

Akdeniz University
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‘Autonomy:

The Basque Autonomous Community in Spain and the Kurdish Question in Turkey’

Joint Master’s Programme European Studies Master Thesis

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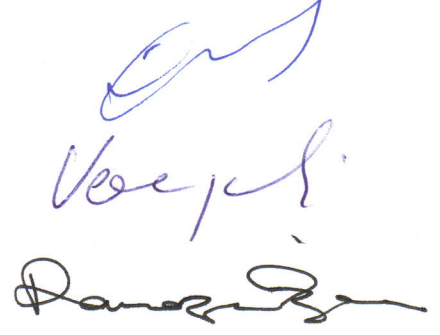
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LIST OF ABBREVIATIONS

BAC	Basque Autonomous Community
BDP	Bariş ve Demokrasi Partisi (Peace and Democracy Party)
CERD	Committee on the Elimination of Racial Discrimination
CE	Constitución Española (Constitution of Spain)
EEC	European Economic Community
ETA	Euskadi ta Askatasuna (the Basque Country and Freedom)
HADEP	Halkın Demokrasi Partisi (People's Democracy Party)
PKK	Partiya Karkeren Kurdistan (Kurdistan Workers Party)
PNV	Parti de Nacionalista Vasco (Basque Nationalist Party)
UN	United Nations

ÖZET

Otonomi: İspanya’da Bask Otonomisi ve Türkiye’de Kürt Sorunu

Kürt sorunu günümüz Türkiye’sinin halen en temel problemlerinden biridir. Bu problemin çözümünü bulmaya yönelik farklı yaklaşımlar geliştirildi. Otonomi modeli de bunların içinde tartışılan örneklerden bir tanesidir. Özellikle de İspanya’daki Bask otonom bölgesi, Türkiye’de de benzer bir uygulama yapmak için örnek olarak gösterilmektedir. Ancak Bask otonomi modelinin önerilmesine rağmen Kürt sorunu ve Bask örneği karşılaştırmasını otonomi teorisi altında yapan bilimsel çalışma bulmak oldukça zor. Dolayısıyla, bu çalışma Bask ve Kürt otonomisi tartışmalarına katkıda bulunacaktır.

Bu yüksek lisans tezinin çerçevesi İspanya’daki Bask otonom bölgesi ve Türkiye’deki Kürt sorunun otonomi teorisi adı altında karşılaştırmasını yapmaktır. Bu çerçevede çalışmanın amacı “*Bask Otonomisi Kürt sorununun çözümü için bir model olabilir mi*” sorusuna cevap vermektir.

Anahtar Kelimeler: Otonomi, Kendi Kaderini Tayin Hakkı, Bask Otonom Topluluğu, Bask Otonomi Statüsü, 1978 İspanya Anayasası, ETA, PKK, Türkiye’de Kürt Sorunu.

ABSTRACT

The Kurdish question is still one of the most fundamental problems in today's Turkey. Different approaches have been developed in order to find a solution to this problem. Autonomy is one of the popular examples of them in question. In particular, the Basque Autonomy in Spain is shown as an example to implement such a model in Turkey. Despite the proposed Basque model, it is quite difficult to find relevant scientific studies that compare the Kurdish question with Basque cases under the theory of autonomy. Therefore, this study will contribute to the Basque and the Kurdish autonomy debates.

The scope of this master thesis is to compare the Basque Autonomous Region in Spain with the Kurdish case in Turkey within the theory of autonomy. In this perspective, it is aimed to answer the question that *“Can the Basque Autonomy be a model for the solution of the Kurdish question in Turkey?”*

Key Words: Autonomy, The Right to Self-Determination, The Basque Autonomous Community, The Statute of Autonomy of the Basque Country, The Spanish Constitution of 1978, ETA, PKK, The Kurdish question in Turkey.

INTRODUCTION

Tansu Ciller, one of the former Prime Ministers of Turkey, made a statement regarding the *autonomy* for the solution of the Kurdish question by the Basque Autonomy Model, after a meeting with her Spanish counterpart.¹ It was in 1993 when she explained her idea. However, today, even two decades after her speech, the Kurdish question still continues as one of the major issues in Turkey. The history of the Kurdish question in Turkey or possible solutions have hitherto been discussed by the scholars, politicians and non-governmental organizations. Therefore, there is an excessive amount of related literature. However, this study differs from others in that it not only examines the theory of autonomy and the experience of autonomy in the Basque territory but also proposes this model to the Kurdish question. This master thesis consists of three chapters for a clearer analysis.

In the first chapter of the study, the theory of autonomy will be tested. Unless content of autonomy is internalized, proposing sample of it for any ethnic conflicts will not be grounded. While explaining the autonomy as well as its forms, the right to self-determination, one of the most controversial subjects that affects ethnic groups' future, will be discussed in order to come to conclusion whether autonomy can be an answer to the right to self-determination claim or not.

The second chapter consists of three parts: Firstly, under the main title of The Spanish Constitution of 1978, the situation of autonomy in the Spanish Constitution of 1978 and the Statute of Basque Autonomous Community will be discussed. They hold great significance in order to understand what the Basques Autonomy Model is. Secondly, the right to self determination of the Basques will be addressed to see whether being autonomous region has fulfilled said right for the Basques or not. Thirdly, effects of autonomy on the secessionist movement, ETA, will be summarized.

In the last chapter of the study, the current Kurdish Question in Turkey will be the main subject. In order to define the problem, three main subjects will be examined. Firstly, the Kurdish question and PKK; secondly, the Kurdish question as a socio-economic backwardness of the Kurds and the South-eastern Turkey; thirdly, Turkish nationalism policies and the Kurdish Question will be argued. In the final part of the chapter, possibility of the Basque model for the Kurds will be discussed in terms of pros and cons.

¹ Tozun Bahcheli and Sid Noel, 'The Justice and Development Party and the Kurdish Question' in *Nationalisms and Politics in Turkey: Political Islam, Kemalism and the Kurdish Issue*, ed. by Marlies Casier and Joost Jongerden (New York: Routledge, 2011), pp. 101-120, at p. 102.

However, it should be noted that, by and large, this study does not aim to deal with the history of the Kurds, their situation in the Middle East or their rebellions in Ottoman Empire or Turkish Republic in details. Doubtlessly, it includes some statements about the background of the Kurdish question and PKK but it neither examines the history of PKK and its existence nor proposes alternative models to end the conflict or negotiation strategies between the State and the PKK. Similarly, purpose of the study is not to argue the history of the Basques or not to deal with the aims of ETA, its background and struggle against Spain.

CHAPTER I

“Autonomy is not a panacea, but only a tool or a framework that can constitute an adequate compromise if the parties are looking for one.”

Ruth Lapidoth

1. THE THEORY OF AUTONOMY

It might be considered that autonomy can be easily defined since there are so many autonomy models in different parts of the world. However, autonomy does not have the same functioning system in all these parts. Some of them show the same characteristics whereas the others have differences. For instance, autonomy can be for both religious-ethnic groups and indigenous people in different geographical areas. In such group-based autonomies, group members have the right to rule certain matters, e.g. cultural or family issues, whereas autonomy for indigenous people possesses local administrative authorities, locally elected legislative assembly and local independent courts.²

Therefore, Potier claims that ‘international lawyers have failed to come to an agreement on a stable workable definition for autonomy’. According to his assumption, it is impossible to define autonomy accurately since ‘it is a loose and disparate concept which contains many threads, but no single strand’.³ However, although he points at the difficulty of the theory of autonomy, there have been many scholars to explain it from different perspectives. We owe great thanks to forefather scientists in particular Ruth Lapidoth, Hurst Hannum, Markku Suksi, Yash Ghai and Yoram Dinstein, who dedicated so many researches to autonomy. In the following parts, the definition and forms of autonomy will be explored.

² Hurst Hannum, ‘Autonomy, Sovereignty and Self-Determination: The Accommodation of Conflicting Rights’, (Philadelphia: University of Pennsylvania Press, 1990), p. 467-8, quoted in: Alexandra Xanthaki, *Indigenous Rights and United Nations Standards: Self-Determination, Culture and Land*, (New York: Cambridge University Press, 2007), p. 165.

³ Tim Potier, *Conflict in Nagorno-Karabakh, Abkhazia and South Ossetia: A legal Appraisal*, (The Hague: Kluwer Law International, 2001), p. 54.

1.1. The Definition of Autonomy

The word autonomy is the combination of the Greek words *auto* and *nomos*. According to Pitkin, the meaning of *auto* is “*self or own*” and *nomos* is “*law, rule, binding custom, and way of life*”.⁴

Dinstein argues that autonomy will be seen as self-rule or self-government when looked up at legal-political vocabulary. He narrows the definition of autonomy to a system of self-government – within the borders of a sovereign country – set up in a specified region (or several regions).⁵ Heintze states that in principle, autonomy might be considered “as the granting of internal self-government to *a region or group of persons*, thus recognizing a partial independence from the influence of the central government”.⁶ Thereby, he observes that granting of certain rights to *a specific part of national minority* is an essential element of autonomy.⁷

According to Lapidoth’s idea, the original meaning of autonomy in Greek words used to be taken as the right to make one’s own laws.⁸ However, she claims that today the concept of autonomy is used in three different areas of science.⁹ Firstly, it exists in philosophy and its derivatives as the power of a person, which helps determine oneself through rational will. Secondly, in the natural sciences, the concept of autonomy is organic independence. Thirdly, autonomy exists in jurisprudence and political science in which there are different approaches to autonomy. Lapidoth classifies those approaches in politics under four main headings¹⁰:

- a) Firstly, autonomy is compared to a right to act one’s own discretion in certain matters,
- b) Secondly, autonomy is a synonym of independence,
- c) In the third notion, autonomy is a synonym of decentralization,

⁴ Hanna F. Pitkin, *Fortune is a Woman: Gender and politics in the Thought of Niccolo Machiavelli* (Chicago: The University of Chicago Press, 1999), p. 7.

⁵ Yoram Dinstein, ‘Autonomy Regimes and International Law’, *Villanova Law Review*, 56 (2011), 437-454 (p. 437)

⁶ Hans J. Heintze, ‘On the Legal Understanding of Autonomy’ in *Autonomy: Applications and Implications*, ed. by Markku Suksi (The Hague: Kluwer Law International, 1998), pp.7-32, at p. 7.

⁷ Hans J. Heintze, ‘Territorial autonomy: A possible solution of Self-determination conflicts?’, *Conference: Autonomy for Papua-Opportunity or Illusion?*, Berlin: 4-5 June 2003, <http://home.snafu.de/watchin/AFp2003heintze.htm> accessed on 05.10.2012.

⁸ Ruth Lapidoth, *Autonomy: Flexible Solutions to Ethnic Conflicts* (Washington: United States Institute of Peace Press, 1997), p. 29.

⁹ Ibid.

¹⁰ Ruth Lapidoth, ‘Autonomy: Potential and Limitations’, *International Journal on Minority and Group Rights*, 1.4 (1994), 269-290 (p. 277)

- d) According to the fourth notion, autonomy is an entity that has exclusive powers of legislation, administration and adjudication in specific areas.

Hannum and Lillich state that autonomy is an independence of action on the internal or domestic level that does not work for the foreign affairs and defence as they are managed by central government. However, it may rarely work as a power to conclude international agreements related to cultural or economic matters since those issues also may reside with the autonomous entity.¹¹ For instance, despite the membership of Denmark in European Union, Greenland – autonomy within the Kingdom of Denmark – left the European Community by a referendum on February 1 in 1985, and still is not a member of the EU. The reasons for Greenland were regulations governing commercial fishing and an EEC (European Economic Community) ban on the importation of sealskin products.¹² Åland Islands might be shown as another example since it is today represented in Nordic Council by two delegates.¹³ It is also permitted to conclude agreements with the Nordic Countries with the approval of the President of Finland.¹⁴

In Yash Ghai's words, autonomy is "*a device which allows ethnic groups claiming a distinct identity to exercise direct control over affairs of their special concern*" but at the same time, it allows the larger entity those powers which cover common interests.¹⁵ Gurr briefly defines the autonomy as a regime in which *minority* has a collective power base, usually a regional one, in a plural society.¹⁶

Bernhardt explains the autonomy in a broader sense as "the autonomous self-determination of an individual or an entity, the competence or power to handle one's own affairs without outside interference"¹⁷. He shows the autonomy of universities, of cities, of churches as examples of the '*limits of State interference*'. In a narrower sense, the meaning of autonomy for Bernhardt is the protection and the self-determination of minorities, such as

¹¹ Hurst Hannum and Richard B. Lillich, 'The Concept of Autonomy in International Law', *American Journal of International Law*, 74.4 (Oct., 1980), 858-889 (p. 860).

¹² Pamela R. Stern, *Historical Dictionary of the Inuit* (USA: Scarecrow Press, 2004), pp. 55-6.

¹³ See: <http://www.norden.org/en/nordic-council/members-of-the-nordic-council> accessed on 02.10.2012.

¹⁴ Lapidoth *Autonomy: Flexible Solutions to Ethnic Conflicts*, p. 27.

¹⁵ Yash Ghai, 'Ethnicity and Autonomy: A Framework Analyses', in *Autonomy and Ethnicity: Negotiating Competing Claims in Multi Ethnic States*, ed. by Yash Ghai (Cambridge: Cambridge University Press, 2000), pp. 1-24, at p. 8.

¹⁶ Ted R. Gurr, *Minorities at risk: A global View of Ethnopolitical Conflicts* (Washington, DC: United States Institute of Peace Press, 1993), p. 292.

¹⁷ Rudolf Bernhardt, 'Federalism and Autonomy', in *Models of Autonomy*, ed. by Yoram Dinstein (London: Tel Aviv University, 1981), pp. 23-30, at p. 26.

linguistic, cultural or ethnic minorities. Autonomy provides this protection by granting certain rights to a specific part of the State population, in view of its characteristics which differ from the majority of the population. The importance of autonomy is that since minorities are different from the majority population, they can exclude “State and majority interference as far as their specific background, tradition and way of life concerned”.¹⁸

To sum up, considering the definitions of autonomy stated above, two important features can be seen as the bases for autonomy: firstly, autonomy is based on self-rule or self-government; secondly, autonomy serves to govern the groups’ interests/concerns.

1.2. Forms of Autonomy

1.2.1. Territorial Autonomy

Territory is one of the key elements of the theory of autonomy. It is extremely important since it has an active role to demand autonomy. For example, in some cases it may become the primary criterion because it grants rights to individuals who belong or wish to belong to the relevant group living in the territory.¹⁹ However, at the same time, should be mentioned that the importance of territory in desiring autonomy can emerge because of different reasons. For instance, the distance of the region to centre, historical and cultural development of the region, the existence of indigenous peoples who survived colonisation, also the importance of the land, and use of natural resources foster to establish a territorial autonomy.²⁰

Rotchild and Hartzell define the territorial autonomy as an “institutional arrangement that delimits a regionally-based, self-administering entity or entities within a state as having explicit policy-making responsibilities in one or more political, economic or cultural sphere”.²¹

From Heintze’s view, territorial autonomy that works as a form of group protection can be implemented *if the group in question lives in a defined area*, which is geographically well defined territory, and constitutes the majority there. If a region becomes autonomous, not only the members of the majority or a certain group but also all inhabitants in that area enjoy this status. The important point here is that minority living outside this autonomy will not be able

¹⁸ Ibid.

¹⁹ Markku Suksi, ‘Concluding Remarks’ in *Autonomy: Applications and Implications*, ed. by Markku Suksi (The Hague: Kluwer Law International, 1998), p. 359.

²⁰ Potier, *Conflict in Nagorno-Karabakh...*, p. 55.

²¹ Donald Rothchild and Caroline A. Hartzell, ‘Security in Deeply Divided Societies: The Role of Territorial Autonomy’, in *Identity and Territorial Autonomy in Plural Societies*, ed. by William Safran and Ramon Maiz (Portland: Frank Cass Publishers, 2000), p. 259.

to benefit this autonomy status. In his opinion, this kind of autonomy is called “fake” national autonomy.²²

Weller and Wolff highlight that the basic idea of territorial autonomy is an autonomous entity that is defined in *territorial terms*. Therefore, a population living in a certain territory is granted an autonomous status irrespective of whether the individuals living on this territory belong to *one or another ethnic group*.²³ The significant point of territorial autonomy is that no matter what the degree of autonomy given to this specific area is, the constitution of the country will be preserved. Thus, the autonomous territory will be an integral part of that country. However, it will not be enough to provide the integration through only legislative measures. According to Weller and Wolff, this can be achieved in three different ways: Firstly, there should be an adequate representation of the autonomous entity at the central level; secondly, constitutionally guaranteed procedures can be provided for the resolution of disputes between central government and autonomous entity; thirdly, it is a necessity to function a mechanism that will “ensure the protection of human rights of all residents in the autonomous territory, regardless of their ethnic identity, including a right to appeal to judicial institutions at the central level”.²⁴

In the contents of territorial autonomy, major issues are the division of powers –matters of culture, economics and social affairs– between the autonomous entity and central government.²⁵ Lapidoth states that the extent of those powers, which are transferred to autonomous authorities, varies accordingly, “ranging from very limited to larger and up to a high concentration of major powers in the above spheres”.²⁶ The question here we need to ask is how the territorial autonomy system will be achieved? At his point, it will be helpful to refer to Hannum and Lillich’s suggestions.²⁷ Firstly, there should be a locally elected body with some independent legislative power. This body will be responsible for the local matters, such as health, education, internal trade and commerce, local taxation, local government

²² Hans J. Heintze, ‘On the Legal Understanding of Autonomy’ in *Autonomy: Applications and Implications*, ed. by Markku Suksi (The Hague: Kluwer Law International, 1998), pp.7-32, at p. 18.

²³ Marc Weller and Stefan Wolff, ‘Self-Determination and Autonomy: A Conceptual Introduction’, in *Autonomy, Self-Governance and Conflict Resolution: Innovative Approaches to Institutional Design in Divided Societies*, ed. by Marc Weller and Stefan Wolff (London: Routledge, 2005), pp. 1-22, at p. 12.

²⁴ Ibid.

²⁵ Ruth Lapidoth, ‘Elements of Stable Regional Autonomy Arrangements’, *Centrum für Angewandte Politikforschung* (C.A.P.) Working Paper (August 2001), p. 7.

²⁶ Lapidoth, ‘Autonomy: Potential and Limitations’, p. 277.

²⁷ Hurst Hannum and Richard B. Lillich, ‘The Concept of Autonomy in International Law’, *American Journal of International Law*, 74.4 (Oct. 1980), 858-889, (p. 860).

structure and government. The decisions made by it should not be subject to veto of sovereign government unless those decisions exceed its competence. Secondly, there should be a locally-chosen chief executive. S/he will probably be subject to prove or confirmation of the principal government, “who has general responsibility for the administration and execution of local laws or decrees”. Thirdly, the authors offer an independent local judiciary. Some members of this may be subject to approval by the principal government, too. If there are questions related to the scope of local power, they may be considered primarily by either local and national courts, then by a non-local court or a joint commission for final resolution. Lastly, full autonomy will be compatible with the power sharing arrangements between autonomous regions and central governments, e.g. police powers, ports and other aspects of transportation, and implementation of national/central regulations and legislations.

To draw a conclusion about the territorial autonomy in general, the following three important factors should be stressed: Firstly, to able to talk about such autonomy ‘a specific area-region’ should be determined where the autonomous entity will govern. Secondly, this area will be responsible for the certain affairs and for regulating its own legislation and government/administration. Thirdly, the autonomous entity will be in cooperation with the central government by providing representation of autonomous region in centre in order to be integral part of the state.

1.2.2. Non-Territorial Autonomy

The difference between non-territorial autonomy and territorial autonomy is not only the regional claims but also the rights of ethnic, religious minorities or other groups within the state where those groups live. Since it may be appropriate for all kind of groups, it exists in different models. In the following, different models of non-territorial autonomy will be explained:

1.2.2.1. Cultural Autonomy

Heintze states that main purpose of the cultural autonomy is the “free cultural development of the group”.²⁸ Therefore, he defines cultural autonomy as an autonomous self-government of cultural affairs by the group or minorities who have possibility to decide freely on the identity issues such as language and education. In other words, cultural autonomy is “the right to self-rule, by a culturally defined group, in regard to matters which affect the

²⁸ Heintze, ‘On the Legal Understanding of Autonomy’, p. 21.

maintenance and reproduction of its culture".²⁹ The critical point here is that majority's or State's decision making tools are not able to rule the minority.³⁰ In other words, in cultural autonomy, 'even if the citizens inhabit a territory where the majority belongs to a different national group', members of different ethnic groups are not subject to the cultural practices of majority especially on matters of national and ethnic interest.³¹

Eide highlights the point that territorial autonomy sets borders on the ground whereas the cultural one is essentially set in the minds of peoples. From this point of view, there are three reasons of difference between cultural autonomy and territorial autonomy.³² Firstly; in cultural autonomy, culturally defined groups have possibility to manage themselves rather than a territorially defined group. Secondly, the scope of self-management is limited to cultural aspects. Thirdly, cultural authority will be applied only over those individuals who belong to cultural group. In addition, it should be mentioned that the scope of self-management in such a cultural autonomous system does include the following: the state will not be able to overrule or invalidate the decisions of the cultural groups' institutions unless they violate the national law.³³

We can give some examples for cultural autonomy. For example, in 1925, parliament of Estonia passed an act about the Cultural Autonomy for Ethnic Groups. It entitled ethnic groups of more than 3,000 members in order to enable them to organize themselves into corporate bodies and run their own educational and cultural affairs.³⁴ Although the Estonian government had the right to control the affairs of cultural self-government, the decisions or regulations of cultural autonomy bodies were not confirmed by the State.³⁵

²⁹ Asbjorn Eide, 'Cultural Autonomy: Concept, Content, History and Role in the World Order' in *Autonomy: Applications and Implications*, ed. by Markku Suksi (The Hague: Kluwer Law International, 1998), pp. 251-276, at p. 252.

³⁰ Heintze, 'On the Legal Understanding of Autonomy', p. 21.

³¹ Robert A. Kann, *Multinational Empire: Nationalism and National Reform in the Habsburg Monarchy, 1848-1918*, (New York: Octagon Press, 1970), p. 244, quoted in Ephraim Nimni, 'National-Cultural Autonomy as an Alternative to Minority Territorial Nationalism', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 6.3 (2007), 345-364 (p. 348)

³² Eide, 'Cultural Autonomy: Concept...', p. 252.

³³ Ibid.

³⁴ See: http://ec.europa.eu/languages/documents/et_en.pdf accessed on 01.10.2012.

³⁵ http://www.estonica.org/en/Cultural_autonomy_of_national_minorities_and_cultural_self-government_in_the_Republic_of_Estonia/ accessed on 01.10.2012.

Non-Muslim communities in the Ottoman Empire, called as *millet system*, the Belgian linguistic communities, Eritrea, and Greenland are shown as examples of cultural autonomy systems.³⁶

1.2.2.2. Personal Autonomy

In Lapidoth's words, there is no difference between the terms *cultural* and *personal autonomy*. Just like the definitions of cultural autonomy, she defines the personal autonomy as an application "to all the members of a certain group within the state, regardless of the place of their residence".³⁷ She states that in personal autonomy, minorities have the rights to take the necessary steps so as to protect and implement their rights. Despite the discretion of those minorities, they will have to protect or implement those rights within the limits of the laws of the state.³⁸ In addition, Lapidoth mentions the importance of personal autonomy by stating its great advantage over territorial autonomy by comparison:

"In principle personal autonomy should apply only to people opt to be members of the group for the benefit it is established, whereas territorial autonomy applies to *all* the inhabitants of a certain region, thus including also those who are not members of the group for whose benefit the regime is established".³⁹

On another side, Heintze makes distinction between the cultural and personal autonomy. He states that cultural affairs are the major subjects of cultural autonomy, whereas those of the personal autonomy are the members of ethnic groups. He sees this difference as an exception to the rule of State competence because in such autonomy collective rights of a people or a minority are transferred to individual.⁴⁰

According to Hannum's definition, 'personal and political autonomy is in some real sense *the right to be different and to be left alone*: to preserve, protect and promote values which are beyond legitimate reach of the rest of society'.⁴¹ However, Suksi criticizes Hannum's definition because of its reference to personal and political autonomy together. He stresses that these types of autonomy should be defined separately because personal autonomy is "a description of especially private law forms of organization that lead to institutional

³⁶ Hannum and Lillich, 'The Concept of Autonomy in International Law', p. 860.

³⁷ Lapidoth, *Autonomy: Flexible Solutions to Ethnic Conflicts*, p. 37.

³⁸ *Ibid.*, p. 38.

³⁹ Lapidoth, 'Autonomy: Potential and Limitations', p. 282.

⁴⁰ Heintze, 'On the Legal Understanding of Autonomy', p. 21-2.

⁴¹ Hurst Hannum, *Autonomy, Sovereignty and Self-Determination: The Accommodation of Conflicting Rights*, (Philadelphia: University of Pennsylvania Press, 1990), p. 4.

consequences when persons belonging to minorities create activities in community with the other members of their group”; therefore, the aim of personal autonomy here might be enjoying their own culture, professing and practicing religion or using their own language.⁴²

1.2.2.3. Functional Autonomy

“Die Übertragung bestimmter staatlicher Funktionen und Rechte an privatrechtliche Minderheitenvereinigungen kann als funktionelle Autonomie’ bezeichnet werden”.⁴³ [Functional autonomy can be referred as the transfer of certain state functions and rights to private minority associations]. In order to be able to transfer the particular functions to these private corporations, minorities should be organized in a private form, in other words organization must be collectively and without the State’s influence.⁴⁴ Thus, the basis of functional autonomy becomes competence, initiative and interest of the associations.⁴⁵ However, the significant point here is that despite the transfer of the functions, functional autonomy “does not provide the jurisdictional boundaries that often serve to maintain the particular identity of ethnic communities”.⁴⁶

Functional autonomy, for example, aims to provide ‘adequate linguistic services to minority population in respect of a *certain public function* (such as education)’.⁴⁷ And it achieves this by creating special linguistically identified units. Those units are at the different administrative levels, that is, ‘national or local administration of the public function’.⁴⁸

Functional autonomy is rarely implemented but before the Church and States were separated, there were different regimes in Europe, which are related to certain subject matter

⁴² Markku Suksi, ‘Personal Autonomy as Institutional Form – Focus on Europe Against the Background of Article 27 of the ICCPR’, *International Journal on Minority and Group Rights*, 15.2-3 (2008), 157-178 (p. 177).

⁴³ See Dieter Blumenwitz, *Volksgruppen und Minderheiten: Politische Vertretung und Kulturautonomie*, (Berlin: Gebr Mann, 1995), p. 97.

⁴⁴ Heintze, ‘On the Legal Understanding of Autonomy’, p. 24.

⁴⁵ Ibid.

⁴⁶ William Safran, ‘Spatial and Functional Dimensions of Autonomy: Cross-National and Theoretical Perspectives’, *Nationalism and Ethnic Politics*, 5.3-4 (1999), 11-34 (p. 12).

⁴⁷ Markku Suksi, ‘Functional Autonomy: The Case of Finland with Some Notes on the Basis of International Human Rights Law and Comparisons with Other Cases’, *International Journal on Minority and Group Rights*, 15.2-3 (2008), 195-225 (p. 199).

⁴⁸ Ibid.

applicable differentially for Catholics, Protestants and Jews.⁴⁹ Today, Danish minority in Germany is often cited as functional autonomy.⁵⁰

1.3. Autonomy and the Ethnic Conflicts

Autonomy is used as a tool to prevent the ethnic conflicts or to fulfil the demands of minorities or groups. There are many examples of the ethnic conflicts that states and minorities tried to end by autonomy agreements. Some of them were shaped as territorial autonomy, whereas the others as cultural or the other types of autonomy. Although those autonomous entities or regimes were established to solve ethnic problems, some of them still deal with the problems. To illustrate, today in some of the autonomous regimes, there are claims based on the independency of autonomous region, e.g. Basque autonomous region or Catalonia in Spain. So is it possible to conclude that autonomy did not end the problems because of independency claims? In order to answer this question it is crucial to underscore the role of autonomy on solving the ethnic conflicts.

Doubtlessly, as far as the theory and implementations of autonomy are considered, it can be said that autonomy might be one of the best solutions to solve the ethnic problems. This is the pragmatic side of autonomy as we are able to test whether autonomy reaches its goal or not, namely the end of conflict. Both the States and ethnic groups are the contents that shape the autonomy. Therefore, to study the effects of autonomy on the ethnic conflicts, we should discuss the autonomy from State and minorities' or groups' perspective.

1.3.1. Autonomy and States

When the States' side is considered, the most important feature is the fact that the States are unwilling to solve ethnic conflicts by autonomy. Cornell draws three reasons why the States are almost universally reluctant to accept autonomy systems.⁵¹ Firstly, they hesitate to grant autonomy since it may lead to eventual secession of the autonomous region. As 'existing autonomous territories are – as a rule – interested in becoming independent'⁵², it is difficult to claim that autonomous entities will not demand independency in the future.

⁴⁹ John Packer, 'Autonomy and the Effective Participation of Minorities in Public Life: Developments in the OSCE', in *Beyond a One-Dimensional State: An Emerging Right to Autonomy*, ed. by Zelim A. Skurbaty (Leiden: Koninklijke Brill NV, 2005), pp. 321-336, at p. 322.

⁵⁰ Heintze, 'On the Legal Understanding of Autonomy', p. 23.

⁵¹ Swante E. Cornell, 'Autonomy as a Source of Conflict: Caucasian Conflicts in Theoretical Perspective', *World Politics*, 54.2 (Jan. 2002), 245-276 (p. 246).

⁵² Bengt Broms, 'Autonomous Territories' in Rudolf Bernhardt, "Encyclopedia of Public International Law 1, 1992, Amsterdam, p. 311, quoted in: Hans J. Heintze, *Territorial autonomy: A possible solution of Self-determination conflicts?*, *Conference: Autonomy for Papua-Opportunity or Illusion?*, Berlin: 4-5 June 2003, <http://home.snafu.de/watchin/AfP2003heintze.htm> accessed on 05.10.2012.

Secondly, giving autonomy to one ethnic group or region might be considered as discrimination by the other groups. Cornell's example is the claim by Turkish Republic that the Kurds will perceive the given autonomy as second-class status if granted. Instead, I intend to suggest that Turkey can implement the autonomy not only for the Kurds but also for the other ethnic minorities as well in order to avoid such perceptions. At this point, it's quite important to state the idea of Yash Ghai. He mentions that autonomy will work better if there are several ethnic groups rather than two.⁵³ For example, the autonomy in Spain is entitled not only to the Basques but also to the Catalans and the other regions as well. Similarly, all minorities may have equal rights in Turkey, too. The third reason for the States' hesitation to grant autonomy is the risk of the intervention of foreign state/s when autonomous entity has affiliation with this foreign state/s.

What is seen from the State's perspective, in general, is that they concentrate on the future of the autonomy rather than solving ethnic conflicts or fulfilling the demands of minorities or ethnic groups by the help of autonomy. Therefore, unwillingness of the State may be valid in that since autonomy may lead to secession or discrimination in the future, it will not solve the ethnic problems. However, despite the fact that secession is well beyond the scope of this study⁵⁴, I want to remark here that the reservation of the states about the secession should not be a reason not to support the autonomy. They should firstly question themselves about the reasons for secession demands. Why do the ethnic groups demand the secession despite the autonomy? Is it because of the lack of democracy or because of the regional economic disparities? Doesn't it fulfil the rights of minorities? The democracy level of the state, *partly the rights of minorities*, is the major determinant of the future success. As Lenin stated that:

“The closer a democratic state system is to complete freedom to secede the less frequent and less ardent will the desire for separation be in practice, because big states afford indisputable advantages, both from the standpoint of economic progress and from that of the interests of the masses...”⁵⁵

⁵³ Yash Ghai, 'Ethnicity and Autonomy: A Framework Analyses', p. 17.

⁵⁴ For more about secession see: *Secession and Self-Determination*, ed. by Stephan Macedo and Allen Buchanan, (New York: New York University Press, 2003), and Allen Buchanan, *Justice, Legitimacy and Self-Determination*, (New York: Oxford University Press, 2004), pp. 331- 424.

⁵⁵ V. I. Lenin, 'The Socialist Revolution and the Right of Nations to Self-Determination, Theses', *Collected Work*, 22 (December 1915-July 1916), (Moscow: Progress Publisher, Digital Reprints-2011), pp. 143-156, at p. 146.

According to Nordquist, there is a strong relation between the democratic structure of the State and success of autonomy as a conflict solving mechanism. For instance, if an institution is based on certain democratic ideas, it may co-function well with a democratic central government than a non-democratic one. Therefore, democracy level between the central government and the autonomy affects the durability of autonomy.⁵⁶ In addition, democracy level of a State is significant during the preparation of autonomy arrangements. The more they are negotiated in a democratic environment and participatory way the more successful they will be.⁵⁷ By this way, it may reply positively to the demands of minorities or autonomous units such as new institutional changes in future. For example, the reason why autonomy failed in Yugoslavia is shown as the lack of democracy.⁵⁸ Therefore, such democratic arrangements accelerate the chance to guarantee a judicial process that can be accessed for resolving disputes.⁵⁹ Briefly, the success of autonomy arrangements on ethnic conflicts depends on the democracy level of the *States* in order to protect stability in the future.

1.3.2. Autonomy and Groups

One of the most important features of autonomy is, as mentioned in the previous parts, is the division or transfer of the powers from centre to autonomous units. Autonomous regions/groups can benefit this characteristic of autonomy more than States. To illustrate, by the diffusion of the powers, territorial autonomy can reassure minority groups about their ability to control social, cultural, and economic matters that are important to the maintenance of communal identities and interests.⁶⁰ Therefore, Hannum sees autonomy as an advantage to solve ethnic conflicts because of responding successfully to concerns about minority rights.⁶¹ Doubtlessly, hopes of these minority groups to obtain such competences show the importance of autonomy in peacemaking process for the minorities' demands. Likewise, States may also

⁵⁶ Kjell Ake Nordquist, 'Autonomy as a Conflict-Solving Mechanism- an Overview', in *Autonomy: Applications and Implications*, ed. by Markku Suksi (The Hague: Kluwer Law International, 1998), pp. 59-77, at p. 70.

⁵⁷ Yash Ghai, 'Ethnicity and Autonomy: A Framework Analyses', in *Autonomy and Ethnicity: Negotiating Competing Claims in Multi Ethnic States*, ed. by Yash Ghai (Cambridge: Cambridge University Press, 2000), pp. 1-24, at p. 18.

⁵⁸ Sinisa Malesevic, 'Ethnicity and Federalism in Communist Yugoslavia and Its Successor States', in *Autonomy and Ethnicity: Negotiating Competing Claims in Multi Ethnic States*, ed. by Yash Ghai (Cambridge: Cambridge University Press, 2000), pp. 147-168 at p. 167-8.

⁵⁹ Jacques Bertrand, *Nationalism and Ethnic Conflict in Indonesia*, (New York: Cambridge University Press), p. 187.

⁶⁰ Donald Rothchild and Caroline A. Hartzell, 'Security in Deeply Divided Societies', p. 259.

⁶¹ Hurst Hannum, 'Territorial Autonomy: Permanent Solution or Step toward Secession' in *Facing Ethnic Conflicts: toward a New Realism*, ed. by Andreas Wimmer and others (USA: Rowman&Littlefield Publishers, Inc, 2004), pp. 274-282, at p. 275.

use this advantage as a way to dispose of its obligations – financial and other – towards the group.⁶²

On another side, although autonomous entities have the right to control their affairs, autonomy may also “isolate the minority and prevent its members from political or economic participation in the larger sphere of the state”.⁶³ Similarly, ‘it may aggravate the dialogue between groups and alienate the component groups from one another, and thus may lead to segregation’.⁶⁴

To sum up, it can be easily said that autonomy has positives effects on the ethnic conflicts as well as it disadvantages. We should firstly note that the prevailing atmosphere of conciliation and goodwill of the parts play important roles during the agreement process.⁶⁵ Secondly, autonomy is not able to resolve the ethnic conflicts entirely. However, in order to overcome the challenges, e.g. secession, discrimination or future constitutional alterations, autonomy should be designed and “maintained with necessary safeguards providing mechanisms to ensure the regulation of possible future conflicts, and for eventual alterations of the autonomy’s status”.⁶⁶

1.4. The Right to Self-Determination and Autonomy

First of all, let us show the reason why there is a need to explain the term ‘self-determination’ in this study. As known, Spain is governed under the autonomous system and the Basques are entitled to one of the autonomous regions in Spain. Today, however, there are some Basques such as Basque nationalists still demanding their independency just like it was the past (See title 2.2. of this study). The ground for their claim is that the Basques have the right to self-determination. So, does it mean that self-determination is equal to independency?

Similarly, discussions about the same topic exist in Turkey as well. The Kurdish question could not be ended, no matter whatever solution has been proposed. There are some who claim that the Kurds have the right to self-determination. Therefore, the following two points are explored in the study: it is a necessity to explain the term “self-determination” in order to understand whether autonomy can provide the right to self-determination. However,

⁶² Alexandra Xanthaki, *Indigenous Rights and United Nations Standards...*, p. 166.

⁶³ Cornell, ‘Autonomy as a Source of Conflict...’, p. 251.

⁶⁴ Ibid., see also: Hans Joachim Heintze, ‘Implementation of Minority Rights through the Devolution of Powers-The Concept of Autonomy Reconsidered’, *International Journal on Minority and Group Rights*, 9 (2002), 323-343 (p. 328).

⁶⁵ Lapidoth, ‘Autonomy: Potential and Limitations’, p. 288.

⁶⁶ Cornell, ‘Autonomy as a Source of Conflict...’, p. 251.

primarily we need to clarify the meaning of self-determination to see whether it equals to independency or not.

1.4.1. What is the Right to Self-Determination?

The right to self-determination should be explained in a detailed study as there are so many discussions and views about this right. However, it will be useful to point the ideas of two important characters of the last century, Lenin and US President Woodrow Wilson, about this right.

Lenin explains the right of nations to self-determination as ‘a political separation of these nations from alien national bodies, and the formation of an independent national state’.⁶⁷ In other words, it is a right to independence in the political sense or the right to free political secession from the oppressor nation; therefore, Lenin sees this demand as a political ‘democracy will’ which is only a consistent expression of struggle against any kind of national oppression.⁶⁸ Democracy will hold importance for him in that it is a tool used to ‘overthrow the bourgeois governments and for the achievement of socialism’.⁶⁹

We can make Lenin’s thesis concrete by considering his statement about the oppressed nations mostly living on the border region of Russia and whose numbers is not less than 57 per cent of the population of Russia. He claims that some of those nations are more highly cultured than the Great Russians. However, they suffer from barbarous and medieval politics of Russian Tsarism. Therefore, Lenin states that it is an obligation for the social democrats to recognize their right to secede from Russia.⁷⁰

Lenin supports the right to self-determination for the achievement of socialism; whereas Wilson asserts it for ‘government’ which means the right of people to choose their government freely. In other words, ‘peoples of each State be granted the right freely to select State authorities and political leaders’.⁷¹ In addition to this internal aspect of Wilson’s views, Potier summarizes the external dimension of Wilson’s self-determination, mentioned by

⁶⁷ V. I. Lenin, *Collected Works*, vol. 20, (December 1913-August 1914), (Moscow: Progress Publisher, Digital Reprints-2011), p. 397.

⁶⁸ V. I. Lenin, ‘The Socialist Revolution and the Right of Nations to Self-Determination, Theses’, in *Collected Works*”, vol. 22 (December 1915-July 1916), (Moscow: Progress Publisher, Digital Reprints-2011), pp. 143-156 at p. 146.

⁶⁹ *Ibid.*, p. 156.

⁷⁰ *Ibid.*, p. 154.

⁷¹ Antonio Cassese, *Self-Determination of Peoples: A legal Appraisal*, (Cambridge: Cambridge University Press, 1995), p. 19.

Wilson in the Fourteen Points.⁷² Firstly, self-determination could be used in order to restructure the States of Central Europe. Secondly, it could be utilised as a tool to govern territorial changes after the end of World War. Thirdly, it might be applied to solve competing colonial claims.⁷³ After the Fourteen Points, Wilson had another speech on 11th February 1918. In this speech, by using the term ‘self-determination’ for the first time, he pointed that all national aspirations must be respected since peoples may be governed by their own consent. Therefore, ‘self-determination is not a mere phrase; it is an imperative principle of actions which statesmen will henceforth ignore at their peril’.⁷⁴

Both Lenin and Wilson used the term self-determination in line with their political views: Socialism and Liberalism. Doubtlessly, they had a positive contribution to such a discussion. However, although this term is discussed in the 19th and early 20th centuries, it was not incorporated into any treaty until the UN Charter, which is the first authoritative document that upholds the term.⁷⁵ In Article 1 (2) of the UN Charter, self-determination was directly stated as one of the purposes of the UN that is;

“...to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace...”⁷⁶

Similarly, Article 55 of the UN Charter states the importance of the term by saying ‘...peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples...’⁷⁷

The self-determination was accepted as a principle in the UN Charter whereas it was incorporated as a *right* into the Declaration on the Granting of Independence to Colonial Peoples and the Countries.⁷⁸ It stated that ‘all peoples have the right to self-determination; by

⁷² Potier, *Conflict in Nagorno-Karabakh...*, p. 23.

⁷³ See Woodrow Wilson’s “Fourteen Points Speech” available at: <http://www.woodrowwilson.org/library-archives/wilson-elibrary> accessed on 07.10.2012.

⁷⁴ See Woodrow Wilson’s Speech on 11 February 1918, available at: http://wwi.lib.byu.edu/index.php/President_Wilson's_Address_to_Congress_Analyzing_German_and_Austrian_Peace_Utterances accessed on 07.10.2012.

⁷⁵ Antonio Cassese, ‘Political Self-Determination- Old Concepts and New Developments’, in *UN Law/Fundamental Rights: Two Topics in International Law*, ed. by Antonio Cassese (Netherlands: Sijthoff&Noordhoff International Publishers B. V., 1979), pp. 137-166, at p. 138.

⁷⁶ See the UN Charter, available at: <http://treaties.un.org/doc/Publication/CTC/uncharter.pdf> accessed on 09.10.2012.

⁷⁷ Ibid.

⁷⁸ See the UN General Assembly Resolution 1514 (XV), 14 Dec. 1960 Resolution Available at: <http://www2.ohchr.org/english/law/independence.htm> accessed on 09.10.2012.

virtue of that right they freely their political status and freely pursue their economic, social and cultural development'.⁷⁹ Similarly, International Covenant on Civil and Political Rights in 16 December 1966 placed the same article.⁸⁰

Some scholars think that the vague point of these statements was the lack of the definition or description of the 'peoples' since it does not show who the "peoples" are. For Potier, for example, any ethnic group can be peoples.⁸¹ According to Gunter, it means that people living in an existing colony or trust territory taken as a whole were eligible for self-determination.⁸² On the contrary, Crawford states that one cannot interpret "all peoples" as limited to the colonial case since it does not say that *some* peoples have the right of self-determination.⁸³ UNESCO contributes to the 'peoples' debates for the right to self-determination and clarifies the 'peoples' as a group of individual human beings who enjoy some or all of the following common points⁸⁴:

- a. a common historical tradition,
- b. racial or ethnic identity,
- c. cultural homogeneity,
- d. linguistic unity,
- e. religious or ideological affinity,
- f. territorial connection and
- g. common economic life.

Despite the debates about the 'peoples' in the past, the existence of the self-determination as a principle is important than its description. At this point, I agree with the Falk's reasonable comment '...such a principle exists and is actualized, it implies the existence

⁷⁹ Ibid., para. 2.

⁸⁰ See <http://www2.ohchr.org/english/law/ccpr.htm> accessed on 09.10.2012.

⁸¹ Potier, *Conflict in Nagorno-Karabakh...*, p. 33.

⁸² Michael Gunter, 'Kurdish Question in International Law', in *The Kurdish Conflict in Turkey: Obstacles and Chances for Peace and Democracy*, ed. by Ferhad Ibrahim and Gülistan Gürbey (Münster: LIT VERLAG, 2000), pp. 31-5, at p. 34.

⁸³ James Crawford, 'Right of Self-Determination in International Law', in *Peoples' Rights*, ed. by Philip Alston (New York: Oxford University Press, 2001), pp. 7-67, at p.27.

⁸⁴ International Meeting of Experts on Further Study of the Concept of the Rights of the Peoples, UNESCO, Paris, 27-30 November 1989, UNESCO SHS-89/CONF. 602/7, para. 23. Paris, 22 February 1990. Available at: <http://unesdoc.unesco.org/images/0008/000851/085152eo.pdf> accessed on 07.01.2013.

of rights and duties to ensure its application, or at least encompasses the prospect that such rights will be specified and realized'.⁸⁵

In the following, to be able to understand the relation between self-determination and autonomy, we will try to answer three questions: which types of self-determination are implemented, who are they implemented for, and which conditions are prerequisite for its implementation?

1.4.1.1. External Self-Determination

Although the right to self-determination have long been discussed, there is still not an exact definition of these terms: 'external and internal self-determination'. It is because of the existence of different views of the right to self-determination in general. As Xanthaki points out that the importance of self-determination is well-accepted and recorded but its precise meaning has not yet been agreed.⁸⁶ However, despite the lack of the exact definition of the term, there are some explanations of external and internal self-determination. For example, Senese defines the 'external self-determination' as "the recognition that each people has the right to constitute itself a nation-state or to integrate into, or federate with, an existing state".⁸⁷ For Cassese, it refers to the ability of a people or a minority to choose freely in the field of international relations, opting for independence or union with other States.⁸⁸ In Pomerance's words the external self-determination is "the act by which a people determines its future international status and liberates itself from alien rule".⁸⁹

In addition to the definition of external self-determination, another point that should be clarified is the 'people', who will benefit from this right.

When the Declaration of Principles of International Law is analysed, one can see the statement that if there is a subjection of peoples to alien subjugation, domination and exploitation, it means it "constitutes a violation of the principle as well as a denial of

⁸⁵ Richard Falk, 'Self-Determination Under International Law', in *the Self-Determination of Peoples: Community, Nation and State in an Independent World*, ed. by Wolfgang Danspeckgruber (Colorado: Lynne Rienner Publishers, 2002), pp. 31-66, at p. 41.

⁸⁶ Alexandra Xanthaki, 'the Right to Self-Determination: Meaning and Scope', in *Minorities, Peoples and Self-Determination*, ed. by Nazila Ghanea and Alexandra Xanthaki (Leiden: Martinus Nijhoff Publishers, 2005), pp. 15-33, at p. 15.

⁸⁷ Salvatore Senese, 'External and Internal Self-Determination', *Social Justice*, 16.1 (35), (Spring 1989), 19-25 (p. 19).

⁸⁸ Antonio Cassese, 'Political Self-Determination- Old Concepts and New Developments', p. 137.

⁸⁹ Michla Pomerance, *Self-Determination in Law and Practice: The New Doctrine in the United Nations*, (The Hague: Martinus Nijhoff Publishers, 1982), p. 37.

fundamental human rights and is contrary to Charter”.⁹⁰ Similarly, Committee on the Elimination of Racial Discrimination (CERD) emphasizes this violation as a ground to use external self-determination that;

“The external aspect of self-determination implies that all peoples have the right to determine freely their political status and their place in the international community based upon the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to *alien subjugation, domination and exploitation*”.⁹¹

Thus, it can be interpreted that if there is a colonial situation or generally alien exploitation on people, the subject of external self-determination will be the issue. It is necessary here to ask the question ‘how will this external self-determination be achieved?’ The answer can be found in the statement of Declaration of Principles of International Law, which generalizes the implication of external self-determination and shows the way as:

“The establishment of a sovereign and independent State, the free association or integration with an independent State or the emergence into any other political status freely determined by a people constitute modes of implementing the right of self-determination by that people”.⁹²

Moreover, although it mentions that “...a people constitute modes...”, the Charter specifies those people by stating ‘...separate and distinct status under the Charter shall exist until the *people of the colony or Non-Self-Governing Territory* have exercised their right of self-determination...’⁹³

Consequently, international law explains the external self-determination, in particular for people living ‘under colonial or other comparable alien domination’,⁹⁴ as a secession from a State namely to establish a new independent state, or to integrate-associate with an independent State.

⁹⁰ UN General Assembly, *Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations*, 24 October 1970, available at: <http://www.unhcr.org/refworld/docid/3dda1f104.html> accessed on 08.11.2012.

⁹¹ The Committee on the Elimination of Racial Discrimination General Recommendation No. 21: “Right to self-determination”, 08/23/1996, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/dc598941c9e68a1a8025651e004d31d0?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/dc598941c9e68a1a8025651e004d31d0?Opendocument) accessed on 08.11.2012.

⁹² UN General Assembly, *Declaration of Principles of International Law*...

⁹³ Ibid.

⁹⁴ Lauri Hannikainen, ‘Self-Determination and Autonomy in International Law’, in *Autonomy: Applications and Implications*, ed. by Markku Suksi (The Hague: Kluwer Law International, 1998), pp. 79-95, at p.84.

1.4.1.2. Internal Self-Determination

The CERD adopted General Recommendation 21 in 1996 that explains the internal aspect of self-determination as ‘the rights of all peoples to pursue freely their economic, social and cultural development without outside interference’.⁹⁵ In a narrow sense, internal self-determination is right of people to choose their own political, economic, and social system.⁹⁶ In Cassese’s words, it means ‘*people in a sovereign State can elect and keep the government of its choice or an ethnic, racial, religious or other minority within a sovereign State has the right not to be oppressed by central government*’.⁹⁷ He mentions that it is realized when the State has a government representing those people to the territory without distinction as to race, creed or colour.⁹⁸

Briefly, it is possible to say that the existence of internal self-determination depends on the democracy level of a State. Thus, we will be able to see whether ethnic, religious or linguistic minorities will enjoy their own culture, practise own religion or use their languages.

So far the right to self-determination and its types have been summarized. Now, the necessity is to state the role of autonomy in such self-determination types. From internal self-determination perspective, autonomy might be a preferable model. No matter what kind of autonomy is implemented, it might increase the democracy level of a State. Thus, people demanding internal self-determination can benefit from this right. For instance, in territorial autonomy, local actors will have competences to take decisions themselves.⁹⁹

Additionally, the Status of autonomy, using the native language as the official language in the autonomous region, possibility of joining the decision-making process at a national level are determinants of internal self-determination¹⁰⁰ that can be rendered possible by territorial autonomy. Internal self-determination may appear either in cultural autonomy or personal one as well. For example, minorities will be able to enjoy their rights. However, we need to mention that the dimension of those rights and the level of freedoms are of great significance for its success. If autonomy does not provide the internal self-determination by

⁹⁵ The Committee on the Elimination of Racial Discrimination General Recommendation No. 21: “Right to self-determination”, 08/23/1996, available at: [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/dc598941c9e68a1a8025651e004d31d0?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/dc598941c9e68a1a8025651e004d31d0?Opendocument)

⁹⁶ Senesa, ‘External and Internal Self-Determination’, p. 19.

⁹⁷ Cassese, ‘Political Self-Determination- Old Concepts and New Developments’, p. 137.

⁹⁸ Ibid., p. 144.

⁹⁹ Marc Weller, ‘Settling Self-Determination Conflicts: Recent Developments’, *the European Journal of International Law*, 20.21 (2009), 111-165, (p. 115).

¹⁰⁰ Hannikainen, ‘Self-Determination and Autonomy in International Law’, pp. 90-94.

those rights, ethnic groups or minorities may resort to forms of external self-determination. In other words, if it is apparent that all attempts to achieve internal self determination have failed, a racial or religious group may attempt to secede, which is the most radical form of external self-determination.¹⁰¹

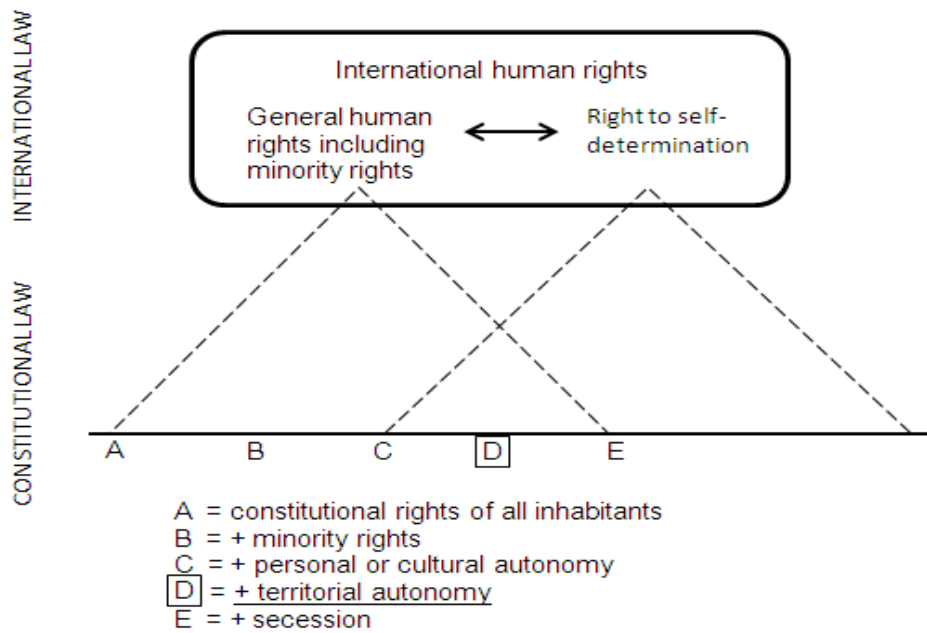
It is clear that according to international law, autonomy can be an alternative model for the external self determination. As it can be seen from the statement that “...*the free association or integration with an independent State or the emergence into any other political status freely determined by a people*”¹⁰² means autonomous status is one of the choices to implement external self-determination because autonomy may emerge as an integration or can be freely determined by a people. However, it should be stressed that although international law does not grant the right to autonomy¹⁰³, we can say that it accepts the autonomy to implement external self-determination because it is the will of a ‘peoples’. The situation of the Kurds and the Basques will be explained in related chapters. However, before concluding the right to self-determination topic, it is helpful to state Suksi’s table in the following.

¹⁰¹ Cassese, *Self-Determination of Peoples: A legal Appraisal*, p. 120.

¹⁰² UN General Assembly, *Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations*, 24 October 1970, available at: <http://www.unhcr.org/refworld/docid/3dda1f104.html> accessed on 08.11.2012.

¹⁰³ See Hans-Joachim Heintze, ‘The Protection of Indigenous Peoples under the ILO Convention 169’, in: *Amazonia and Siberia*, ed. by M. Bothe and others (London: Graham&Trotman/Martinus Nijhoff, 1993), p. 323, see also: Yoram Dinstein, ‘Autonomy Regimes and International Law’, *Villanova Law Review*, 56 (2011), pp. 437-454, and Markku Suksi, ‘The Constitutional Setting of the Aland Islands Compared’ in: *Autonomy and Demilitarisation in International Law: The Aland Islands in a Changing Europe*, ed. by Lauri Hannikainen and Frank Horn (The Hague/London/Boston: Kluwer International Law, 1997), pp. 99-126, at p. 101.

Table 1.1. Indication of the possible relationship between international law and constitutional law¹⁰⁴



He summarizes the relation among the international law, the right to self-determination and autonomy briefly.¹⁰⁵ He states that international law has regulations for A, B, and E because it aims to create a certain minority protection (A and B) at the international level, especially in situations of blatant oppression of minorities and a right to self-determination leading secession (E).

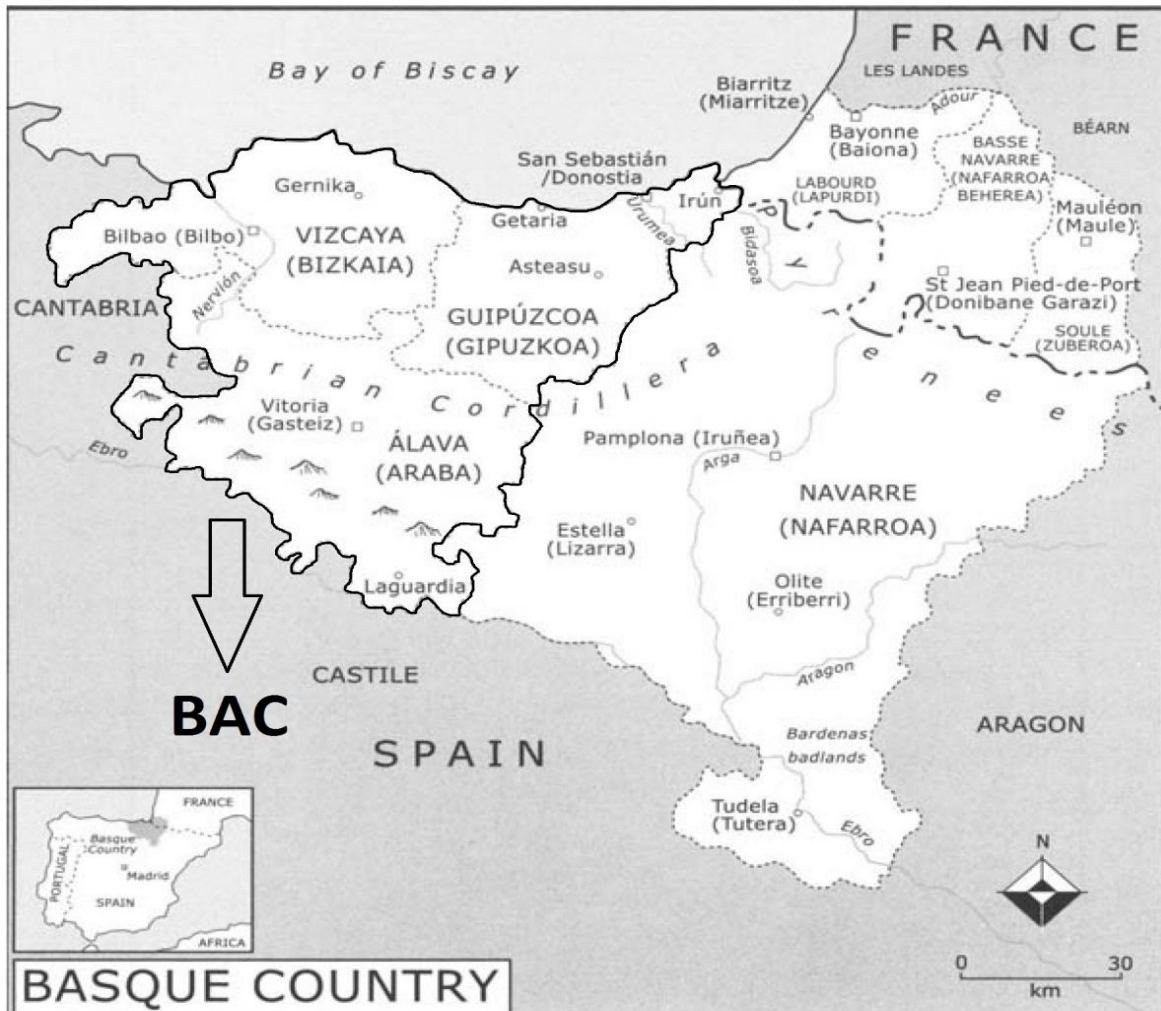
In this Chapter of the study, it has been aimed to explain the term autonomy, its forms and its importance for the right to self-determination. In the following Chapter, one of the implications of autonomy, Basque Autonomous Community (BAC), will be analyzed in order to understand the Basque Autonomy model and to be able to answer whether autonomy became successful or not.

¹⁰⁴ Suksi, 'The Constitutional Setting of the Aland Islands Compared', p. 101.

¹⁰⁵ Ibid.

CHAPTER 2

2. THE BASQUE AUTONOMOUS COMMUNITY



Map 2.1. The Basque Country¹⁰⁶

The Basque Autonomous Community (BAC, Euskadi) is one of the three parts of the Basque Country with Navarre (Autonomous Region in Spain) and Iparraldea (includes three districts of France). There is a need to clarify that the Basques, call the sum of these three regions as the Basque Country. In other words, they believe that the great Basque Country, as seen from the map above, consists of the BAC – Navarre (South Basque Country) and Iparraldea (North Basque Country- in the borders of France). Today, however, ‘the Basque Country’ means ‘the Basque Autonomous Community’ in Spain in the official terminology.

¹⁰⁶ The original map is cited from: Paddy Woodworth, *the Basque Country: A cultural History*, (New York: Oxford University Press, 2008)

The BAC encompasses three provinces Biscay (Bizkaia), Gipuzkoa (Guipúzcoa) and Alava (Araba). The population of the BAC is 2.174.033.¹⁰⁷ Official languages are Spanish and Basque (Euskarra), known as one of the oldest languages in the Indo-European Languages and different from Spanish.¹⁰⁸ After the brief introduction to the Basque Autonomous Community, it is crucial to start to explain the Constitution of Spain to understand the structure of autonomy in Spain.

2.1. The Spanish Constitution of 1978

After the long Franco regime, there was a rapid transition to democracy in Spain. In this transition process, the Spanish Constitution of 1978 (hereinafter will be called as Constitution or CE –Constitución Española) is a milestone that symbolizes a new beginning of ‘democracy’ and ‘convivencia (coexistence)’/ ‘national reconciliation’.¹⁰⁹ This important step of transition is shown as a model of how successful transitions can, or even should be made.¹¹⁰ One of the most important characteristics, which is crucial for this study, is the creation of the “Estado de las Autonomías” (State of Autonomies).

Spain is divided into 17 autonomous regions after the adoption of the new Constitution. This division is known as “Café para todos” (coffee to everyone). It means establishing a similar level of competencies for all autonomous communities and the principle, namely if one was to have coffee, all would have coffee.¹¹¹ Before explaining the status of the autonomous regions, it will be useful to observe some important points of the “The Spanish Constitution of 1978”.

Beginning to the preamble with the “the Spanish Nation” can be considered as a critical point since it specifies, in other words, accepts that everyone belongs to the Spanish Nation.¹¹² Right after it, the terms ‘Spaniards’ and ‘peoples of Spain’ draws attention in the six will of the Spanish Nation that is “to protect all Spaniards and peoples of Spain in the

¹⁰⁷ For more see: http://en.eustat.es/estadisticas/tema_159/opt_0/ti_Population/temas.html#axzz2FW5BXjI5 accessed on 16.12.2012.

¹⁰⁸ James Minahan, *Encyclopedia of the Stateless Nation*, Vol. I, A-C, (London: Greenwood Press, 2002), p. 284.

¹⁰⁹ Laura Desfor Edles, *Symbol and Ritual in the New Spain: The Transition to Democracy after Franco*, (UK: Cambridge University Press, 1998), p. 102.

¹¹⁰ Pablo Beramendi and Ramon Maiz, ‘Spain: Unfulfilled Federalism’ in *Federalism and Territorial Cleavages*, ed. by Ugo M. Amoretti and Nancy Bermeo (Baltimore-London: The John Hopkins University Press, 2004), p. 123.

¹¹¹ Scott L. Greer, *Nationalism and Self-Government: The Politics of Autonomy in Scotland and Catalonia*, (Albany: State University of New York, 2007), p. 122.

¹¹² The Spanish Constitution of 1978 available at: http://www.congreso.es/portal/page/portal/Congreso/Congreso/Hist_Normas/Norm/const_espa_texto_ingles_0.pdf accessed on 17.12.2012.

exercise of human rights, of their culture and traditions, language and institutions”.¹¹³ Thus, it is possible to say that the new Constitution starts by encapsulating not only the Spanish People but also other people of Spain.

One of the most important statements in the Constitution, which is the first provision related to autonomy regulations, is the recognition of autonomous regions. As stated in Article 2 of the CE:

“The Constitution based on the indissoluble unity of the Spanish Nation, the common and indivisible homeland of all Spaniards; it recognizes and guarantees the right to self-government of the nationalities and regions of which it is composed and the solidarity among them all.”¹¹⁴

What is seen here is not only the right to autonomy but also the emphasis on the term “nationalities”. In other words, the Constitution accepts the existence of other nationalities in Spain. However, it should be noted that although the CE recognizes the autonomy and other nationalities, the meaning of the ‘Spanish Nation’ is addressed from different perspectives. For example, Requejo observes that the use of ‘nation’ in ‘Spanish nation’ has two levels which have primary and secondary sense.¹¹⁵ He states that:

*In the primary sense, national identity of each and every citizen is explained according to the distinctive criteria of affinity. These criteria might include language, culture, different history or desire to have political self-government. Thus, the primary use of the term “nation” shows four types of identity: Spanish, Catalan, Basque and Galician. The Spanish national identity shows affinity shared by the citizens of, for example Zaragoza, Madrid and some of Catalonia, the Basque Country and Galicia. However, it distinguishes them from national affinities of citizens of the latter three collectives. It is true that this primary sense is shared by the majority of Spain but ‘one cannot regard the Catalonia, Galicia and the Basque Country as mere sub-units of a Spanish Nation’.*¹¹⁶

The secondary use of the nation in ‘Spanish nation’ reflects Spain as a “nation of nations” that combines all the citizens of Spain irrespective of their dominant nationality. In this sense, Spanish nationalism uses the first part of the term, ‘nation’. At the same time, it restricts the second part ‘nations’ to Catalonia, the Basque Country and Galicia. In other

¹¹³ Ibid.

¹¹⁴ Ibid., Article 2.

¹¹⁵ Ferran Requejo, *Multinational Federalism and Value Pluralism: The Spanish Case*, (London-New York: Routledge, Taylor&Francis Group, 2005), p. 69.

¹¹⁶ Ibid.

words, Spanish nationalism considers them as important but subordinate part of the ‘Spanish Nation’. However, Spanish nationalism ignores them as much as possible. In contrast, nationalism of Catalonia, the Basque Country and Galicia prefer ‘nations’. They tolerate the term ‘nation’. Requejo states that the Spanish ‘nation’ here is considered by these nationalisms as ‘something fictitious, rhetorical and artificially constructed from an existing but largely irrelevant that hinders the recognition and self-government of the minority nations’. In his words, the expression ‘nation of nations’ is quite complex when the two types of nationalism try to mix senses of ‘nation’ to refer Spain. Even, the Article 2 of the Constitution ‘hinders the construction of ‘nation of nations’ that is acceptable to all the citizens of all the national demoi (plural form of many)’. In other words, the recognition of the primary multi-nationality of the state is not enough to combine the secondary sense of Spanish Nation with the citizenship. Therefore, he suggests that the national rights in the symbolic, institutional and power spheres should be included in order to solve the matter ‘nation of nations’ in Spanish democratic System.¹¹⁷

It might be considered that the term ‘nation’ in the Article 2 seems vague when interpreted from different perspectives above mentioned. It should be stressed that the recognition of the autonomy and the other nationalities is a very important step after the Franco regime; even today, this recognition enables us to show the Spanish autonomous system as a model to solve the Kurdish question in Turkey. In any case, the Constitution recognizes the autonomous communities that would neutralize nationalist tensions by treating each national community in equal and strictly legalistic terms.¹¹⁸ Therefore, this characteristic of the Spanish Constitution should not be ignored. However, I still do not hesitate to say that using the term ‘people of Spain’ or ‘citizens of Spain’ instead of ‘Spanish Nation’ in order to embrace all citizens of Spain regardless of their nationality could be more precise. For example, the Cuba constitution uses the term ‘We Cuban Citizens’.¹¹⁹

Beside the recognition of nationalities, the language criterion of “Spain” is mentioned in Article 3 of the CE. Primacy of the Castilian is stated as the official language of the State which is ‘a duty for all inhabitants to know and to use’.¹²⁰ Clark states that this article gives

¹¹⁷ Ibid., p. 70

¹¹⁸ Steven C. Roach, *Cultural Autonomy, Minority Rights and Globalization*, (Hampshire: Ashgate Publishing Limited, 2005), p. 125.

¹¹⁹ The Constitution of Republic of Cuba, 1992, available at: http://www.cubonet.org/ref/dis/const_92_e.htm accessed on 9.11.2012.

¹²⁰ The Spanish Constitution of 1978, Article 3(1).

preeminent status to Castilian over the other Spanish languages.¹²¹ However, although Castilian is the official language in entire Spain, or might be considered preeminent, the other languages of the Spain are allowed to be official in the autonomous communities. In the second paragraph of the same Article (Art. 3 of CE) it is stated that: “The other Spanish Languages shall also be official in the respective Self-governing communities in accordance with their Statutes”.¹²²

In addition, the wealth of the different linguistic variations of Spain is also respected and protected by the Constitution.¹²³ Apart from the linguistic rights, the flags of Autonomous communities allowed to be used in the public buildings and ceremonies only with the flag of Spain.¹²⁴

2.1.1. Autonomy in the Spanish Constitution of 1978

So far we have seen that the beginning of the Constitution includes statements related to the recognition of the autonomous communities, protection and the use of their languages. However, the Constitution contains not only those statements but also the competences of the autonomous communities which are in Part VIII. This part consists of three chapters. Firstly, the territorial organization of Spain is addressed by stating that the Statutes of the autonomous regions do not imply economic and social privileges, and that any authority may restrict the free movement of goods and persons in Spain.¹²⁵ The second Chapter states the statutory obligations of the local governments.¹²⁶ The third chapter is about the use of the right to autonomy. It basically presents the provisions about the rights and the competences of the Autonomous Communities. It will be helpful to state them with details to realize the autonomy in Spain.

Primarily, according to Constitution, there must be an attempt to initiate the process of Autonomous Community.¹²⁷ What is seen here is that, as stated by Juberias as well, the

¹²¹ Robert P. Clark, *the Basques: The Franco Years and Beyond*, (Reno-Nevada: University of Nevada Press, 1979), p. 358.

¹²² The Spanish Constitution of 1978, Article 3(2).

¹²³ *Ibid.*, Article 3(3).

¹²⁴ *Ibid.*, Article 4.

¹²⁵ *Ibid.*, Article 138-139.

¹²⁶ *Ibid.*, Article 140-141-142.

¹²⁷ *Ibid.*, Article 143(2).

Spanish Constitution shows the autonomy as a right not an obligation, which means the right to achieve autonomy statutes.¹²⁸ The right of this process was given to;

...the Provincial Councils or with the corresponding inter-island body and with two-thirds of the municipalities whose population represents at least the majority of the electorate of each province or island.¹²⁹

The Cortes Generales (*Parliament-Legislature of Spain*) authorizes to settle up an autonomous territory, if there are ‘bordering provinces with common historic, cultural and economic characteristic, insular territories and provinces with a historic regional status’.¹³⁰ Later, the draft of the Statute, which is prepared in six months ‘by the members of the Provincial Council or inter-island body of the provinces concerned, and respective Members of Congress and Senators selected in them’, must include¹³¹:

1. The name of the autonomous community,
2. Regional-territorial limits of autonomous community,
3. Autonomous institutions (with the names, organization and the seat)
4. The competences assumed within the framework of the Constitution and the bases for the transfer of the corresponding services to them.

Finally, in order to become an Autonomous Community, the approval of Cortes Generales is required. If the first attempt fails, it cannot be applied within the next five years again.¹³² The only possibility to initiate the autonomy process again is stated in Article 151 of the CE. It presents another option which would mean that they do not have to wait for five years. Firstly, the autonomy process can be agreed not only by two thirds (See Article 143 of the CE above) but also three quarters of the municipalities of each province, representing at least the majority of the electorate of each one. Secondly, it must be completed in six months as stated in Article 143 of the CE. Lastly, it must be ratified by the overall majority of electors in each province.¹³³ In such a case, Article 151.2 of the CE states the following step for the autonomy Statute process:

¹²⁸Carlos Flores Juberias, ‘Regionalization and Autonomy in Spain: The Making of the “Estado de las Autonomías”’, in *Autonomy: Applications and Implications*, ed. by Markku Suksi (The Hague: Kluwer Law International, 1998), pp. 195-221, at p. 198 and 203.

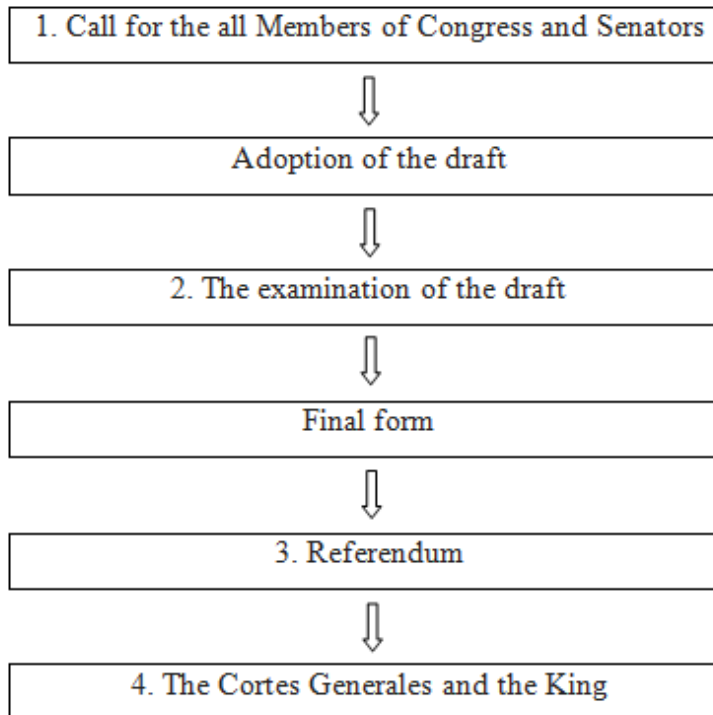
¹²⁹ The Spanish Constitution of 1978, Article 143(2).

¹³⁰ Ibid., Article 143.

¹³¹ Ibid., Article 146-147.

¹³² Ibid., Article 143(3) and Article 148(2).

¹³³ Ibid., Article 151.

Table 2.1. The Process of Autonomy Statute

Firstly, (as seen in the Table 2) the Spanish Government convokes all Members of Congress and Senators, who are elected in the candidate autonomous region, in case ‘they may set themselves up as an Assembly for the sole purpose of drawing up a Statute of Autonomy’. The purpose of the Government here is the adoption of the draft by the overall majority of its members. Secondly, if the draft is passed by the Parliamentarians’ Assembly, the Constitutional Committee of the Congress examines it within two months. In this step, a delegation from the Assembly helps Committee ‘in order to decide by common agreement upon its final form’. Thirdly, if such agreement is reached, the final text will be submitted for referendum in territory covered by the proposed Statute. Fourthly, the draft is needed to be approved by the majority of validly cast votes in each province so that it can be sent to Cortes Generales. Eventually, it will be ratified in the plenary session of the Houses of Cortes, Congress and Senate. Once the Statute has been passed, the King shall give his assent and promulgate the Statute as an act.¹³⁴

If the Statute of Autonomy is passed, in other words, if the process of being an autonomous entity is accomplished, autonomous region has to be based on the organization that includes:

- ✓ A Legislative Assembly, which is elected by universal suffrage in the territory,

¹³⁴ The Spanish Constitution of 1978, Article 151.

- ✓ An Executive Council with executive and administrative functions,
- ✓ A President, who is elected by the Assembly among its members and appointed by the King.¹³⁵

After clarifying the process of being an autonomous entity, let us explain the fields that are in the autonomous entities' responsibility. In addition, competences of the State should also be explained in order to see the distinction between centre and autonomous territory. The exclusive competences of the State are (a partial list):

- Regulating the basic conditions of Spaniards based on the equality,
- Nationality, emigration and immigration,
- International relations, defense and armed forces,
- Administration of Justice,
- Commercial and criminal legislation (the rules legislated for the autonomous territory are not included. In other words, State controls them without prejudice to the special features of Autonomous Communities' own organizations),
- Labour law, (without the implementations of the bodies of the autonomous territory)
- Civil law,
- Foreign trade, custom and tariff regulations,
- Monetary system (foreign currency, convertibility), banking and insurance,
- General economic planning, general financial affairs and State Debt,
- Social Security
- Basic Principles of Public Administration (without prejudice to the special features of Autonomous Communities' own organizations),
- Fishing,
- Railways and land transport (if it crosses more than one autonomous territory),
- Basic legislation of environmental protection (it does not intervene to the additional protective measures of Autonomous territories for environmental protection),
- Public safety, (without prejudice to the possibility of creation of police forces by the Autonomous Communities provided that it must be incorporated into their Statutes of Autonomy).¹³⁶

¹³⁵ Ibid., Article 152.

¹³⁶ Ibid., Article 149.

The autonomous territories have exclusive jurisdiction over a wide range of subjects that are (a partial list):

- Organization of the institutions of the self-government,
- Local civil law,
- Public works of interest to the autonomous community,
- Railways and routes if they are in the border of the autonomous territory,
- Agriculture in accordance with general economic planning,
- Woodlands, forestry, environmental protection,
- Promotion of economic development of the Autonomous Community within the objective set by national economic policy (It should be also noted that autonomous communities have possibility to enjoy financial autonomy for the development and exercise of their powers. In addition, their financial resources are determined as; taxes wholly or partially made over to them by the State, their own taxes, transfers from an inter-territorial compensation fund, revenues accruing from their property and interest from loan operations¹³⁷),
- Social assistance, health and hygiene,
- The teaching of the Autonomous Community's language.¹³⁸

It can be clearly seen that the Constitution enumerates different fields authorized by the Autonomous Communities. Özçer stresses that the most important one is the organization of the institutions of Autonomous Communities because they can create their own governments, administrations and legislative bodies.¹³⁹ At this point, the moot question, which is generally an enigma for both the people demanding autonomy and those hesitating to support autonomy, is the breach of the Constitution. The question to be asked here is: What happens if the autonomous communities do not fulfil the obligations stated in the Spanish Constitution or in the other laws? We should point that the control of the organs of the autonomous region for the matters pertaining to the constitutionality of their provisions having the force law, belongs to the Constitutional Court; whereas, financial issues belong to the Auditing Court.¹⁴⁰ The power of the Constitutional Court is to settle the controversy of jurisdiction between the State

¹³⁷ Ibid., Article 156-157.

¹³⁸ Ibid., Article 148.

¹³⁹ Akın Özçer, *Çoğul İspanya: Anayasal Sistemi ve Ayrılıkçı Terörle Mücadele Modeli*, (Ankara: Imge Kitabevi, 2006), p. 144.

¹⁴⁰ The Spanish Constitution of 1978, Article 153.

and the Autonomous Communities, or between the Autonomous Communities themselves.¹⁴¹ In addition to the control mechanism of Constitutional Court, the Constitution shows the way if there is a breach of the obligations or the general interest of the State: In such a case, firstly, the Spanish Government lodges to the president of the Self-governing community in order to be informed. If the response of the president is not satisfactory, after approval granted by the overall majority of the Senate, the Government takes all measures to compel the Autonomous Community to fulfil the obligations.¹⁴²

2.1.2. The Statute of Autonomy of the Basque Country

The process of being an Autonomous Community was finalized very rapidly for the Basques since the Transitional Provision of the CE states that ‘the territories which in the past have, by plebiscite, approved draft Statutes of Autonomy... may proceed immediately...’¹⁴³ It means a much faster and secure procedure towards Autonomy Statutes.¹⁴⁴ Hoffman states that this Article explicitly refers to the ‘Historical Communities of Spain’, the Basque Country, Galicia and Catalonia.¹⁴⁵ The reason for this reference is the political history of those regions that they all had struggled in order to obtain autonomy in Spain. For example, in 1931 Constitution of Spain autonomy statutes were proposed for those regions. However, ‘due to the outbreak of Spanish Civil War, only the Catalan Statute was adopted and implemented’.¹⁴⁶ Shortly after the adoption of the new Spanish Constitution of 1978, the Statute of Autonomy of the Basque Country is ratified. The participation to the Statute referendum was 61% voters casted ballots and 89% of them were in favour of the statute in BAC in 1979.¹⁴⁷ The Statute was put into force in the same year. Consequently, one of the first autonomy agreements of democratic Spain was applied for the Basques which aimed to accommodate the Basques within a united Spain.¹⁴⁸

¹⁴¹ Ibid., Article 161.

¹⁴² Ibid., Article 155.

¹⁴³ The Spanish Constitution of 1978, Transitional Provisions, No 2.

¹⁴⁴ Juberias, ‘Regionalization and Autonomy in Spain’, p. 207.

¹⁴⁵ Rainer Hoffman, ‘The New Territorial Structure of Spain: The Autonomous Communities’, *Nordic Journal of International Law*, 55.1 (1986), 136-146 (p. 138)

¹⁴⁶ Hurst Hannum, ed., *Documents on Autonomy and Minority Rights*, (Dordrecht: Martinus Nijhoff Publishers, 1993), p. 144.

¹⁴⁷ Hannum, *Autonomy, Sovereignty and Self-Determination*, p. 269.

¹⁴⁸ Diego Muro, ‘The Basque Experience of the Transition to Democracy’, in *The Politics and Memory of Democratic Transition*, ed. by Gregorio Alonso and Diego Muro (New York: Routledge Taylor&Francis group, 2011), pp. 158-180, at p. 170.

The Statute of Autonomy of the Basque Country (also known as ‘Gernika Statute’- Estatuto de Guernica-) encapsulates the provinces Alava, Guipuzcoa and Vizcaya. Moreover, although Navarra is traditionally linked to the Basque Country, it is opted to form its own autonomous community¹⁴⁹ and it has the right to join the Basque Autonomous Community.¹⁵⁰

According to Statute, all inhabitants of the BAC have the right to know and use the Basque Language and Spanish Language. In addition, although Spanish is the official language in entire Spain, the Basque Language is also allowed to be used as official language in the BAC. Thus, the effect of the double official status of Basque and Spanish Language is that “the formal legal status of the two languages is equal in the Basque Country”.¹⁵¹

There are four titles without the preliminary title in the Statute. There is no need to state all the Articles of those titles. However, referring to at least jurisdiction, legislation, executive organ and the finance in the Statute in this study will be adequate to understand the framework of the Basque Autonomous Community.

Jurisdiction

The first title including the articles from 10 to 23 states the jurisdiction of the BAC that consists of widely broad areas (a partial list): organization of local government; woodland and forestry; agriculture; fishing in inland waters; social welfare work; fine arts; historical, monumental and scientific heritage; public sector; internal trade; protection of consumers; railways, transport by land, sea river; casinos, gaming and betting, tourism and sport.¹⁵² Moreover, the BAC is responsible for the development of the State legislation on the environment and ecology, planning of credit, banking and insurance; and responsible for executing State legislation related to for example prisons, labour, and copyrights;¹⁵³

Although the BAC has jurisdiction above mentioned areas, it is important to note that according to the Spanish Constitution, the central government of Spain may appeal to the Constitutional Court against provisions and resolutions adopted by Autonomous

¹⁴⁹ Hannum, *Documents on Autonomy and Minority Rights*, p. 144.

¹⁵⁰ The Statute of Autonomy of the Basque Country, Article 2. available at: http://www.basques.euskadi.net/t32-448/en/contenidos/informacion/estatuto_guernica/en_455/adjuntos/estatu_i.pdf accessed on 24.12.2012.

¹⁵¹ Iñigo Urrutia and Xabier Irujo, ‘The Basque Language in the Basque Autonomous Community’ in *The legal Status of the Basque Language Today: One Language, Three Administrations, Seven Different Geographies and a Diaspora*, ed. by Iñigo Urrutia and Gloria Totoricagüena (Donostia: Eusko Ikaskuntza), pp. 165-195 at p. 174.

¹⁵² The Statute of Autonomy of the Basque Country, Article 10.

¹⁵³ See the Statute of Autonomy of the Basque Country, Article 11 and Article 12.

Communities. Those provisions may be suspended by the Constitutional Court.¹⁵⁴ In addition, the State may harmonize the rule-making provisions of the Autonomous Communities if they are in the general interest. In order to achieve this process, the Cortes Generales needs overall majority of the members of each House.¹⁵⁵

Legislation

The legislation of the BAC belongs to the Basque Parliament that consists of the equal number of representatives from Alava, Guipuzcoa and Vizcaya. It controls the actions of the Basque Government, approves budgets and prompts. The Parliament elects a President a Bureau and a Standing Committee from among its members. Moreover, the Senators, who will represent the BAC in Madrid, are elected by the BAC Parliament either.¹⁵⁶ It should be here noted that this rule is not only for the BAC but also for the other Autonomous Communities as well. That is to say, according to Constitution of Spain, they shall appoint ‘one Senator and a further Senator for every million inhabitants in their respective territories’.¹⁵⁷ Furthermore, the laws of the Basque Parliament are controlled by the Constitutional Tribunal in order to verify their Constitutionality.¹⁵⁸

Executive

The Basque Government is responsible for the executive and administrative functions. Its powers and organization are based on a President and Councillors. The important point here is that the President (Lendakari) of the Government, who is nominated among the members of Government, is appointed by the King.¹⁵⁹ Apart from this condition, executive is totally independent from the central authorities.¹⁶⁰

Finance and Treasury

As already stated above, Autonomous Communities enjoy the financial autonomy in order to exercise their powers, in other words, their administration. In the Statute of Autonomy of the Basque Country, Title III states how this financial autonomy will be

¹⁵⁴ The Spanish Constitution of 1978, Article 161(2).

¹⁵⁵ *Ibid.*, Article 150(3).

¹⁵⁶ See the Statute of Autonomy of the Basque Country, Articles 24-28.

¹⁵⁷ The Spanish Constitution of 1978, Article 69(5).

¹⁵⁸ The Statute of Autonomy of the Basque Country, Article 38, see also CE, Art. 150 (1)

¹⁵⁹ See the Statute of Autonomy of the Basque Country, Arts. 29-33.

¹⁶⁰ Hannum, *Autonomy, Sovereignty and Self-Determination*, p. 273.

achieved. Tax relations between the State and the BAC are based on the Economic Agreement or Conventions that are for co-ordination and fiscal harmonization. It should be noted that the BAC has exceptional fiscal formulas which, ‘in contrast to all the other communities, allow them to collect all taxes and to transfer a proportion of them to the central government’.¹⁶¹ This process consists of, in particular, the levying, management, demand, collection and inspection of all taxes without the Customs Revenue. They all have to be done without the prejudice to collaboration with the State and its inspection service.¹⁶²

The income of the BAC consists of its own taxes regulated by the Basque Parliament; transfers from the Inter-Territorial Clearing Fund and a part of General State Budgets; revenues of BAC’s own property and private law; other kind of revenues which may be regulated in accordance with the Constitution of Spain or the Statute of Autonomy of BAC.¹⁶³

After explaining the rights of the Basques that they obtained after 1978, let us see the effects of the autonomy on the ‘self-determination’ disputes.

2.2. The Basque Autonomous Community and the Right to Self-Determination

One of the controversial points of the political agenda of the Basques is their right to self-determination. The issue of the said right of the Basques has debated for so long. For example, the Basque nationalists who defend the right to self-determination believe that it is a universal right; therefore, all citizens would have the right to exercise it.¹⁶⁴ In particular, PNV (Partido Nacionalista Vasco- Basque Nationalist Party) supported the right to self-determination in every moment of its history. Even, PNV had presented a plan to allow right to self determination of Basques that would lead up to full independence.¹⁶⁵

For ETA, the right to self-determination was one of the primary goals in its history and obtaining this right was a ground to declare cease fire against the State. The reason for this demand was that the Basque Nation is oppressed by Spain. Today, according to ETA, the statement “unity of Spanish Nation” in the Spanish Constitution still continues to deny the

¹⁶¹ Josep M. Colomer ‘The Spanish ‘state of autonomies’: Non-institutional federalism’, *West European Politics*, 21.4 (1998), 40-52 (p. 43)

¹⁶² See the Statute of Autonomy of the Basque Country, Arts. 40-41.

¹⁶³ *Ibid.*, Article 42.

¹⁶⁴ Ulen Zabalo *and others*, ‘The Right to Self-Determination and Basque Nationalism: A Polyvalent Debate’, *Ethnopolitics: Formerly Global Review of Ethnopolitics*, 11.3 (September 2012), 318-340 (p. 326)

¹⁶⁵ José M. Magone, *Contemporary Spanish Politics*, (London: Routledge, 2004), p. 104.

Basque people.¹⁶⁶ However, interestingly, although ETA has shown the right to self-determination as a reason to declare cease fire, recent political developments show that there is a paradox on their claim and practice. It will be helpful to state this paradox with two major issues.

Firstly, the Spanish Constitution of 1978 has not stated any right related to self-determination yet. Secondly, the Basques put the right to self-determination into the Article 1 of the Reform of the Statute of Autonomy that is approved by the Basque Parliament. However, it was rejected by the Spanish Congress in 2005 by 313 votes against, 29 in favour and 2 abstentions.¹⁶⁷ Briefly, neither CE nor the Basque Autonomy Statute recognizes Basques' the right to self-determination and both of them still survives as the first day. On the one hand ETA propounded this demand; on the other hand it has declared the permanent ceasefire and disarmament in 2011.¹⁶⁸ Therefore, the critical point here to argue is that whether autonomy fulfils this right or not.

In the previous parts we have explained the forms of the self-determination and the role of autonomy in the application of those forms. Significant point for the autonomy from the external self-determination perspective was that autonomy can be created by association or integration with existing State, which also means that it is freely determined by a people. Therefore, it is possible to say that the Basques are exercising the external self-determination by the autonomous status.

In Spain, implementation of autonomy consists of territorial base. Closer examination shows that the organs of the Basque Autonomy such as judicial, legislative and executive are seen as major powers. In a similar way, linguistic and financial rights are provided by autonomy statute. Doubtlessly, there might be judicial or legislative disputes between the local powers –Basque Autonomy– and centre in Spain. This is about the nature, level of the autonomy and thereby about the level of the internal self-determination. In short, it is possible to say that the Basques are able to enjoy the internal self-determination by the current form of the autonomy that obtains aforementioned rights, e.g. judicial, despite the potential disputes.

¹⁶⁶ Marianne Heiberg, 'ETA: Euskadi ta Askatasuna' in *Terror, Insurgency, and the State*, ed. by Marianne Heiberg and others (Philadelphia: University of Pennsylvania Press, 2007), pp. 19- 49, at p. 30.

¹⁶⁷ Jule Goikoetxea, 'Nationalism and Democracy in the Basque Country (1979-2012)', *Ethnopolitics: Formerly Global Review of Ethnopolitics*, (October, 2012), p. 13, DOI:10.1080/17449057.2012.711049

¹⁶⁸ <http://www.guardian.co.uk/world/2011/jan/10/eta-to-declare-permanent-ceasefire> accessed on 13.12.2012.

2.3. Autonomy and the ETA

Autonomous system in Spain can be considered as the term point of not only the Spanish's but also the Basques' history. After the Franco's dictatorship, the beginning of the transition to democracy was hopeful for the Basques as well as the other nations in Spain. There is no doubt that the Basques were dominated, assimilated and subjugated for many years. Even Sabino Arana (founder of the Basque Nationalist Movement) was suspicious about the future of the Basque Language and stated on 5 January 1901¹⁶⁹ in a letter that 'the language would disappear before the end of the century, unless the necessary funding for its promotion could be raised and social status could be changed'.¹⁷⁰ However, today, obtaining rights, in particular, language, education and self-government can be considered as an important step. In other words, the implementation of autonomy contributed 'considerable resources and instruments for the process of Basque nation-building'.¹⁷¹

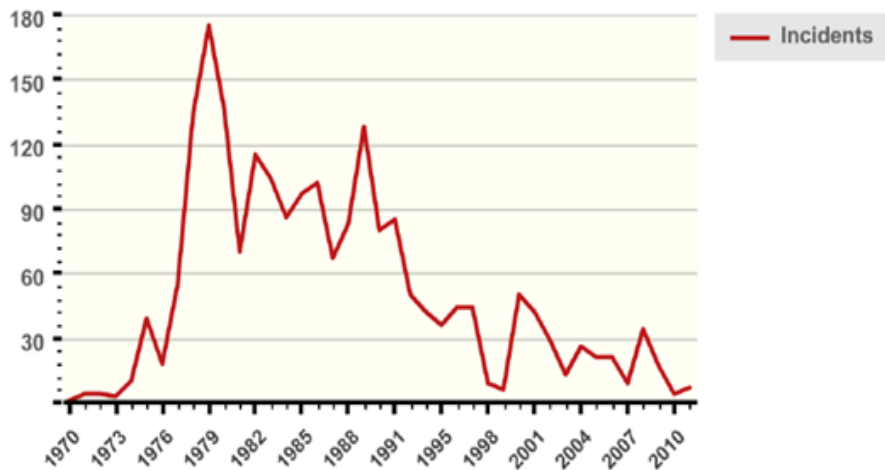
Beside the identity and governmental benefits of autonomy for the Basques, autonomy has further effects on the ETA as well. It is known that ETA's struggle started in the second half of the 20th Century but it did not terminate armed attacks until recent times. However, as can be seen from the Figure 1, the incidents of ETA show quick decline after the entry of the Basque Autonomy Statute. Despite the increase between varying years, the trend of the attacks has been decreasing in the last three decades in general.

¹⁶⁹ I would like to express my sincere gratitude to Prof. Ludger Mees because of his kind response to my question about the definite date of Arana's letter.

¹⁷⁰ Ludger Mees, *Nationalism, Violence and Democracy: The Basque Clash of Identities*, (Hampshire: Palgrave Macmillan, 2003), p. 51.

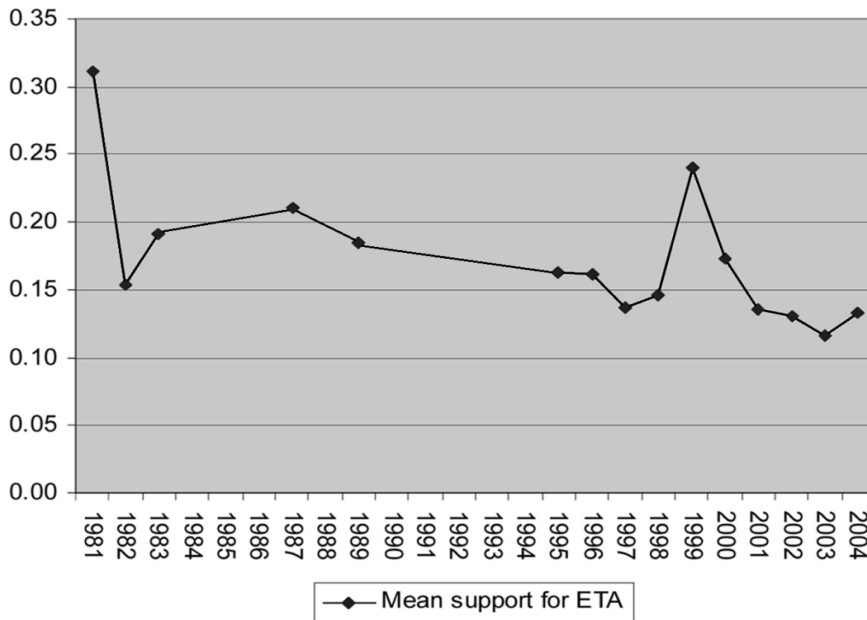
¹⁷¹ J. M. López de Juan Abad, 'La Autonomía Vasca: Crónica del Comienzo', (San Sebastián: Txertoa, 1998), quoted in *Nationalism, Violence and Democracy: The Basque Clash of Identities*, Ludger Mees (Hampshire: Palgrave Macmillan, 2003), p. 48.

Figure 2.1. Incidents of ETA between 1970-2011.¹⁷²



Apart from the decline in the number of the ETA attacks, there has been a remarkable change in terms of the support for ETA due to the beginning of the democratization process in Spain. It can be seen from the Figure 2 that the support of ETA generally decreased after the Statute of Autonomy. Although there is a sudden ascent in 1999, when ETA killed no one¹⁷³, the trend of the support for ETA in general did not change.

Figure 2.2. Popular Support for ETA in the Basque Country¹⁷⁴



¹⁷² Available at: <http://www.start.umd.edu/gtd/search/Results.aspx?search=ETA&sa.x=35&sa.y=18&sa=Search> accessed on 01.12.2012.

¹⁷³ Ignacio Sánchez-Cuenca, 'The dynamics of Nationalist Terrorism: ETA and the IRA', *Terrorism and Political Violence*, 19.3 (2007), 289-306 (p. 301)

¹⁷⁴ Cuenca, 'The dynamics of Nationalist Terrorism', p. 302.

In addition to the benefits of autonomy above, it left a brilliant mark on public opinion. To illustrate, being autonomous community is appropriated by the many of the Basques. The polls taken in 1982 shows that 65% of the Basque population believe that autonomy improved the life.¹⁷⁵ According to another poll taken by the Basque Government in 2005, 65% of the population consider autonomy is successful, whereas 7% believe vice versa.¹⁷⁶ In another poll, 36% of the population is in favour of independent Basque Country.¹⁷⁷

To summarize the effects of autonomy both from Basque's and Spain's perspective;

1. As it can be seen in the Basque Autonomy Community that the substantive powers provided by autonomy are relatively broad in spite of being subject in many respects to central government.¹⁷⁸ However, it should be stressed that providing a local judiciary, a legislative body and local executive by virtue autonomy were reasonable solutions that could be implemented to prevent the secession from the Spain especially after the long dictatorship period.
2. Despite the desire of independence supporters in the Basque Country, important percentage of the public opinion shows that the Autonomy of the Basque Country can be interpreted as a political compromise that is one of the advantages of autonomy.
3. Although autonomy did not completely end the separatist Basque conflict in a short period, today, armed struggle is giving way to legal policies by virtue of autonomy that is implemented by democratic structure of Spain.
4. By the Basque Autonomy Statute, use of the language, in education and official transactions guarantees the future of the identity.
5. It is not possible to say that the Basques can govern themselves without the State's interference but theory of autonomy based on the transferred powers in nature.
6. Finally, the Basque Autonomous Community has shown that implementation of territorial autonomy to fulfil the rights of the groups, nations or minorities does not mean secession of them from the State or in political words it does not mean the dismemberment of the States.

¹⁷⁵ Hannum, *Autonomy, Sovereignty and Self-Determination*, p. 275.

¹⁷⁶ Angela K. Bourne, *the European Union and the Accommodation of Basque Difference in Spain* (Manchester: Manchester University Press, 2008), p. 34.

¹⁷⁷ Goikoetxea, 'Nationalism and Democracy in the Basque Country', p. 14.

¹⁷⁸ Hannum, *Documents on Autonomy and Minority Rights*, p. 145.

In this part of the study, we have analyzed one of the examples of the autonomy models that enable us to understand “the Basque Model” as referred in Turkey. In the last chapter of the study we will explain the Kurdish Question to answer whether the Basque Model can be implemented to solve the issue or not.

CHAPTER 3

3. THE KURDISH QUESTION IN TURKEY

In order to understand the current situation of the Kurdish question, it will be helpful to argue it from different perspectives. Those are the existence of the PKK, socio-economic conditions and nationalist policies of Turkish Republic.

3.1. The Kurdish Question as a Separatist Movement

Today, one of the most common ideas to explain the Kurdish question is the existence of the PKK (Partiya Karkeren Kurdistan-Kurdistan Workers Party). Main purpose of the PKK, which was incorporated into its manifest, was to create an '*independent, united and democratic Kurdish State*'.¹⁷⁹ To reach this goal, it started armed attack in 1984. However, after the capture of Abdullah Öcalan in 1999 (the leader of the PKK), the new strategy of the PKK created by Öcalan is the "Democratic Republic". According to the new model, he claimed that:

"Instead of struggling for autonomy, a federation, or independence, Kurds now would fight for a truly democratic Turkey, in which Kurds and Turks would be unified in the way that Turkey's founder, Atatürk had imagined."¹⁸⁰

Although the PKK declared unilateral ceasefire several times, those ceasefires did not help to end the armed conflict which still continues in Turkey as the last Kurdish rebellion. In an interview Ali Haydar Kaytan, one of the original members and leaders of the PKK¹⁸¹, stated that:

Some compare us with ETA. However, they do not state the rights of the Basques. For example, the Basques have their own parliament, education system, local police forces and representation in centre. He adds that if the Kurds gain even half of those rights, the PKK takes the weapons away. When it does not abide, all peoples can fight against us.¹⁸²

¹⁷⁹ Ali K. Özcan, *Turkey's Kurds: the Theoretical Analysis of the PKK and Abdullah Öcalan*, (Oxon: Routledge, 2006), p. 87.

¹⁸⁰ Aliza Marcus, *Blood and Belief*, (New York: New York University Press, 2007), p. 288.

¹⁸¹ Michael M. Gunter, *Historical Dictionary of the Kurds*, 2nd edn., (Maryland: The Scarecrow Press, 2011), p. 187.

¹⁸² The Turkish version of the text in the interview retrieved from: <http://www.firatnews.com/index.php?rupel=nuce&nuceID=53910> accessed on 05.12.2012.

It is not known whether the PKK will take the weapons away in such a case or not, but it is a crystal-clear fact is that the PKK will not seem to do so at least until the Kurds have gained their rights as the Basques had.

3.2. The Kurdish Question as Socio-economic Problem

Another approach of the Kurdish Question is the economic backwardness of the south-eastern Turkey. In this assumption, the reason of the existence of the PKK and the participation to the PKK is based on the consequences of the socio-economic conditions of the Kurds. For instance, Köseli states that % 8.4 of the participants (244 person who were arrested while joining the PKK) answered his poll that the reason of joining the PKK was ‘the bad economic conditions’; and 65 % of those participants are unemployed. He adds that the education level of those participants are 11.7 % illiterate, 24.5 % primary school, 18.1 % secondary school and 29.1 % high school graduate; whereas 16 % are university students. In author’s words, these people join the PKK since they don’t have promising jobs, which also means that they cherish any hope in life. Briefly, he concludes that the more these conditions are improved, the less the PKK provides militants.¹⁸³

Sarıgil’s research is based on the statistical survey, which includes 2967 respondents from different parts of Turkey. His criterion to measure the ethno-nationalism is support of HADEP (Halkın Demokrasi Partisi-People’s Democracy Party, 1994-2003), the primarily concern of which was the Kurdish problem. According to the results of the research, as the level of education and income increase, the likelihood of Kurdish ethno-nationalism decreases. Therefore, he concludes that ‘socio-economic development in the impoverished Kurdish regions would certainly make the problem more manageable’.¹⁸⁴

On the other hand, Ekmekçi criticizes the research method and refutes his conclusion. His approach postulates that Sarıgil’s research design lacks internal validity since Sarıgil studies Kurdish nationalism within a sample that consists of Turks. Therefore, he replicates by focusing on the Kurdish speaking people and clarifies that income and education levels of Kurdish people in Turkey don’t have discernible effect on their political ideology.¹⁸⁵

¹⁸³ Mutlu Köseli, ‘Terör Örgütlerinin Eleman Kazanmalarını Kolaylaştıran Etmenler’, in *Terörle Mücadelede Makro ve Mikro Perspektifler*, ed. by Oğuzhan Başbüyük and others (Ankara: Polis Akademisi Yayınları, 2011), pp. 93-104, at p. 99-100.

¹⁸⁴ Zeki Sarıgil, ‘Curbing ethno-nationalism in Turkey: an Empirical Assessment of pro-Islamic and Socio-economic approaches’, *Ethnic and Racial Studies*, 33.3 (2010), 533-553 (p. 538)

¹⁸⁵ Faruk Ekmekçi, ‘Understanding Kurdish ethnonationalism in Turkey: Socioeconomy, Religion, and Politics’, *Ethnic and Racial Studies*, 34.9 (2011), 1608-1617.

While the economic conditions are argued by the scholars, the State discourse related to the Kurdish question was also defined as the issue as socio-economic backwardness for long years. For example, Bülent Ecevit, one of the former prime ministers of Turkish Republic, stated that:

“Turkey does not have a Kurdish problem. There is a socio-economic underdevelopment in the region. By abusing this, several external actors such as neighbouring and some European countries have promoted Kurdish terrorism/separatism in the region to destabilize and divide the Turkish Republic”.¹⁸⁶

Turkey tried to implement several economy policies in order to develop the economic conditions of the South-eastern Turkey. For example, one of the former governments created a new project in the South-eastern Anatolian Project (GAP-Güneydogu Anadolu Projesi) which aimed to accelerate the living standards in South-eastern and connect the local community to the rest of the country.¹⁸⁷ However, neither this project is completed nor the south-eastern part is developed and the Kurdish question is solved. The reality is that the Kurds’ economic conditions by the region are not developed. For example, according to a list of socioeconomic rating of cities 2011 explained by the Ministry of the Development of Turkey, the last fifteen cities located in Eastern and South-eastern Turkey.¹⁸⁸ And still, the socioeconomic condition of the Kurds or the South-eastern region is shown as the reason of Kurdish question in Turkey.

The effects of the economic backwardness on the Kurdish issue can be explained with more details by further studies. However, it will be helpful for us only to question whether it is enough to say today’s Kurdish question exists due to the economic backwardness of the regions in which the population density belongs to the Kurds? Does it mean if the economy of the South-eastern Anatolia or the living standards of the Kurds developed, there wouldn’t be demands such as identity rights, autonomy or even independence? If so, how should we explain the situation of the Basque Country? Although their economic potential is stronger than the average and the rest of Spain, they have struggled at least for their national rights for long years. For example, it can be easily seen from the Figure 3 that the GDP (Gross

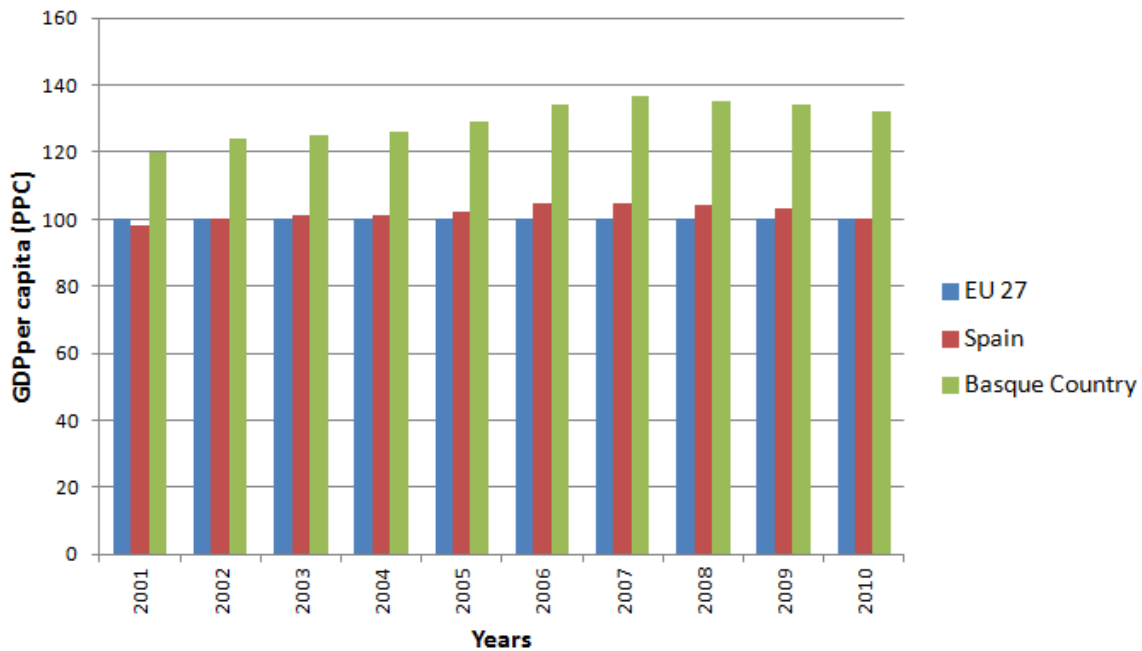
¹⁸⁶ Sarigil, ‘Curbing ethno-nationalism in Turkey’, p. 538.

¹⁸⁷ Yasemin Çelik, *Contemporary Turkish Foreign Policy*, (Westport, USA: Praeger Publishers, 1999), p. 4.

¹⁸⁸ http://www.dpt.gov.tr/DocObjects/view/14197/BASIN_A%C3%87IKLAMASI-sege_2011-v6.pdf accessed on 25.12.2012.

Domestic Product)¹⁸⁹ per capita of the Basque Country higher than Spain and even than EU in between 2001 and 2010. In this time duration, although support for ETA declined, it did not disappear. Similarly, the right to self-determination claims did persist even though local parties tried to implement said rights. (See title 2.2. above).

Figure 3.1. The evolution of GDP of the Basque Country (EU 27= 100)



PPC: Purchasing Power Parity (EU 27= 100).

(Source: The figure is created with the data retrieved from EUSTAT¹⁹⁰.)

To sum up, it is not easy to say that the Kurdish question exists because of the economic backwardness. As we have also seen from the Basque case, positive economy rates don't mean that they will prevent the ethnic problems or conflicts. As Lundgren states that economic and social cleavages are presented as problematic but not so much *per se*.¹⁹¹

3.3. Turkish Nationalism and the Kurdish Question

The transition from multinational Ottoman Empire to Turkish Republic was painful for the nations who were living under Ottomans control. The existence of different nations with their languages, religions and cultures can be described as the wealth of Ottomans.

¹⁸⁹ It should be noted that it is not easy to comment on the economic situation of a country, a city or a region by only indicating the GDP change. However, it is the most important indicator that enables us to understand the economy in the general sense.

¹⁹⁰ http://en.eustat.es/elementos/ele0002500/ti_GDP_per_capita_PPC_by_country_and_year_EU_27100_2001-2010/tbl0002542_i.html#axzz2Gp9v4o00 accessed on 15.12.2012.

¹⁹¹ Ása Lundgren, *The Unwelcome Neighbour: Turkey's Kurdish Policy*, (London: I. B. TAURIS, 2007), p. 69.

However, this structure did not continue after the establishment of Turkish Republic. Instead of protecting other nations', groups' or minorities' rights after the empire, the "Turkishness" phenomenon became a new goal. Barkey and Fuller point that State assumed a new Turkish character through a process by which the Kemalist Regime reinvented the Turkish "ethnie".¹⁹² The collapse of Ottoman Empire and opposition of minorities against Ottomans led Mustafa Kemal to foster a new national identity based on the idea of homeland (misak-i milli) and Turkish nationalism.¹⁹³ Therefore, Kemalism supported the idea that Turkey could be modernized by only secularism and Turkish nationalism.¹⁹⁴ In 1925, Ismet Inonu, who was the successor and confidant of Atatürk, summarized the strategy that:

"We are frankly [n]ationalist[s] . . . and [n]ationalism is our only factor of cohesion. In the face of a Turkish majority other elements have no kind of influence. We must turkify the inhabitants of our land at any price, and we will annihilate those who oppose the Turks or 'le turquisme.'" ¹⁹⁵

This explanation can be interpreted as the evidence for the state ideology at the beginning of the new republican era. Therefore, building a nation based country 'nation-state' had many problems such as sectarian tensions, political conflicts after the collapse of Ottoman Empire. Doubtlessly, one of the most effected societies in this transition process is the Kurds since they have the biggest population in Turkey who are non-Turks. Although, the Kurds had confronted so many challenges related to region, identity or economy in Ottomans, they were not oppressed under the rule of one nation as it has been in Turkish Republic.

Today, the Kurdish problem still exists as one the most important issues of Turkey. As 11th Turkish President Abdullah Gül mentioned that "whether you name it as a terror problem, a Southeastern Anatolia problem or a Kurdish problem, this is the first question of Turkey, it has to be solved".¹⁹⁶

Critical points that should be considered in order to understand the origin of the problem is the situation of the Kurds under the Turkish Constitutions and national policies of Turkey from the establishment. The Constitution of Turkey of 1921 (Teşkilat-ı Esasiye) did

¹⁹² Henri J. Barkey and Graham E. Fuller, *Turkey's Kurdish Question*, (New York: Rowman&Littlefield Publishers, 1998), p. 10.

¹⁹³ Bora Kanra, *Islam, Democracy, and Dialogue in Turkey: Deliberating in Divided Societies*, (Farnham, Surrey: Ashgate Publishing, 2009), p. 82.

¹⁹⁴ Ibid.

¹⁹⁵ Barkey and Fuller, *Turkey's Kurdish Question*, p. 10.

¹⁹⁶ http://www.todayszaman.com/newsDetail_getNewsById.action?load=detay&link=174922 accessed on 01.12.2011.

not refer to the Turkish Nation. However, the following Constitution, which was adopted in 1924, presents vice versa. It might be considered that, as also stated by Edward Earle, the Turkish Revolution was completed after the adoption of the new Constitution. According to Earle, it would provide representative and democratic government.¹⁹⁷ His assumption could be true for a new state that was established after an Empire. However, the new constitution increased the Turkishness phenomena rather than including any right to Kurds or the other ethnic groups in Turkey. Irrespective of mentioning the others' rights every citizen was accepted as a Turk in Article 88 (the 1924 Constitution of Turkey) by stating:

“The name Turk, as a political term, shall be understood to include all citizens of the Turkish Republic, without distinction of, or reference to, race or religion. Every child born in Turkey, or in a foreign land of a Turkish father; any person whose father is a foreigner established in Turkey, who resides in Turkey, and who chooses upon attaining the age of twenty to become a Turkish subject; and any individual who acquires Turkish nationality by naturalization in conformity with the law, is a Turk. Turkish citizenship may be forfeited or lost in certain circumstances specified by law”.¹⁹⁸

The interpretation of this Article is quite important for the Kurds since they became the unrecognized largest minority with potential to threaten the state.¹⁹⁹ As we can see that the beginning point of the Kurdish question in Turkish Republic is the acceptance of everyone as a Turk which was stated in 1924. Within this shape of citizenship the question arises that what happens if the Kurds or some others, who are not Turks, demand their identity? Not long after the adoption of the Constitution, one of the rebellions of the Kurds (Shaikh Said Rebellion) against Turkish Republic started in 1925. From the Kurds' side the result of this rebellion failed; however, it triggered the others in the future. The history of those rebellions is not the major subject of this study therefore it is not necessary to explain them in details. However, it has to be stated that the status of the Kurds has not changed since the foundation of Turkish Republic. Likewise, the current Constitution of Turkey does not provide any right specifically to the Kurdish identity, yet they enjoy all the other rights just like the rest of the citizens. However, it favours the value of Turkishness. Article 66 of the Turkish Constitution, which

¹⁹⁷ Edward M. Earle, 'The New Constitution of Turkey', *Political Science Quarterly*, 40.1 (Mar., 1925), 73-100 (p. 86)

¹⁹⁸ English version of The Turkish Constitution of 1924 is available at: <http://www.bilkent.edu.tr/~genckaya/1924constitution.pdf>

¹⁹⁹ Barkey and Fuller, *Turkey's Kurdish Question*, p. 10.

was prepared after the military coup in 1980, states that ‘*everyone bound to the Turkish state through the bond of citizenship is a Turk*’.²⁰⁰

In addition to the lack of their rights, the Kurds also suffered from the nationalist policies of Turkish Republic. In practice, assimilation of the Kurds can be seen in the nationalist views, definition of the Kurds and prohibitions of their rights. In this process, mottos that were said by the politicians are still being used by nationalists. For example, “How happy is the one who says I am Turk” or “A Turk is equal to the world” belong to Atatürk. Until 2012, in primary and secondary schools students had to read the Turkish Oath before entering the classes. It starts with “*I’m Turkish I’m righteous. I’m hard working*”, ends with “*How happy is the one who says I am Turk*”. Moreover, all schools except for universities have opening (on Monday) and closing (on Friday) ceremonies when the national anthem is being read. Writings in some mountains in South-eastern Anatolia and some part of Eastern Anatolia geography, in which the Kurds’ live as a majority, are other examples of Turkish nationalist policies. To illustrate, we can mention ‘The Homeland Comes First’ or ‘Every Turk is born a soldier’. The point here is that such writings can be rarely seen in the mountains of western cities whereas there are lots of them in the mountains of the east and south-eastern cities of Turkey.

Another policy that we can show for the implementation of nationalist concept is policies which are based on the Kurds’ origin and existence. One of the ideas was to prove the Kurds’ nonexistence. Some of the researchers of Turkey tried to explain that Kurds are the mountain Turks.²⁰¹ Later, in 1980’s it combined with another discourse which is that “*the name Kurd is emerged from the sound while walking on the snow*”.²⁰² In addition, there are some who claim that the Kurds do not have any historical roots. For instance, according to Çay, there is no evidence related to the community named as Kurd; there is only ‘Kurdish History theses’ claimed by the staff, the history acknowledge of whom is weak.²⁰³

²⁰⁰The Constitution of Turkish Republic, Article 66. Available at: http://www.anayasa.gov.tr/images/loaded/pdf_dosyalari/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf accessed on 20.03.2012.

²⁰¹ Metin Heper, *the State and the Kurds in Turkey: The question of Assimilation*, (Hampshire: Palgrave MacMillan, 2007), p. 53.

²⁰² Yalın Eralp, ‘the Kurdish Question: The Process and the Grave Mistakes by the Governments’, *Global Political Trends Center, Policy Brief*, (Oct., 2009), p. 2.

²⁰³ Abdulhaluk M. Çay, *Her Yönüyle Kürt Dosyası*, 4th edition, (Ankara: T. Ofset Matbaacılık, 1996), p. 84-85. see especially Chapter 2.

On the one hand, some try to demonstrate that the Kurds don't have a further identity and history; on the other hand there are some who give consistent knowledge about the Kurds. For instance, according to Arfa,

“The Kurds are the mixture of the Median branch of the Aryans (the Iranians being the Persian branch) with indigenous populations, to which the Guti belonged. These people have been influenced by later invaders, including Armenians, Semites (Arabs and As-syrians), Turks, Turcomans, and Persian Iranians, but have absorbed them.”²⁰⁴

Similarly, Gunter states that ‘the Kurds are a largely Sunni Muslim, Indo-European-speaking so they are quite different from the Turks and the Arabs but related to the Iranians’.²⁰⁵ Doubtlessly, such characteristic of the Kurds is also the reason of possessing different religious and linguistic characteristics. Therefore, neither all the Kurds have the same religion nor they speak the same language.²⁰⁶

Today, millions of people speak Kurdish in Turkey. The dialects of the Kurdish spoken in Turkey are mostly Kurmanji and Zaza. Moreover, Sorani and Gurani dialects are also rarely spoken in different territories. Despite the existence of those Kurdish native speakers, the Kurds cannot legally use their language in education because according to Article 42 of the Turkish Constitution of 1982, “*No language other than Turkish shall be taught as a mother tongue to Turkish citizens at any institutions of training or education.*”²⁰⁷

The prohibition of Kurdish goes back to early years of Turkish Republic. We will not explain history of those prohibitions in detail. However, today, in spite of being mostly spoken language in some eastern and south-eastern cities of Turkey, the Kurdish is not officially used in any public administrations since Article 3 of the Turkish Constitution states that the language of the State is Turkish.²⁰⁸ Recent developments that can be shown for the hopeful future of the Kurdish language is that until quite recently there was not any department in Turkish universities related to the Kurdish Literature whereas they now exist in

²⁰⁴ Hasan Arfa, *The Kurds and Historical and Political History*, (London: Oxford University Press, 1968), p. I. Quoted in Kemal Kirisci ‘Minority/Majority Discourse: The Case of the Kurds in Turkey’, in *Making Majorities* ed. by Dru C. Gladney, (Stanford: Stanford University Press, 1998), pp. 227-245, at p. 231.

²⁰⁵ Gunter, ‘Kurdish Question in International Law’, p. 31.

²⁰⁶ Martin van Bruinessen ‘Kurdish Society, Ethnicity, Nationalism and Refugee Problems’ in *The Kurds: A contemporary Overview* ed. by Philip G. Kreyenbroek and Stefan Sperl (London: Routledge), pp. 26-52, at p. 27.

²⁰⁷ http://www.anayasa.gov.tr/images/loaded/pdf_dosyalari/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf accessed on 20.03.2012.

²⁰⁸ http://www.anayasa.gov.tr/images/loaded/pdf_dosyalari/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_TURKEY.pdf accessed on 20.03.2012.

a few of them. Similarly, there was not any official TV channel in Turkey until 2009. Today, the official TV Channel of Turkish Republic (TRT 6) has Kurdish telecast.

Already, to say that the Kurdish question has ended by providing them a TV Channel or departments in universities will be an inadequate conclusion. Still the Kurds do not enjoy any constitutional rights without using these rights as a ‘Turk’. By stating the rights of the Kurds, Bülent Arınç (Deputy Prime Minister) had a remarkable speech on 21 December 2011 in Turkish Grand National Assembly that is “Anybody living in this country, whether they are Kurds, Arabs or Bosniaks, should be able to reveal their identity. We will respect identities and therefore we will grant the cultural and constitutional rights of their identity...” He continues that “we will give the Kurds at least as much education, language, culture and identity rights as we all have in this country”.²⁰⁹

While this speech was being discussed in Turkey, 34 Kurdish villagers died during an operation in Uludere (a district in the South-eastern Border of Turkey) held by Turkish Air Forces on 28th of December 2011. One year after his speech in Assembly, Arınç had another speech in 17 December 2012, which is the first speech of Turkish Minister who empathized with the Kurds. He stated that²¹⁰

“I was outraged over a female BDP²¹¹ deputy, and had condemned her. She is still a deputy today. But after hearing her story I no longer criticize her. Because when she was a young woman at the age of 17, this woman faced such intense and immoral torture in Diyarbakır Prison that, if I had been in her place, I would also have gone up into the mountains. More than half of the inmates released from Diyarbakır Prison did so, while the other half praises those in the mountains.”

On the one hand, Arınç’s speeches can be seen as term points that prove the State ideology/discourse against the Kurds will not be just like the last century but on the other hand, Uludere case has shown that although the discourse of the State changed, still Kurds confront with the death in their territories because of the war.

²⁰⁹ <http://www.hurriyetdailynews.com/deputy-pm-vows-more-rights-for-turkeys-kurds.aspx?pageID=238&nid=9824> accessed on 12.11.2012. Moreover to draw an attention, it should be noted that Arinc explained his ideas one month after the Prime Minister R.Tayyip Erdoğan’s speech in which he apologized for the killing of thousands of the Kurds by operation of the Turkish Military in Dersim Rebellion. He stated that “If there is need for an apology on behalf of the state, if there is such a practice in the books, I would apologise and I am apologising” For more see: <http://www.bbc.co.uk/news/world-europe-15857429> accessed on 12.11.2012.

²¹⁰ http://www.todayszaman.com/newsDetail_getNewsById.action?newsId=301360 accessed on 17.12.2012.

²¹¹ Barış ve Demokrasi Partisi (Peace and Democracy Party): The primarily concern of it is the Kurdish Question.

Briefly, as it is seen above that the Kurdish question has different parameters. It is not only a conflict started by PKK in 1984 or the socioeconomic backwardness of the Kurds but also a result that emerged because of the nationalist policies of Turkey which oppressed and ruled the Kurds out to enjoy their rights since its foundation.

3.4. The Kurds and the Right to Self-Determination

One of the controversial subjects is whether the Kurds have the right to self-determination or not. So what is the situation of the Kurds? It should be noted here that millions of the Kurds live in Turkey, Iran, Iraq and Syria. Therefore, we will try to explain the situation of the Kurds in Turkey.

As it was clarified in the previous part, the Kurds haven't gained their rights so far because they suffered from the rigid policies of Turkey. Those policies were not only implemented for the prohibition of their identity rights, but also for the Turkification of the Kurds by forced resettlement²¹² from their territories, where they have lived for hundreds of years, to the west of Turkey. In the history of Turkish Republic, millions of Kurds were compelled to immigrate by decrees of the State on the ground of the rebellions. Similarly, today entering some regions of the South-eastern Region of Turkey, where generally the Kurds live, is banned by the Turkish General Staff because of the conflicts. In brief, all these show that the Kurds' life is being affected by the policies of the State independent of their decisions.

To sum up, it can be easily said that according to the International Law, the Kurds as a people –who have a common historical tradition, racial-ethnic identity, territorial connection and linguistic unity– may demand internal self-determination since they still are not able to *pursue their economic, social and cultural development*²¹³ in Turkey. From the external self-determination perspective, they have been *subjugated and dominated* for long years in their territories.²¹⁴ Therefore, they have also the right to demand external self-determination.

²¹² Norman Paech, 'International Law and the Kurdish Struggle for Freedom' in *The Kurdish Conflict in Turkey: Obstacles and Chances for Peace and Democracy*, ed. by Ferhad Ibrahim and Gülistan Gürbey (Münster: LIT VERLAG, 2000), pp. 159-179, at p. 167.

²¹³ [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/dc598941c9e68a1a8025651e004d31d0?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/dc598941c9e68a1a8025651e004d31d0?Opendocument)

²¹⁴ For more about the background of the Kurdish Question see also: Ferhad Ibrahim and Gülistan Gürbey *The Kurdish Conflict in Turkey: Obstacles and Chances for Peace and Democracy*; Altan Tan, *Kürt Sorunu*, 8th edn., (Istanbul: Timas Yayinlari, 2011); Barkey and Fuller, *Turkey's Kurdish Question*; Åsa Lundgren, *The Unwelcome Neighbour: Turkey's Kurdish Policy*; Aliza Marcus, *Blood and Belief*.

3.5. Pros and Cons

To suggest the Basque Model for the Kurdish Question in Turkey, following points should be taken into consideration.

Population: To implement such an autonomous model in Turkey arises a question about the population of the Kurds. How will millions of the Kurds, living in Western Turkey, benefit autonomy? Although it is difficult to reach definitive information about the population of the Kurds in Turkey, there are some predictions. According to McDowall, the population of the Kurds in Turkey was 10,800,000, which equals to approximately 20% of Turkey's population in 1991.²¹⁵ Gunter estimates that their population ranges from 12 to 15 million, which is 18 to 23 percent of the population.²¹⁶ The population of the Kurds in western metropolitan cities of Turkey, e.g. Istanbul, Ankara, Izmir, Adana, Mersin, Antalya, is striking. For instance, Turgut Özal, 8th President of Turkey, stated in an interview that 60 to 65 per cent of Kurdish population lived outside the South-eastern Anatolia while Istanbul inhabits 20 to 25 per cent of the whole Kurdish population alone.²¹⁷ Under this estimated data, if autonomy is implemented, how will the given rights encompass all the Kurds? Even Öcalan states that to implement federal or autonomous model in Turkey is inconvenient because of the Kurdish population in the west.²¹⁸

Without any doubt, the Kurdish Language can be used as an official language in South-eastern of Turkey if a similar autonomous region as the Basque Country is created in Turkey. From this perspective, there shouldn't be any hesitation to support the same autonomous model. However, unless the linguistic rights of the Kurds in the west, such as education, are not enhanced, the implication of autonomy will not be enough to fulfil the rights of the Kurds in general.

Self-determination: Autonomy for the Kurds may answer their external self-determination because if the autonomy is implemented for the Kurds, they will integrate with Turkey by plebiscite, in other words, by their own will. By providing an autonomous system just like in the Basque Country, the Kurds will be able to use the right of internal self-determination because it means they will be able to develop their economic, social and cultural values. However, there is a need to emphasize the reality of population once more.

²¹⁵ David McDowall, *The Kurds: a Nation is Denied*, (London: Minority Rights Group, 1992), p. 12.

²¹⁶ Gunter, *The Kurds Ascending*, (New York: Palgrave Macmillan, 2008), p. 2.

²¹⁷ Assembly of the Western European Union, 38th Ordinary Session (Second Part), Document 1341, Turkey, Nov. 6, 1992, p. 4. Quoted in Kirisci, 'Minority/Majority Discourse: The Case of the Kurds in Turkey', p. 231.

²¹⁸ Tekin Arslan, *İmralıdaki Konuk*, (Istanbul: Bilgeoğuz Yayınları, 2009), p. 329.

Other Kurds in different parts would rather realize internal self-determination as well. Therefore, if the Kurds don't gain their social and identity rights as a whole, the implication of territory-based autonomy will be meaningless because this kind of autonomy "does not address (and perhaps even complicates) the predicament of members of the same national minority living elsewhere in the country without access to the benefits of autonomy".²¹⁹ In other words, it will be inadequate to fulfil their rights and to solve the Kurdish question.

Conflicts: As we have already stated that although ETA has terminated its attacks and declared permanent cease-fire, the autonomous system did not annihilate ETA attacks as soon as it was implemented. Similarly, one cannot guarantee the PKK's abolishment as well. Even, it may demand an independent Kurdish State again because autonomy might be perceived as "–a temporary stage– prior to full-fledged statehood".²²⁰ However, this does not mean that a new governmental system should not be improved.

Tolerance: The Spanish Autonomous system is regulated not only for the Basques but also for the Catalans, Galicians and other people in entire Spain. Therefore, being an autonomous region will mean the same thing for all regions in Turkey, which does not provide predomination to each other. Therefore, autonomy functions as a toleration tool. In other words, there haven't been ethnic conflicts among the peoples in Spain after autonomy regime.

If the Kurds perceive the autonomy as a triumph of the armed struggle against the Turkish Republic, this may put the Kurds to one side and the Turks to other side, which may cause conflicts between two groups in the future. Therefore, autonomous regime should be for entire Turkey as well.

Secession-Independence: As already explained, anxieties about the eventual secession is another argument for the autonomy. The Basque Autonomy experience has shown that autonomy does not mean that it will lead to dismemberment of the State. However, it should not be forgotten that autonomy may not also prevent the future secession. As Conversi points that "what is successful today may not necessarily remain successful tomorrow".²²¹

²¹⁹ Yoram Dinstein, 'Autonomy Regimes and International Law', *Villanova Law Review*, 56 (2011), 437-454 (p. 445)

²²⁰ *Ibid.*, p. 444.

²²¹ Daniele Conversi, 'Autonomous Communities and the Ethnic Settlement in Spain' in *Autonomy and Ethnicity: Negotiating Competing Claims in Multi Ethnic States*, ed. by Yash Ghai, (Cambridge: Cambridge University Press, 2000), pp. 122-144, at p. 137.

Competences: While explaining the theory of autonomy, it has been primarily stated that autonomy shows different characteristics no matter how it is named, e.g. territorial or cultural. Despite being under the control of the centre in some cases, the Basque Autonomous Community has a wide range of competences in Spain. Such autonomy can definitely be implemented not only for the Kurds but also for the other regions of Turkey as well. Thus, it will give the Kurds to determine the policies, create their own parliament, jurisdiction and financial management in their territory. As a result, it may diminish the responsibilities of Turkish central state in autonomous regions. The best side of this kind of autonomy is that it might be designed even better than Spain since autonomy does not “indicate any specific amount of legislative or regulatory powers to be transferred to the region, nor does it refers to any particular field of jurisdiction”.²²²

Economy: The Basque Autonomous Community has financial autonomy and their economic situation seems better than the average of Spain. The Kurds may also enhance the economic situation by the same system. In fact, additional economy policies, such as removal of custom transitions or rearrangement of taxes between Turkey and Iran, Iraq, Syria, can develop the region more than expected as the Kurds could use geographical, linguistic and affinity advantages in trade with those Middle East countries.

²²² Frederik Harhoff, ‘Institutions of Autonomy’, *Nordic Journal of International Law*, 55.1 (1986), 31-40 (p. 31)

CONCLUSION

In order to grasp the importance of autonomy on the resolution of ethnic conflicts, firstly the meaning of autonomy with its forms has been explored so as to see whether autonomy ends the said conflicts. It has been asserted that autonomy may solve the ethnic problems since it may fulfil the rights of the minorities, may help them obtain competences on the governmental, legislative and jurisdiction fields. It may also become a remedy to apply the right to self-determination. Apart from this but in the same line, trying to solve the problems by virtue of autonomy has shown that it does not mean the end of the armed conflict and disappearance of secession/independence claims as in Spain.

The transition process to democracy after the General Franco regime started with the implementation of the territorial autonomy in Spain. The Basques also benefitted this system as the other peoples did in Spain. By providing an autonomy regime, they are able to choose their own government, regulate local laws, decide on their internal affairs, and manage financial autonomy. Moreover, starting from the entry into force of the Statute of Autonomy of the Basque Country, ETA attacks decreased in 30 years of time and finally declared its permanent ceasefire and disarmament in 2011. As a result, we can easily say that autonomy experience in the Basque Country has shown that autonomy does not guarantee the end of the separatist conflict in a short term.

The discussions in this study show that the Kurdish question exists because of different reasons. The identity rights ignored by the nationalist policies of the State as well as socio-economic conditions and the existence of the PKK are the reasons of the today's Kurdish question in Turkey. To overcome this question, the Basque Autonomous Model can be a model for the solution of the Kurdish Question because by the implementation of this model the following four can occur:

1. Although the population of the Kurds in the west is important, there are some cities where the density of the Kurds exists in the east and southeast Turkey. That population will be able to have competences to govern themselves in their territories. In other words, the Kurds will be able to decide their political life by determining local bodies namely government, legislation and jurisdiction. Thus, by improving regional-local government similar to the BAC, the economic development of the Kurdish territory and thereby the living standards of the Kurds can be increased. Should be stated that in such autonomy, not only the Kurds but also the other people will be involved in.

2. Autonomy can realize the Kurds' right to self-determination from the internal and external aspect since autonomy will be created as an agreement, which will allow the Kurds to make use of said rights.
3. As the Basque and Spanish are the official languages in the BAC, the Kurdish language can also be used with equal status of Turkish in official and educational field in autonomous region. In the other parts, especially in western Turkey, the Kurds may also enjoy the Kurdish language in education thanks to constitutional regulations of Turkey, maybe with the help of the cultural autonomy implications. Even, in a different fashion from the BAC; the Kurdish language can be proposed as the second official language where the percentage of the Kurdish population is high in the western cities of Turkey, which is to be decided through for instance by referendum in those cities.
4. Although autonomous model did not end the ETA, this does not mean the same model will not end the conflicts with the PKK. Therefore, to implement the same autonomy model can be a solution which hasn't hitherto been tried.

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2004 – 2008	Suleyman Demirel University –Business Administration, Turkey
<i>Spring Semester (2006)</i>	Erasmus Exchange Programme – Schmalkalden, Germany
1998 – 2002	Karatay High School –Antalya, Turkey

WORK EXPERIENCES

<i>April-Sep. (2011)</i>	Demining Project in the Border of Syria and Turkey / Ankara, TURKEY
Position:	Assistant
<i>July - Aug. (2009)</i>	Çaika Kids Camp / Saratov, RUSSIA
Position:	Intern
<i>Sep. - Dec. (2008)</i>	Kagzi Exports / Jaipur, INDIA
Position:	International Marketing
<i>July - Aug. (2007)</i>	Planet Hollywood in Downtown Disney / Florida, USA
Position:	Photographer
<i>Jun- Aug. (2005)</i>	Limak Atlantis Hotel / Antalya, TURKEY
Position:	Lifeguard
<i>Jan - Feb (2005)</i>	Accounting Office / Antalya, TURKEY
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LANGUAGE SKILLS

Turkish	Native
English	Advanced
German	Intermediate
Russian	Beginner

DECLARATION OF AUTHORSHIP

I hereby declare that all information in this document has been obtained and presented in accordance with academic rules and ethical conduct. I also declare that, as required by these rules and conduct, I have fully cited and referenced all material and results that are not original to this work.

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