the communist regime in the countries of the former East European bloc and the newly independent republics. Therefore, in the early 90-s nationalism has been capable of mobilizing broad popular support in these countries.

⁶⁷ The nationalist challenge in Eastern Europe to the cohesion of the Soviet bloc thus had two different sides. All but one East European state pointed towards reunion with Western Europe and a farewell to communism and the Soviet Union, and the option for Romania was a retrenchment into the very Stalinism which the Soviet leader deemed it necessary to dismantle for the socialist system to survive at all. In the first case, the challenge implied dissolution of the bloc but the survival of its parts. In the second case it raised the prospect of social cataclysm that would threaten political stability and be a potential danger for Soviet security. The Romanian people took matters into their own hands in December 1989, and the Ceasescu regime collapsed in a matter of days - not without a bitter struggle, but with the blessing of Moscow. See Kristian Gerner and Kerstin Nystrom, "Nationalist Challenge to State Integrity", *Restructuring Eastern Europe. Towards a New European Order*, p.38.

⁶⁸ Michael E. Brown, "Causes and Implications of Ethnic Conflict",

Although during the liberation process nationalism can to some extent play a positive role by uniting people under the banner of a single national idea, exclusive nationalism tends to generate counter-nationalism. The rise of ethnic nationalism in one group was seen as threatening by others and led to the development of similar sentiments elsewhere. The conflicts between Azeris and Armenians and Georgians, and between Hungary and some of its neighbors present evidence on how nationalistic feelings fuel the animosity between nations and make some form of ethnic conflict inevitable. So, by appealing to nationalistic feelings one can not resolve the ethnic tension, but may also contribute to more insecurity and fragmentation.

Nationalism has demonstrated itself in the newly emerged states in different forms. It was used as an ideological instrument by political leaders for their own needs. The Romanian nationalism of Ceausescu, the Serbian nationalism of Milosevic, and the Bulgarian nationalism of Zhivkov all belong to this category. Today former communists are often exploiting the nationalist slogan in order to maintain power. Vladimir Zhirinovskiy - the leader of the Liberal-Democratic Party of Russia - provides a good example of how to appeal to nationalistic sentiments during an electoral campaign. Nationalism is also an instrument of oppositional intellectuals in their attempt to mobilize the masses into political action against dictatorial regime. The nationalism of Polish and Hungarian intellectuals gives an example of this variety, which combines nationalism with democracy. In other cases nationalism was associated with an anti-communism wave. The Baltic republics, for example, perceive their nationalism as a positive and unifying force in the restoration of their independence from communist enslavement. Finally, nationalism came in the form of sentiments against the Russians all over the Soviet bloc.

After almost a decade of transition period, one could expect that nationalist movements would show some signs of abating. On the contrary, nationalism today has become even stronger within former Soviet republics due to the poor economic conditions. This is especially true for Russia where the non-Russian population has moved in the past decade from a mildly politicized ethnic consciousness to various forms of nationalism. At the same time another tendency can be observed: nationalistic demands have become less radical during the past years, and the claims for secession are no longer as popular as they used to be at the beginning. Even the most radical cases (Chechnya, Tatarstan, and Tuva) are not neatly falling into nation-state model, but rather are examples of a varied responses to constantly changing political and economic conditions and crises.

Evidently, nationalism can be a potent weapon in the struggle for independence. At the same time it can turn into a destructive force once independence is achieved. Nationalism poses a major challenge, even an obstacle, to the transition to democracy. Because nationalists mobilize passionate support, any effective democratic program must take into account national sentiments and desires for identity and combine them with individual citizen rights for all. This task is difficult to fulfill, but it is a big mistake to ignore national feelings altogether.

ETHNIC CONFLICT RESOLUTION

The resolution of ethnic conflicts in democratic countries is mostly a matter of implementation of universal norms of equal rights for all people without any kind of discrimination, and accommodation of minorities' rights. The experience of the long-established democracies shows that usually democratic societies are tolerable to various forms of political manifestation of the opposition. At the same time,

minority groups in these countries face few political barriers and in cases of dissatisfaction are more likely to express their demands non-violently. The reasons are inherent in the political cultures and policies of contemporary democratic societies which have all the power and resources to respond to the interests of all population groups (including ethnic) living within their boundaries. As a result, violent protest is less likely in democratic societies. The more democratic the country, the more possibilities for the ethnic groups to express their feeling and aspirations. The more such possibilities, the more stable the society is.

In totalitarian regime, on the other hand, violence is more likely to be used by political authorities to suppress any protests. And the more violence is used, the greater the chance that the response will also be violent. Violence occurs because autocratic countries usually lack the resources and institutional means for accommodating communal groups' interests. In these states, the initiated democratization process will become a triggering mechanism for facilitating both group protest and communal rebellion with the potential risk of civil war.⁶⁹ The USSR and the Federal Republic of Yugoslavia faced this situation in 1990-91. With democracy and decentralization in the former USSR and Eastern European countries, ethnic situations became very tense and, in some cases, unmanageable because there were no adequate institutional means for the expression and accommodation of awakened ethnic aspirations. The successor republics of the USSR faced the same problem.

In general, democratization provides a solid base for resolving ethnic conflicts, although the very process of democratization represents a difficult period in a society's life and may aggravate the already existing ethnic problems. Much depends on the level of ethnic tension when the democratization process begins. If the old regime exacerbated ethnic problems by pursuing an assimilation policy, or engaging in forced relocation or ethnic expulsion, then the democratization process is likely to be highly problematic with many ethnic challenges on the agenda.⁷⁰

The establishment of a truly democratic society with the creation of responsive political systems, where human rights are respected and protected is the necessary precondition for the removal of ethnic tensions and hostilities, and for non-violent resolution of ethnic conflicts.

Today, almost all ethnic conflicts in the countries of Eastern Europe and the former Soviet Union have been transferred to the post-war phase. The military actions have been ceased in Bosnia, Nagorno-Karabakh, and Chechnya. That does not mean, however, that these conflicts are completely and adequately resolved. It is more accurate to say that now they are "frozen" for the time being, and that they moved to a different stage which will require equally determined efforts to resolve the situation. This stage is characterized by the lack of trust between parties in the conflict, by their indefinite status, and by the unsettled interrelation between them, all of which work to the detriment of achieving peace and stability. In this respect, it is necessary to find the optimal mechanisms of reduction and settlement of the sharpness of initially opposite interests, it is necessary to settle mutually acceptable institutional

⁶⁹ See Ted Gurr, op. cit., p. 137.

⁷⁰ For more discussion of the correlation between ethnic conflicts and democratization, see Renee de Nevers, "Democratization and Ethnic Conflict," Michael E. Brown, ed., *Ethnic Conflict and International Security*, pp. 61-78

means to help the parties to overcome their contradiction and to find a compromised solution which will guarantee the return of the population in these territories to peaceful life.

In addressing the questions of prevention and peaceful resolution of ethnic conflicts, one should keep in mind two things: first, it is important to find the balance between two conflicting rights: self-determination and territorial integrity; and second, all conflicts are unique, and there is no single solution to the management of ethnic conflict. Every case requires a special approach. The solution should be sought on all levels from national to regional to international, and using all available means - mutual agreement through negotiation, moral argument, practical appeal, political pressure, etc.

At the domestic level, competing groups must be willing to explore alternatives to present arrangements through politics, rather than through war. At the international level, closer attention should be paid to the rights of minorities, so that the necessary minimum degree of cultural protection and meaningful participation in government can be achieved. And at all levels, continued protection of basic human rights is essential

National remedies: Generally, states deal with ethnic problem in a variety of forms. Some states have elaborate mechanisms for the protection of the rights of ethnic groups and minorities. Some states ignore the existence of minorities altogether and provide no legal framework whatsoever to deal with minority issues. This is usually accompanied by different kinds of assimilationist policies that may range from the "melting pot" hypothesis to deliberate actions of ethnocide, and in extreme cases, genocide. The idea behind these assimilationist policies is that culturally distinct ethnicities will simply disappear and melt into the wider society.

Most states believe the way they deal with minorities within their borders is a purely domestic matter. This is one of the reasons why the UN has been unable to make much headway in this field. Furthermore, this is why it is important that collective minority rights become recognized by the international community as human rights.

From the experience of Western democracies, a number of specific arrangements in resolving ethnic problems can be detected. Various forms of autonomy, separate representation, federalism, and distinct cultural, religious, and linguistic rights exist in Western countries and help reduce ethnic tension. In addition, forms of minority representation in the state which may include separate electoral polls and communal voting, proportional representation systems, power sharing in the executive government, regional devolution, etc. proved to be effective in dealing with minority issues.⁷¹ Virtually every Western society - especially the United States, Britain, France, and Germany - have accommodated the policy of communal pluralism according to which ethnic minorities may have some form of legally recognized representation or participation in the political system. Pluralism means equal rights but separate status. Economically, it means a shift toward programs that allocate entitlements and jobs on the basis of the ethnicity. Politically, it implies the emergence of institutionalized ethnic politics, with ethnic political parties and guarantees, or expectations, that communal interests will be represented in decision making. Pluralism is an approach

⁷¹ For more information of how the Western world is addressing ethnic problems, see *Ethnic Conflict in the Western World*, Milton J. Esman, ed. (Ithaca and London: Cornell University Press, 1977).

with great potential for redirecting inter-group conflict into institutionalized and constructive channels.⁷²

All these arrangements in resolving ethnic tension can be efficiently employed by East European countries. In addition, The Guiding Principles for Resolving Ethnic Conflicts presented in 1991 Report of the CSCE Meeting Experts on National Minorities could be also of help for these states. The Report stresses that positive results have been obtained by some states by establishing, *inter alia*:

- local and autonomous administration, as well as autonomy on a territorial basis, including the existence of consultative and executive bodies chosen through free and periodic elections;
- self-administrations by a national minority of aspects concerning its identity in situations where autonomy on a territorial basis does not apply;
- decentralized or local forms of government...⁷³

It seems logical that the first requirement necessary for every state in which ethnic problems are an issue, and this is particularly true for the newly independent states, is to ensure the full array of internationally sanctioned minority rights in their national constitutions and other legal documents, beginning with non-discrimination on ethnic, religious, or cultural grounds. International laws explicitly protect the right of individuals to belong to an ethnic minority and to preserve and develop their languages, cultural traditions, religious beliefs, and ethnic identity. According to international law, states should take active measures to offer such protection by amending or nullifying any laws that support any form of discrimination and by issuing guarantees against expulsion, segregation, or forcible assimilation. According to international conventions, all states are obligated to promote racial and ethnic tolerance through the educational system, by teaching the history and culture of national and religious minorities, and by dispelling or combating racial prejudice and animosity toward different cultures and religions. States need to provide full legal guarantees to enable ethnic groups to benefit from their own associations, organizations, schools, media, churches, libraries, economic bodies, and self-help institutions. In addition, minorities should have the freedom to uphold cultural, social, informational, and other contacts with different states, including their “mother countries,” without diminishing their responsibilities as citizens.⁷⁴

Since minority groups throughout Central and Eastern Europe contend that the rights they possess as individual citizens are simply insufficient to guarantee the maintenance of their cultural and ethnic identity, particularly during an unsteady process of political and legal transition, every newly emerged state should guarantee as a base minimum for every person the undisputed right to determine and express his or her ethnic identity and religious conviction, and to associate with other individuals for the purpose of maintaining his or her cultural, ethnic, and religious identity.

⁷² See, Ted R. Gurr, *Minorities at Risk*, p. 310.

⁷³ Report of the CSCE Meeting of Experts on National Minorities, *30 I.L.M.* 1692, 1698, 1992.

⁷⁴ See Janusz Bugajski, *Ethnic Politics in Eastern Europe. A Guide to Nationality Policies Organizations, and Parties* (Armonk, New York; London, England: The Center for Strategic and International Studies, 1993), p. 435.

The starting point in guaranteeing this minimum base is the assurance of bi-lingualism for minorities.⁷⁵ According to CSCE provisions, persons belonging to national minorities must receive adequate opportunities for learning their mother tongue and wherever possible for the use of this language in any dealings with official institutions. Actually, the existence of bi-lingualism in Western states can be used as an example of effective bilingual model for those East European countries whose governments fear that multi-language use will inevitably increase pressures for autonomy or secession.

A second condition is the abolishment of discrimination in education on the basis of race, religion, or ethnicity. Governments of the newly independent states should provide separate or supplemental schooling for minorities, or at least give all ethnic groups maximum freedom to establish, fund, and control their own private educational and cultural facilities without official objection.⁷⁶

In the political realm, it is absolutely necessary to include minorities in the administrative and legislative processes.⁷⁷ As a basic starting point, minorities must be allowed to participate fully in the country's political system through involvement in local, regional, and national elections. This measure could reduce minority resentment, encourage cooperation across ethnic boundaries, and increase opportunities for parliamentary representation. The exclusion of minorities from administrative and legislative work could actually heighten calls for political or territorial self-determination and even separatism among distressed minorities.

In some instances, where minorities reside in reasonably compact territorial units, they may be provided with a measure of local administrative autonomy without undermining the government's key economic, political, and security functions. Of course, exact arrangements depend largely on historical and administrative precedents in the country in question. Some states have a tradition of local or regional autonomy; in others political and economic decentralization combined with cultural autonomy and local bi-lingualism can mitigate against possible majority-minority conflicts. Governments may fear that regionalization and autonomy may encourage secession. Such apprehension could be reduced if the state can be assured of retaining ultimate control over regional governments or if the principle of autonomy is equally applied to all regions, thus countering the development of ethnic particularism.⁷⁸

The prospects for accommodating ethnic demands depend on state interests and patterns of policy. Some states are reluctant to grant regional autonomy because it may contradict long-standing ideological and political commitments to the assimilation of minority peoples, or for other reasons. Economically unstable and institutionally paralyzed Russia has everything to fear from acknowledging the autonomy of the regions. Moscow was and still is reluctant to give up autonomy beyond what was already given to the regional leaders.

⁷⁵ See *Document of the Copenhagen meeting of the Conference on the Human Dimension of the CSCE*, 1990, Paragraph 34.

⁷⁶ See Janusz Bugajski, *op. cit.*, p. 436.

⁷⁷ Ideally, ethnic identity should not figure as a determinant of political preference. However, in the transitional states of Eastern Europe, where ethnic or regionally-based political organizations among both majority and minority populations provide representation and compete for office at various administrative levels, some provision must be made to balance their influence in order to avoid charges of estrangement, alienation, and exclusion. See about that Janusz Bugajski, *op. cit.*, p. 437.

⁷⁸ See Janusz Bugajski, *op. cit.*, p. 438.

Today the Russian government is trying to preserve the federation at any cost. The government's approach to conflict resolution is, therefore, predetermined by the presumption that the resolution of any conflict should not jeopardize the stability of the federation. This explains why the government made so many mistakes during the Chechen crisis. The government advocates a policy of all citizens being equal and therefore does not emphasize or pay special attention to national minority rights. Russian officials believe that this emphasis on individual as opposed to group rights would eliminate past discrimination of the groups from various institutions. Also the Russian government feared that preferential treatment of minorities would result in discrimination against Russians in their own nation.

However, at times when ethnic, national questions have become very acute and painful, stressing the primacy of individual human rights of all citizens has not been the best way to deal with the problem. As Tibor Varady points out: "equal voting rights and other attributes of "equality in law" may only reinforce the subordinate position of minority groups... Moreover, the principle of equality itself does not address the right of a group and of its members to be *different*, linguistically and culturally."⁷⁹

Events in Chechnya and Tatarstan have proven the ineffectiveness of the Russian policy of the equality of individual rights. It is time for Russia to realize that by denying group rights for national minorities, the problem cannot be solved. Along with individual rights, the government should take full responsibility for guaranteeing group rights for national minorities. Without such actions, ethnic groups will always feel discriminated against and will attempt to leave the federation. Under the circumstances, the government should adopt the policy of "national-cultural-autonomy" and not to be afraid that this measure will divert too much power away from the center. This nationality policy should entitle the regions and nationalities to more power by decentralizing the decision making.

As states' experience shows, the formation of autonomies can be one of the obvious solutions for managing ethnic conflicts, and one of the alternatives to secession. One great advantage of autonomy over complete independence is that it has many negotiable specifics. The most effective autonomy agreements are the ones that provide resources and institutions through which groups can make significant progress toward their objectives. Such agreements build long-term support for peaceful solutions and undermine appeals to militant action. "Effective territorial autonomy of ethnically distinctive groups must be seen as an expression of the government in the resolution of interethnic issues and consequently as an additional reason for protection of territorial integrity of that State."⁸⁰

Autonomy has already proven to be a successful means in resolving ethnic problems in several Western European countries. The best treatment of a minority group by a host nation anywhere in the world is considered the Swedish-speaking inhabitants of the Aaland Islands. Under the Aaland Autonomy Act 1951, Finland's Swedish-populated Aaland Islands enjoy virtually complete political and cultural autonomy. The Swedish character of the islands is maintained through regulations on language, education, regional citizenship, and the acquisition of property on the island. As we can see, the individual and collective rights of the islanders are balanced against the rights of other Finnish citizens to equal treatment.

⁷⁹ Tibor Varady, "Minorities, Majorities, Law, and Ethnicity: Reflections of the Yugoslav Case," p. 38.

⁸⁰ Ibid., p. 305.

Autonomy agreements have helped dampen rebellions by the Basques, although many Spanish Basque are dissatisfied with the implementation of the autonomy accords.

For an autonomy agreement to have any value at all, it should be fully implemented and observed. Unkept promises may trigger an opposition. And last, but not least, the outcomes of autonomy agreements depend on the political will of leaders on both sides, the resources of the state, and the specifics of the autonomy agreements themselves.

A reasonable degree of autonomy could have prevented the escalation towards bloodshed in many ongoing crisis. As an example, take the Yugoslavia case. At the end of the 80's and the beginning of the 90's, Serbs in Croatia (former Krajina) were at first claiming autonomy, but the new Croatian government would not accept this demand. The Croatian side was ready to do so when civil war and ethnic cleansing had started, but at that time Serbs wanted more. In the summer of 1995, Croatian military attacks became nonstop and Yugoslavia was not going to intervene, so Serbs readily accepted the autonomy plan, offered earlier by international negotiators, but by then that was too much for the Croatian side. After years of killing and destruction, the entire Serbian population was forced to flee, instead of having autonomy of one kind or the other.

Considering national means to manage ethnic conflicts one should keep in mind that they have not only potential gains but risks as well. For any policy of the accommodation of ethnic interests to be effective they must be pursued cautiously, persistently, and nonviolently. In addition, Ted R. Gurr points out two keys to the constructive management of ethnic conflict. "One is to search out politically and socially creative policies that bridge the gaps between the interests of minorities and state. The second is to begin the process of creative conflict management in the early stages of open conflict."⁸¹

And finally, the task of prevention or even resolution of ethnic conflict can not be fulfilled if only one party in the conflict makes efforts. Both sides of the conflict must realize that they have obligations toward each other. The government should try to do its best in ensuring minority rights, while the opposite side - frequently leaders of nationalist movements - must obey the state's law. If human rights are respected in the state, and minority interests are represented as well, leaders of nationalist movements need to acknowledge the constitutionality of this state, although they may not be satisfied with the particular forms of minority protection. In this respect, the processes of decentralization and democratization, which are taking place in East European countries, should not be used by nationalistic leaders as an excuse for secession. Secessionist movements could actually threaten the democratic transition. The best way to deal with the problem is to give support to the emerging liberal democratic system that will ensure minority rights.

Regional approaches Since the situation in different multi-ethnic countries varies enormously, a regional or sub-regional focus could prove more effective in outlining at least the minimum requirements of minority protection.

⁸¹ Ibid., p. 313.

Some East European countries have already undertaken steps in this direction. Hungary, Poland, Slovakia, and Ukraine signed an agreement to set up a Carpatian Euroregion in February 1993, with the support of the Council of Europe, aimed at improving communications and contacts between communities and peoples divided by the borders in this region. Similar developments are under way between Poland, the Czech Republic, and Eastern Germany. Polish and Ukrainian officials have considered establishing a similar region along their common frontier. These kind of agreements will definitely help to modify the relationship between countries and improve the situation with the minorities living in the neighbouring states.

A regional approach could also be helpful with CIS countries where specific mechanisms and procedures for conflict resolution and prevention are needed among all CIS members. Such instruments as bilateral agreements (although they could play a positive role in bilateral relations), are not sufficient for providing the essential legal mechanism for ethnic conflict resolution within the CIS countries. All CIS countries have to recognize and accept the fact that peace and stability within their own territory is impossible without peace and stability within the CIS borders. Accepting mutual responsibility for the security on the CIS territory, member-states should seek the mutually acceptable mechanisms and procedures for establishing the normative base for inter-ethnic relations. These procedures should be gradually introduced into interstate relations, and the mechanism for their supervision should also be established. Laws of all member-states should be synchronized in accordance with these procedures. These procedures and mechanisms should be based on an international agreement, which could help clarify and codify the obligations of participating states and the responsibilities of their constituent minorities. A commission of legal experts and minority-rights observers from all CIS countries who can be promptly dispatched to monitor a situation could be created under such an agreement. Such a minority-rights committee would provide early warning of any impending conflict, issue recommendations for appropriate counter-measures, and contribute to the creation of an arbitration body between parties. In matters of supervision over the application of such an agreement, the existing CSCE body such as the Conflict Resolution Center or the High Commissioner for National Minorities could be used.

This agreement (or a separate one) should also make a provision for an arbitrary court where parties could bring their dispute if other methods of the resolution of ethnic conflicts such as negotiations or mediation fail.

Post-conflict settlement is also very important in order to put an end to the conflict and its source, to stabilize the situation in the whole region. According to Ramazan Abdulatipov that implies the guarantee for improving the socio-economic situation on the territory of the conflict's sciences, the recognition of erroneous of the separatist's policy, and cultivation of ethnic tolerance in the society.⁸²

International tools: International tools are critically important for helping to resolve ethnic conflicts, especially when they are applied early enough to prevent the escalation of a conflict. Different measures such as diplomacy, institution building, human and minority rights monitoring, and the settlement of disputes can be employed for ensuring that states and minorities interact productively and peacefully.

⁸² Ramazan Abdulatipov, *Etnopoliticheskie Konflikty v SNG. Nadnacionalnie Mekhanizmy Razreshenia* (Moskva: Slavyanski dialog, 1996), p. 18-20.

The effectiveness of these means varies from one particular situation to another. Efforts can be undertaken on both bilateral and multilateral levels. Multilateral means are considered to have several advantages over bilateral measures because their decisions carry greater legitimacy, they have a less marked effect on sensitive bilateral relations in other areas of cooperation, and they are less vulnerable to political fluctuations.⁸³ But in some cases, especially when the tension producing situation involves two neighbouring states, bilateral relations may be more effective, than application of multilateral means.

Binding bilateral agreements with neighbouring states can certainly be of great importance, if the governments of two states intend to mutually guarantee the rights of relevant minorities on their territory and renounce any latent territorial pretensions. Such arrangements would deflect charges that specific states were being singled out for special or unfair treatment or were being pressured to grant more rights to resident minorities than their neighbors. This agreement should provide for establishment of bi-national or multi-national monitoring teams in order to observe and report on the position of minorities in both states. Some moves in this direction have in fact already been taken. In April 1993, Budapest and Bratislava agreed to create a panel of independent experts to examine the situation of minorities in both states. According to the tentative agreement, the panel was to serve for at least two years, gathering information and issuing recommendations to the OSCE High Commissioner for Minorities, who in turn would pass these on to the governments involved. Such independent panels exploring bilateral relations and monitoring the treatment of minorities could serve as a pattern for other pairs of states.⁸⁴

International monitoring could be also successfully used in tracking government compliance with multilateral accords, and in assessing minority compliance with their obligation to the state.

Since ethnic conflicts may seriously affect international peace and stability, as I have tried to show in previous chapters, by their very nature these kind of conflicts are not a bilateral issue but an issue which concerns the whole world community and, therefore, in most cases should be pursued through multilateral measures. Generally, the international community prefers to settle ethnic disputes by non-violent measures. Unfortunately, these measures frequently are insufficient, especially when military actions have developed. Negotiation and mediation can be occasionally effective, but negotiation and mediation efforts in civil wars have significant limitations.⁸⁵ Recent events showed that economic sanctions undertaken by the international community also have limited influence on the combatants in ethnic wars, although some scholars suggest that economic sanctions "...work as well or better than other foreign policy instruments".⁸⁶ Economic sanctions failed to bring peace to Bosnia. Armenians preferred to suffer several years of extreme privation rather than give up Nagorno-Karabakh.

⁸³ See Rein Mullerson, *Human Rights Diplomacy* (London and New York: Routledge, 1997), p. 137.

⁸⁴ For more information, see Janusz Bugajski, *Ethnic Politics in Eastern Europe. A Guide to Nationality Policies Organizations, and Parties*, p. 439.

⁸⁵ About role of negotiation and mediation in ethnic conflict, see Stephen J. Stedman, "Negotiation and Mediation in Internal Conflict", Michael E. Brown, ed., *The International Dimensions of Internal Conflict*, pp. 341- 376.

⁸⁶ Elizabeth S. Rogers, "Economic Sanctions and Internal Conflict", Michael E. Brown, ed., *The International Dimensions of Internal Conflict*, p. 425.

Therefore, along with the non-violent measures of conflict resolution, some situations require the application of more powerful means. In that respect international intervention is considered to be more effective means of resolving an ethnic war (or to pressure the government legally to enshrine and guarantee minority rights in an autocratic system that abuses both individual and collective rights).⁸⁷

The level of international intervention should depend on a particular situation, and preferably the UN should be involved in undertaking the required actions.⁸⁸ Early interventions in Bosnia could have saved many lives.

Within the framework of international intervention, sanctions deserve a closer attention as one of the most powerful, although hotly debated, tools of international intervention at the disposal of the international community for the purpose of resolving ethnic conflicts.⁸⁹ Generally, according to Article 41 of the UN Charter, the Security Council has the exclusive authority to impose mandatory sanctions on a state, and this authority could be exercised only in case of aggression. In practice, however, the UN deviated from this provision. In the case of Rhodesia and South Africa, sanctions were used not to prevent aggression but to challenge racism and other human rights abuses, practiced by white minorities in these countries. Actually, the UN for the first time in its history was interfering in what were considered to be the internal affairs of the states, which according to Chapter II, Article 7 of the UN Charter are not subject to the jurisdiction of the UN. The imposition of the collective sanction on Rhodesia and South Africa means that the international community, represented by the UN, agreed on the fact that violation of human rights in a country could not be tolerated and regarded as the internal matter of a state any more.

We can say that this precedent introduced a novelty in the UN collective security system. Not only cases of aggression, but also those of the denial of human rights in any state should be considered as threats to international peace and security, which call for immediate action of the Security Council under Chapter VII.

The further step in this direction was undertaken in Secretary General Boutros Boutros-Ghali's special report *An Agenda for Peace*, where the Secretary-General emphasized the direct correlation between domestic peace and world order. Although there are many unclear questions about the degree and nature of international interference in order to protect basic human rights, it is still evident that the

⁸⁷ According to international law intervention should be undertaken only in case of aggression. On this subject, see Chaim Kaufmann, "Possible and Impossible Solutions to Ethnic Civil Wars", *International Security*, Vol. 20, No. 4 (Spring 1996), p. 164.

⁸⁸ On the role of UN intervention into ongoing conflicts, see Paul F. Diehl, Jennifer Reifschneider, and Paul R. Hensel, "United Nations Intervention and Recurring Conflict", *International Organization*, v. 50, n. 4 (Autumn 1996), pp. 683-700; Terry Terriff and James F. Keeley, "The United Nations, Conflict Management and Spheres of Interest", *International Peacekeeping*, v. 2, n. 4 (Winter 1995), pp. 510-535.

⁸⁹ On the role of sanctions in ongoing international crisis, see Abram Chayes and Antonia Handler Chayes, *The New Sovereignty. Compliance with International Regulatory Agreements* (Cambridge, Massachusetts; London, England: Harvard University Press, 1995), part 1, pp. 29-108; John Stremlua, *Sharpening International Sanctions. Toward a Stronger Role for the United Nations*. A Report to the Carnegie Commission on Preventing Deadly Conflict (Carnegie Corporation of New York, November 1996).

international community is adopting the strategy of justifying the imposition of collective sanction upon the states which abuse human rights.

All this reflects the general attitude of the democratic world to treat internal violence and human rights abuse as threats to international peace and security. In this case the UN capacity to undertake actions against such a state is strengthening. This general tendency could become a stimulus and the justification for regional organizations to undertake respective measures in their attempts to resolve ethnic conflicts.

Thus, sanctions of international organizations are becoming a legitimate instrument in dealing with ethnic conflict. However, in practice there are some limits to internationally imposed sanctions. Often it is not easy for international community to agree on the question “who is the aggressor?” and “who is the victim?” in a particular situation. For instance, in the Croatian-Serb conflict it was difficult to determine which side should be assisted, since crimes were committed by both parties.

In addition, there are also difficulties of assembling and maintaining a coalition of governments willing to take decisive preventive actions, which the Yugoslavia experience illustrated as well. Although the Security Council declared the Yugoslav crisis to be a threat to international peace and security, its members clearly were unprepared to take decisive action, especially at the very beginning of the conflict. The human and material costs of failing to do so have been enormous. In order to build international support for future sanctions a better accounting of their effects and the creation of a new sanctions mechanism is necessary.⁹⁰

Recent experience on the whole confirms the increasing role of international institutions in dealing with ongoing conflicts.⁹¹ Particularly the input of international organizations such as the UN, the Council of Europe and the OSCE (Organization for Cooperation and Security in Europe, before 1995 - CSCE, Conference on Cooperation and Security in Europe) is irreplaceable in ensuring the states proper treatment of their minorities.⁹² During their meetings and in their documents these organizations have established norms of responsible international and national behavior which every state should use to cultivate their policy towards minority issues. Moreover, in October 1992 CSCE ministers meeting in Geneva adopted a “comprehensive set of measures” on the “peaceful settlement of disputes.” The package included a draft convention on conciliation and arbitration and a process of “directed conciliation,” whereby the CSCE Committee of Senior Officials or the Council of Ministers could direct two disputants, even without their consensus, to a conciliation procedure. The non-treaty elements of this package were accepted as mandatory by all participating states, while the treaty or

⁹⁰ For the discussion of how to strengthen the UN sanctions capabilities, see John Stremlau, “Sharpening International sanctions. Toward a Stronger Role for the United Nations”, *A Report to the Carnegie Commission on Preventing Deadly Conflict*, p. 46-67.

⁹¹ On the role of international organization in internal conflicts, see Chantal de Jonge Oudraat, “The United Nations and Internal Conflict”, M. Brown, ed., *The International Dimensions of Internal Conflict*, pp. 489-535; Thomas G. Weiss, “Nongovernmental Organizations and Internal Conflict”, M. Brown, ed., *The International Dimensions of Internal Conflict*, pp. 435- 459.

⁹² For details on the protection of minority rights within OSCE, see Mala Tabory, “Minority Rights in the CSCE Context”, Y. Dinstein and M. Tabory, ed., *The Protection of Minorities and Human Rights*, pp. 187-211.

convention would only become binding on these states that formally ratified it; the majority of participants indicated their intention to do so.

At the same time these organizations have offered their assistance in monitoring ethnic conflicts. Thus, in December 1992 the CSCE Helsinki follow-up meeting, acknowledging the gravity of minority questions in Eastern Europe, had established the office of High Commissioner for National Minorities and empowered the High Commissioner to investigate problems relating to national minorities confidentially before they reach crisis proportions. If the Commissioner was unsatisfied with the results of consultations with disputing parties, he or she could issue an “early warning” that would be placed on the agenda of the CSCE Committee of Senior Officials.

The OSCE has also developed a mediating mechanism oriented towards preventing conflicts by seeking political solutions within affected countries. The CSCE High Commissioner on National Minorities, for example, was given the task by OSCE member states of communicating between governments and national minorities in potentially dangerous situations which had not yet erupted into violence.⁹³

Altogether, the democratization process created by the OSCE, with its emphasis on the importance of human rights and human dignity creates criteria by which the states’ behavior towards its minority could be properly judged. Simultaneously, it establishes the foundation for a new, free, and united Europe.

In conclusion I would like to stress that although the steps outlined above will not rapidly eliminate all the sources and manifestations of conflicts in the former post-communist societies, they can provide some basis for dialogue, compromise, and conflict reduction. The early and persistent involvement of international institutions in evolving ethnic relations could directly assist the democratization process, help propel each country toward accepted international standards, and mitigate against the kind of destructive ethnic polarization that invariably leads to conflict, violence, and even outright war. It is certainly easier to prevent conflicts than to try to resolve them.

Finally, I believe that the best international experts from the best international organizations, with their best recommendations can not resolve any ethnic conflict, unless parties in this conflict truly desire resolution, and are willing to cooperate with each other on this matter. Willingness means that parties must accept the fact that ethnic diversity is a permanent condition of their lives, and that they may have to share citizenship with other ethnic groups or nationalities. This is true for all nationalities living on the territory of the Russian Federation, for Serbs and Croats living in Croatia, and for almost all others. But more importantly, willingness means that parties are willing to put aside their most extreme claims, are willing to sacrifice some of their own ambitions, and are ready to compromise in favor of mutual interests based on common human values. Unfortunately, this is the most difficult task in ethnic conflicts, because parties often prefer to prove their rightness and defend their claims to the end. That is why willingness to put an end to a crisis situation should be considered the most important element in resolution of ethnic conflict, without which no attempt would be successful. Only when the parties

⁹³ For more information on the role of the OSCE High Commissioner on National Minorities in various crisis situations, see Rein Mullerson, *Human Rights Diplomacy*.

accept the fact that the continuation of a conflict will affect in the first place their own national interests and agree on the establishment of the constructive relationship of mutual cooperation without discrimination of ethnic groups on their territory, will a conflict be considered completely settled.