A CONSTRUCTIVIST ANALYSIS OF TURKEY-EU RELATIONS
WITHIN THE CONTEXT OF FIVE PHASE SPIRAL MODEL:

"HUMAN RIGHTS DIMENSION"

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ABSTRACT

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The 1990's witnessed the emergence of Constructivist approach in the International Relations theory. Constructivism rejecting the rationalist precepts of Neo-Realism and Neo-Liberalism brought a sociological point of view to the world politics mentioned the role of ideational factors in the constitution process of interests and identities.

Constructivism assumes that there is a mutual constitution process between states and normative structures in which states internalized existing international societal norms with efforts of international non-state actors seen as *active teachers* guiding states to initiate policies that are congruent with international *civilized* norms of behaviour. Today human rights are defined as *civilized* normative patterns.

At this point five phase spiral model reveals itself and introduces explanations for how states understand, interpret and internalize international human rights norms. The model assumes that target state's identity, interest and behaviors are influenced by international human rights norms as it progresses through the model's five phased spiral process. The model in this process emphasizes roles and efforts of international organizations.

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This work assesses the usefulness of the five phase spiral model and Constructivism as an explanation of the changes in the Turkish government's human rights practices. As case study effect of the European Union over normative transformation in the field of human rights in Turkey will be given. The thesis bringing criticisms to the model's assumptions in Turkey case will assert that Turkey, from the 1980 Military intervention to the end of 2007 has made progressive steps in line with the phases mentioned in the spiral model.

Key words: the European Union, Turkey's Accession to the European Union, human rights, the Spiral Model, Constructivism

ÖZ

5 AŞAMALI DÖNGÜSEL MODEL BAĞLAMINDA AVRUPA BİRLİĞİ-
TÜRKİYE İLİŞKİLERİNİN YAPILANDIRMACI ANALİZİ:
"İNSAN HAKLARI BOYUTU"

Tezer, Özgür

Yüksek Lisans, Siyaset Bilimi ve Kamu Yönetimi Bölümü

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1990'lar Uluslararası ilişkiler alanında Yapılandırmacı yaklaşımın ortaya çıkışına tanıklık etmiştir. Neo-Realizm ve Neo-Liberalizm'in Rasyonalist hükümlerini kabul etmeyen Yapılandırmacı yaklaşım dünya siyasetine Sosyolojik bir bakış açısı getirmiş, normatif ve maddi yapıların öneminin altını çizmiş ve düşünsel faktörlerin çıkarların, kimliklerin ve eylemlerin oluşum sürecindeki öneminden söz etmiştir.

Yapılandırmacı yaklaşım normatif yapılar ile devletler arasında karşılıklı bir inşaa süreci olduğunu varsayar. Bu süreçte devletler uluslararası toplumun mevcut normlarını, "faal öğreticiler" olarak görülen ve devletleri "medeni" davranış normlarına uygun siyasetler üretmeye yönlendiren devlet-dışı uluslararası aktör ve örgütlerin gayretleri ile içselleştirirler.

Bu noktada, devletlerin uluslararası alanda kabul görmüş olan insan hakları normlarını nasıl anladıkları yorumladıkları ve içselleştirdikleri konularında açıklamalar getiren 5 aşamalı döngüsel model kendini göstermektedir. Model hedef devletin kimliğinin, çıkarlarının ve davranışlarının modelin 5 aşaması doğrultusunda ilerledikçe "medeni" olarak kabul edilen insan hakları normları tarafından şekillendirileceğini varsaymaktadır. Model bu süreçte uluslararası örgütlerin çabaları ve rollerine vurgu yapmaktadır.

Bu çalışma, 5 Aşamalı Döngüsel Modelin ve Yapılandırmacı yaklaşımın Türkiye'de insan hakları alanında yaşanan değişimleri açıklamada ne ölçüde geçerli ve yararlı olabileceğini değerlendirecektir. Bu bağlamda, Avrupa Birliği'nin Türkiye'de insan hakları alanında yaşanan normatif dönüşüm üzerindeki etkisi örnek olay olarak ele alınmaktadır. 5 aşamalı modelin kimi varsayımlarına dair Türkiye özelinde eleştirilerde bulunan bu çalışma 1980 askeri müdahalesinden 2007 yılı sonuna kadar geçen süreçte Türkiye'de yaşanan değişimlerin hem modelin aşamaları doğrultusunda ilerlediği hem de Yapılandırmacı yaklaşımın kimi karakteristik özelliklerini paylaştığı savında bulunmaktadır.

Anahtar Sözcükler: Avrupa Birliği, Türkiye'nin Avrupa Birliği üyeliği, insan hakları, döngüsel model, yapılandırmacı yaklaşım

To all My Family

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CHAPTER I

INTRODUCTION

Turkey, at least for 200 years, has tried to be recognized as "European". Despite skeptical thoughts about the *Europeanness* of Turkey, close relationship between Turkey and the European organizations goes back to the end of 1940s.[1] Since 1949 Turkey has been a member of the Council of Europe, since 1954 has been a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).[2] However, there have been many pitfalls obstructing the emergence of progressive developments in bilateral relations. In other words, bilateral relations in many times have shown a zigzag pattern. The zigzag pattern of bilateral relations deepened after the 1980 military intervention and its negative consequences over human rights practices and regulations. These negative developments since 1980 have made human rights violations the basic obstacle for Turkey to be regarded as a European state.

After the Second World War, particularly in Western Europe, a new understanding has emerged which has regarded the human rights issue as the subject of international law and politics rather than internal affairs of the countries. Based on this understanding many legally binding and non-binding international conventions were put into force and various international and supranational organizations were authorized to observe whether the parties fulfilled their responsibilities and duties. In parallel with these developments, since the beginning of 1970s and especially after the midst of 1980s European institutions such as the European Union started to define the protection of human rights as a perquisite of full membership. This situation resulted in the

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[1] **Erdoğan, Birsen**, "Compliance with EU Democratic Conditionality: Turkey and the Political Criteria of EU", Paper Submitted for ECPR Standing Group on the European Union Third Pan-European Conference on EU Politics, 21-23 September 2006, Istanbul, Turkey, p.7.

[2] **Erdoğan,** p. 7.

emergence of conflicts between the European institutions and countries like Turkey where internalization of human rights have not been accepted but deep integration and cooperation with the West desired.

In 1980s the bipolar balance of the Cold War dominated world politics and overshadowed the HR developments and movements. While governments were ignoring HR issue, NGOs and international networks were increasing their activities and becoming primary advocates of HR. These networks that were named as *transnational advocacy networks* by Margaret Keck and Kathryn Sikkink have begun to work internationally.[3] These networks are accepted as issue specific and sharing same values as common denominator. Their efforts are motivated by violations in target states. These networks include non-state entities, NGOs and other powerful and influential actors of international realm. They have different tools such as dissemination of regular reports and publications, to carry human rights violations into international sphere.

It was seen that the end of the Cold War introduced new interests to the world scene and new approaches emerged. In such an environment rejecting the rationalist precepts of neo-realism and neo-liberalism, constructivism advanced a sociological point of view on world politics, emphasized the primacy of normative structures over material structures; mentioned the role of ideational, linguistic and intersubjective elements in the constitution of interests, identities, actions and behaviors of agents;[4] and explained the mutual constitution process between agents and structures.[5] The world was assumed not only as material but also ideational entity. It is accepted that intersubjective ideas have the most influence over human interactions.[6] The constructivist approach, uniting and

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[3] **Risse, Thomas; Ropp, Stephen C.; Sikkink**, **Kathryn**, 1999, "The Power of Human Rights: International Norms and Domestic Change", Cambridge, Cambridge University Press, p. 12.

[4] **Finnemore, Martha** and **Sikkink, Kathryn**, 2001, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics", Annual Review Political Science, 4, pp. 391–416.

[5] **Zehfuss, Maja**, 2001, "Constructivism in International Relations: Wendt, Onuf, Kratochwil", in Constructing International Relations: The Next Generation, ed. **Karin, M. Fierke** and **Knud, Erik Jorgensen**, New York, pp.54-75.

[6] **Finnemore,** and **Sikkink,** 2001, pp. 391-416.

using different concepts, in time has made some detailed empirical research and conducted comparative case studies, on the impact of human rights norms. "*Norms are matter*" was not satisfactory answer for constructivism. In these works, constructivists seek to answer, why, how and where norms emerge and became effective over agents.

Many writers have worked and examined to find suitable conditions where norms and international organizations play crucial roles in changing identities, interests and practices of agents. However, causal mechanisms through which international norms affect agents' behaviors could not been determined. As mentioned above, what was needed was a more substantial theory about how norms penetrate agents, why and where they are internalized. The Spiral Model Human Rights norms socialization attempted to answer the basic questions of constructivism and tried to explain under which conditions international norms are internalized and implemented in domestic political and societal spheres.[7] The model adopting a constructivist approach accepts both asymmetrical relationship between actors and structures and significant influence of ideas and material factors on human interactions, and concerns with the social construction of intersubjective ideas or structures.

Each phase of the spiral model try to reveal how domestic and international human rights organizations promote human rights norms over agents' identity and interests within the framework of particular socialization processes. In these socialization processes target state's experience provide explanations about how agents understand, process, interpret and act upon lessons that are taught by particular organizations.[8] It is assumed that at the end of the socialization process changes, under different socialization mechanisms,

[7] **Risse, Thomas** and **Ropp**, **Stephen, C.,** 1999, "International Human Rights Norms and Domestic Change: Conclusions", in **Risse, Thomas; Ropp, Stephen C.; Sikkink**, **Kathryn**, 1999, "The Power of Human Rights: International Norms and Domestic Change", Cambridge, Cambridge University Press p. 258.

[8] **Finnemore, Martha**, 1993, "International organizations as teachers of norms: the United Nations educational, scientific, and cultural organization and science policy", International Organization 47, pp. 565–597.

in states and in different phases occur. These changes show their effects on identities and interests of agents. In sum, the model tries to answer how international human rights and other related normative frameworks can influence or change the state's identity and interests with particular socialization processes.

This thesis will examine the activities of European Union (formerly the European Community) and other European bodies, democratic states, different international or domestic human rights groups on human rights violations in Turkey since 1980 military relations. In other words, this work, in order to determine whether these groups have had any impact on human rights practices in Turkey, will try to explore reactions of Turkish governments to external or internal criticisms and determine to what extent international human rights norms as ideas affect identity and the conception of interest of Turkey. In particular, the thesis will try to test validity and usefulness of Thomas Risse and Kathryn Sikkink's five phase spiral model and its effects over developments occurred in human rights practices of the Turkish government from 1980 to 2007. In other words, this study will try to determine to what extent basic assumptions of the model are in compliance with the developments that took place in Turkey. The work also will try to reveal what kind of mechanisms and dynamics of the model lie behind these changes: Instrumental or argumentatative? In these explanations developments in Turkey will be given as dependent variable, on the other hand normative framework and activities of the Union and other international organizations will be posited as independent variables of this thesis work.

I firstly assume that the developments occurred in Turkey are bearing similar characteristics with model's and constructivism's assumptions. Secondly, it is assumed that in the absence of other domestic or outside forces it was the European Union that generates the momentum for democratization and human rights developments in Turkey. Thirdly, it assumes that relations of Turkey and the Union which are found in a power asymmetry have mostly been dominated by instrumental-strategic (material) incentives. In other words, it is

assumed that in Turkish case without effects of material determinants the ideational variables are far from bringing sufficient explanations. Fourthly, my study relies on the assumption that developments occurred in Turkey did not follow linear direction in line with the expectations of the model. On the contrary it is assumed that it is possible to observe simultaneous existence of different phases and mechanisms in Turkey. In the language of our model it is accepted that human rights practices of Turkey can be situated to the point between phases three and four by 2007.

With these aims and assumptions in mind, chapter two is designed so as to provide the theoretical framework of the thesis. After this theoretical part of the work in the third chapter of the work special emphasis will be given to norms and the spiral model that will be used to test the developments in Turkey. In the fourth chapter historical developments of Turkey-EU relations will be summarized. In other words, the fourth chapter of this work will provide empirical basis for evaluations within the context of the spiral model and constructivism. In order to support these historical or empirical facts and developments documents and reports released by the European Commission, Parliament and Council; surveys done by non-governmental organizations and different newspaper articles will be used and taken into account. The fifth chapter will be on the critical assessment of human rights developments of Turkey within the context of the model and the theory. In other words, the theoretical assumptions and empirical explanations will be harmonized in this chapter.

In sum this thesis, by using the spiral model of human rights norm socialization, aims to assess and analyze the EU's impact, as one of the important inter-governmental organizations, on Turkey's progress towards the fulfillment of necessary prerequisites of full membership. In order to analyze the effect of the Union, the five phase spiral model and constructivism will be used as the theoretical framework. This work, besides the effect of the Union, at the same time aims to assess the usefulness and validity of these theoretical explanations on changes in Turkish governments' human rights practices. It will

be asserted that from 1980 to 2007 Turkey has made progressive steps in line with phases mentioned in the spiral model and constructivism. At the end, it is aimed to reach a conclusion that the spiral model and constructivism have brought meaningful explanations for the changes occurred in Turkey and the Union as powerful international organization with its normative structure has gradually affected identity and interest of Turkey. While there are many works as regards to Turkey's membership process, there are a few academic works in which Turkey's EU membership and developments in human rights practices has been put into such a theoretical context.

CHAPTER II

CONSTRUCTIVISM IN INTERNATIONAL RELATIONS THEORY: AS AN ALTERNATIVE TO MAINSTREAM APPROACHES

2.1. DEFINITION AND CONTENT OF CONSTRUCTIVISM

Nicolas Onuf initially introduced constructivism to International Relations (**IR**). For him, it meant *people and societies construct, or constitute each other* in simplest terms.[9] According to Onuf, constructivism does not make any distinction between the material and the social realities. He mentions that the social and the material contaminate each other; therefore it is not possible to grant sovereignty to either the material or the social (ideational) by defining them out of existence.[10]

On the other hand, Emanuel Adler's definition of constructivism as "the view that the manner in which the material world shapes and is shaped by human action and interaction depends on a dynamic and epistemic interpretations of the material world" underlines the same point.[11] Like Onuf, this definition also contains material and ideational points in itself. According to Adler "constructivism seizes the middle ground because it is interested in understanding how the material, subjective and inter subjective worlds interact in the construction of reality, and because, rather than focusing exclusively on

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[9] **Onuf, Nicolas**, 1989, "Constructivism: A User's Manual", in International Relations in a Constructed World, edited by **V. Kubalkova**, **N. Onuf** and **P. Kowert**, p. 36.

[10] **Onuf**, 1989, p. 40.

[11] **Adler, Emanuel**, 1997, "Seizing the Middle Ground: Constructivism in World Politics", European Journal of International Relations, p. 322.

how structures constitute agent's identities and interests, it also seeks to explain how individual agents socially construct these structures in the first place."[12]

Constructivism, like other critical approaches, criticizing mainstream IR theories and approaches -neorealism and neo-liberalism, emerged after the Cold War. Different from the previous approaches, it seeks to reveal the content of agents' interests and preferences and point out the ideational and social side of international relations. All these three approaches are state-centered; however they differ with the source of the international structure and agents' preferences. According to previous approaches structures are shaped or determined by power distribution among players of international relations and interdependence. In these structures agents' preferences are shaped by power balances and economic gains. International organizations are regarded as instruments or arenas. Agents' domestic characteristics, the frequency of interactions and changing characteristics of agents are not taken into account or ignored. For Neo-Realism cooperation in international relations is superficial and temporary, on the other hand for Neo-Liberalism cooperation is reached for economic gains. Contrary to previous approaches Constructivism underlines effects of ideational elements in international relations and formation of international structure. Institutions, rules and norms are seen as dominant variables in international realm, inter-governmental organizations are accepted as important actors, cooperation is seen possible and it is shaped with the effect of international norms which are seen as solid reflections of ideas. It is argued that structures and actors are found in co-constitution process. In other words, they mutually shape each other (interactions between actors and structure). Actors' basic characteristics are shaped by international structure; they internalize norms and rules of international realm and finally they affirm ideationally formed structures.

Critical approaches argued that the end of the Cold War brought new interest in the search for ideational, normative and cultural explanations for state behaviors in the international system that was ignored by previous IR

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[12] **Adler**, 1997, p. 330.

approaches.[13] As mentioned above, Constructivism emerging in such juncture, studies content of state interests and preferences and emphasizes ideational/social/normative sides of international politics.

2.2. BASIC ASSUMPTIONS

Basic assumptions of constructivism can be listed in the following order:

1. Constructivism accepts the fundamental structures of international politics contain social/ideational/inter-subjective elements.[14] In this regard, it focuses on the inter-subjective dimension of knowledge and constructivists emphasize or underline the social aspect of human existence and the role of inter-subjectively shared ideas as ideational structures constraining and shaping behaviour.[15] These ideas that are seen as mediums of social action define what can be cognitively possible and impossible for agents.[16] According to Ruggie these inter-subjective beliefs and values are not reducible to individuals.[17]

2. Constructivism accepts that ideas and ideational structures have behavioral and constitutive effects over agents. On the other hand it is accepted that structures determined by valid ideational frameworks define and render the range of possibilities possible for actions and set limits of agents. In sum, constructivism gives ideational structures and frameworks an important place and accepts that they shape fundamental properties, goals and roles they should play. It is assumed that these shared ideas and beliefs are appropriate behaviors giving the world structure and stability.[18] In other words, it is believed that

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[13] **Ulusoy, Hasan**, 2003, "Revisiting Security Communities after the Cold War: The Constructivist Perspective", SAM, Perceptions, Vol.8, September-November, p. 20.

[14] **Wendt, Alexander,** 1992, "Anarchy is what states make of it", International. Organizations, 46, pp. 391–425.

[15] **Dale, C., Copeland**, 2000, "The Constructivist Challenge to Structural Realism", International Security, MIT Press, pp. 187-212.

[16] **Adler**, 1997, p. 325.

[17] **Ruggie, John,** 1998, "What makes the world hang together? Neo-utilitarianism and the social constructivist challenge", International Organization, 52, pp. 855–87.

[18] **Finnemore, Martha** and **Sikkink, Kathryn**, "International Norm Dynamics and Political Change", International Organization, pp. 887-917.

agents make meaningful their basic properties on the basis of ideas which provide them usages and assumptions about how the world and structure works.

3. It is accepted that ideational structures and actors (agents) co-constitute and co-determine each other.[19] Constructivism assumes that structures constitute actors' interests and identities; on the other hand existing structures are produced and re-produced agents.[20] Timothy Dunne in his work mentions that the sovereign state is the constitutive community of international society, one whose obedience to the ideas of that society both affirms the identity of state and constitutes the structure of international state.[21] In his work, he also asserts that the notion of a society of states is founded on a belief in the power of intersubjective structures such as common rules, values and institutions.[22]

4. It is accepted that principle actors - states- of IR and social structures are socially constructed with ideational elements containing discursive elements. It is believed that actors and subjects in world politics are endowed with collective meanings and identities through practices and representations, and practices compose of discursive elements.[23] Constructivism analyzes these discourses and practices that continuously recreate what rationalists refer to as common knowledge.[24] Because it is believed that discourses and practices are necessary to the interaction that produces identities and interests of actors. Beside this it is accepted that in international life actors in these creation and constitution processes act consciously.[25]

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[19] **Dale**, 2000, pp. 187-212.

[20] **Wendt, Alexander**, 1999, "The Constructivist Challenge to Structural Realism", Social Theory of International Politics, Cambridge, Cambridge University Press, chapters 6 and 7.

[21] **Dunne, Timothy**, 1995, "The Social Construction of International Society", in the European Journal of International Relations, 1:3, pp. 367-389.

[22] **Dunne**, 1995, pp. 367-389.

[23] **Krause, Keith**, 1998,

[24] **Katzenstein, Peter**, 1999, "Exploration and Contestation in the Study of World Politics", Cambridge, MA: MIT Pres, p.41.

[25] **Ruggie**, 1998, p. 856.

5. World politics is not static and its structures are socially constructed. For Constructivism it is critical to recognize that an actor's reality, at any point in time, is historically constructed and contingent.[26] These structures are outcomes of human activities and products of historical social practices. According to them this process sometimes can be slow and gradual, but even the most embedded structures change.[27] According to Wendt, constructivism shows that even our most enduring institutions are based on collective understanding. It is possible for those understandings to change.[28]

6. The research interest of the approach is to examine how the agents see and understand the world; the subjects, practices and how they attach meanings to them.[29] In other words, constructivism assumes that material structures, physical capabilities and values are understood within the social context within which they operate. In this regard, Ba and Hoffman argues that values about what is right or wrong, feasible or infeasible cannot be thought independent from actor's social context or structure and it is ideas that shape what actors want, who actors are, and how actors behave.[30]

According to constructivism, agents ask *what kind of situation is this* and *what should I do* and act properly according to what normative structure entails.[31] Social structures and norms have constitutive power over identities and interests of agents. They either regulate the behaviors or make limited their choices. According to constructivists the reality can not be conceived outside or

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[26] **Wendt, Alexander**, 1999, chapters 6 and 7 and **Dale**, 2000, pp. 187-212.

[27] **Dale**, 2000, pp. 187-212.

[28] **Wendt, Alexander**, 1999b, "Constructivism and International Relations: Alexander Wendt and His Critics", New York, Routledge, pp. 21-48.

[29] **Krause, Keith**, 1998, "Critical Theory and Security Studies", Cooperation and Conflict, Vol. 33, No.3, Nordic International Studies, SAGE Publications, pp. 316- 17.

[30] **Ba, Alice** and **Hoffman, Matthew J.**, 2003, "Making and Remaking the World for IR 101: A Resource for Teaching Social Constructionism in Introductory Courses'', International Studies Perspectives 4(1), pp. 15–33.

[31] **Küçük, Mustafa**, 1999, "Constructivism and the Study of Security and Foreign Policy: Identity and Strategic Culture in Turkish-Greek and Turkish-Israeli Relations", unpublished master thesis, Bilkent University, p.44.

independent of human language and discourse. In other words, discursive and textual approach for understanding reality is required. Norms that are regarded among collective understandings stands for physical objects with purpose and help to constitute reality. Constructivism takes identities, norms and cultures as independent explanatory variables having constitutive powers. In international relations the point of departure for constructivists are the inter-subjective, discursive and linguistic contexts providing the meanings to policy makers.

In sum, constructivism accepts states as the principal units of analysis in IR theory, focuses on the role of ideas, norms, knowledge, culture, and arguments in politics, stresses particularly the role of collectively held or intersubjective ideas and understandings on social life.[32] According to Hopf, based on these, it is argued that constructivism brings a unique understanding of world politics.[33]

2.3. MAIN CONCEPTS IN CONSTRUCTIVIST THEORY

The main concepts of the constructivist scholarship are identity, interest, culture and norms that are discursively constructed. In this section these main elements will be explained.

2.3.1. Identity

The identity is one of the most important central explanatory concepts of the constructivist approach. Wendt and Katzenstein located identity at the center of much constructivist theorizing.[34] According to Wendt identities are relatively stable, role-specific understandings and expectations about self and they are inherently relational.[35] It is believed that the intersubjective understandings, expectations, collective meanings and social structures that are formed in

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[32] **Finnemore, Martha** and **Sikkink**, **Kathryn**, 2001, pp.391-416.

[33] **Hopf**, **Ted**, 1998, "The Promise of Constructivism in International Relations Theory", International Security 23, No.1, pp.171-200.

[34] **Finnemore, Martha,** and **Sikkink, Kathryn,** 2001, pp. 391-416.

[35] **Wendt**, **Alexander**, 1992, "Anarchy is what states make of it", International Organization, 46, pp. 391–425.

interactions of actors have important roles in the constitution of identities. In other words, constructivism claims that identities and state identities in particular, are formed in social environments like international and domestic politics. It assumes that the selves or identities of states depend on – domestic or international- historical, cultural, political and social contexts.[36] In other words, identities are given as empirical issues that can be understood within the specific historical context.

Unlike Neo-realist assumptions who assume that all units in global politics have only one meaningful identity, and any state in the international politics, across time and space, is assumed only one and eternal identity.[37] Constructivism assumes the identity formation or identity gaining process as multi-directional and dynamic.[38] Thus, identities are accepted as changing or not fixed entities. Earlier sociological outlook of constructivism can be found in Berger and Luckmann who underline and assume once an identity crystallized; it is maintained, modified, or even reshaped by social relations.[39] This situation reminds us the existence of plurality of identities. This situation shows us that identities are not something fixed, but rather socially constructed entities.

Identities which are socially, inter-subjectively and discursively constructed have constitutive characteristics defining how and what the international social structure is.[40] It is asserted that identities are necessary in order to ensure at least some minimum level of predictability and order. They are seen necessary because it is thought that without identities the world can become "*a world of chaos*".

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[36] **Hopf**, **Ted**, 1998, pp.171-200.

[37] **Hopf**, **Ted**, 1998, pp. 171-200.

[38] **Neumann**, **I. B.**, 1999, "Uses of the other", UK: Manchester University Press, p.13, and **Ulusoy**, 2003, p.53.

[39] **Berger, Peter,** and **Luckmann**, **Thomas**, 1967, "The Social Construction of Reality", Anchor books, USA, p. 173.

[40] **Checkel, Jeffery**, 1998, "The Constructivist Turn in International Relations Theory", pp. 339-343.

According to Henri Tajfel, working in social psychology, identities perform three necessary functions in a society: they tell you and others who you are, and they tell you who others are.[41] Identities tell you who you are and imply a particular set of interests or preferences related to actors' choices for action. On the other hand, according to Kowert, what makes an identity as inter-subjective is its external side that refers to the distinctive characteristics of one state vis-à-vis other states.[42] According to him external identity is based on distance and difference.[43] In international relations states understand other international actors, namely states, according to their identities that are formed in minds of policy makers. On the other hand states in this process recreate their own identities in the structure within which it is found. This above mentioned point can be rephrased here again within the context of self and other distinction.

Identity is an important term while defining mutual relations of different agents, and also in some conditions creates *self* and *other* distinction. The self is defined in relation to its position vis-à-vis other. In this process, the other is important because, self actually cannot know either itself or the world.[44] In other words, it can be said that identities exist with the existence of their otherness. In this distinction or mutual identification process meanings are created both in discursive processes and with the help of material factors.[45] Interpretation of material factors is another dimension of identity construction process.

All these processes, namely identification are regarded as a social concept and a social process through which agents and actors socialize themselves. In other words, in the identification of a group of people as a community, this unit

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[41] **Tajfel, Henri**, 1981, "Human Groups and Social Categories: Studies in Social Psychology", Cambridge, U.K.: Cambridge University Press, p. 255, in **Hopf, Ted**, 1998, "The Promise of Constructivism in International Relations Theory", International Security, 23 (1), Summer, pp. 171-200.

[42] **Kowert, Paul A**., 1998, "National Identity: Inside and Out", Security Studies, 8 (chapters2/3).

[43] **Kowert,** 1998, p. 33.

[44] **Neumann**, 1999, p.13.

[45] **Neumann**, 1999, p.13.

is externalized of or disassociated from the values, myths, symbols and attitudes of those (non-identified) with whom the unit does not identify itself.[46]

In short, it is assumed that states act as actors with identities, and at the end of their interactions their identities are re-shaped. External and internal intersubjective-ideas and values have important effects over this transformation process. Identity that is shaped by these elements affects practices and interests of the same actor again. In this regard, it is argued that identities are not fixed but contextual and contingent. However, identity formation is always limited by the array of possible identities in the international system at any historical moment.[47]

2.3.2. Interests

Interests are other important variables for constructivism. Contrary to the claims of its previous theories, constructivism argues that interests and national interests have important explanatory power in international relations. They provide vital lenses for agents to determine what the situation is and what kind role they are expected to play in it. It is assumed that interests are constituted through different internal and external processes: On the one hand by domestic practices and beliefs; on the other hand by interstate interactions. These variables at the same time determine structures. In other words, interests are seen as products of internal and external practices.[48]

In constructivist point of view, identities are accepted as the basis of interests.[49] Therefore, it is accepted that variations or changes in state identity

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[46] **Yurdusev, Nuri**, 1997, "Avrupa Kimliğinin Oluşumu ve Türk Kimliği" in **Atila Eralp** ed. Türkiye ve Avrupa", Ankara, İmge Kitabevi, p. 107.

[47] **Finnemore**, **Martha**, and **Sikkink, Kathryn**, 2001, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics", Annual. Review, Political Science, 4, p.399, and **Ulusoy**, **Hasan**, 2003, p. 61.

[48] **Keohane, Robert**, 1988, "International Institutions: Two Approaches", International Studies Quarterly, vol.32, No.4, pp. 390-91.

[49] **Wendt**, **Alexander**, 1992, p. 398, and **Dassen Lars Van**, 2002, "Review: the Making and Shaping of National Interests", International Studies Review, autumn, Vol.2, No.3, pp. 171–175.

affect the conceptions of national interests or policies of agents.[50] In other words, it is accepted that there is a relationship between identities and interests. Interests are accepted as socially formed in terms of social identities of agents in world scene. Because identity shapes interests of agents, it can be expected that agent action is compatible with identity.

Interests like identities are accepted not something fixed or constant across different actors. In other words they are contingent social constructions. These interests determine agents' actions. They make agent's actions justifiable or unjustifiable in domestic or international arena. It is believed that without such a definitional tool, to determine which interests are at stake for an actor would be difficult. Besides these, it can be said that agent's interests depend on the construction of identities mostly in relation to the conceived identity of others.

In short, rather than being part of objective reality, national or state interests are social formations that are formed as meaningful and important objects of the inter-subjective understandings with which the world can be understood.

2.3.3. Culture

When it is looked closely, it can be seen that the term '*culture*' is an encompassing variable that involves different facets. According to Jepperson culture has either cognitive or evaluative standards in itself.[51] Norms, values, and models can be counted among these standards. It is believed that culture motivates agents to do certain acts and constrain them from some other. As mentioned above, it is also regarded as being a tool kit involving habits, norms, institutions and skills from which certain acts stem from. As Swindler mentions

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[50] **Katzenstein, P.J**., 1996, "The Culture of National Security: Norms and Identity in Word Politics", New York: Cambridge University Pres, p. 5.

[51] **Jepperson, Ronald**, 1996, "Norms, identity, and culture in national security", in Culture and National Security, ed. Katzenstein, pp. 33-75.

'culture is a basket from which actors can take different elements and piece them together in accordance with their actions.'[52]

On the other hand, culture, according to Geertz, is public, which means that the meaning of culture is shared by a certain group of people and it is a collection of symbols that serves as the foundation of meaning.[53] Culture is also defined with the concept of '*symbolic universe*' by Berger and Luckmann. It can be said that culture involves symbols through and by which actors interact or communicate with each other and develop attitudes. It is accepted as the frame within which politics occurs. Due to its constituent parts, it forms politics; ties or binds individual and collective identities; creates boundaries of groups and organizes their actions; provides the crucial frameworks helping agents to understand actions and motives of other agents, and is regarded as one of the main sources of political organization and mobilization.

This above mentioned framework involves a kind of collection of norms, rules, values- that are shared by a certain group of people. In other words, culture is forming a framework or collection of ideas and symbols within which different functions and mechanisms occur. Also, it can be argued that cultural environment affects not only the incentives for different kinds of state behavior, but also the basic character of states-what we call state "identity".

2.3.4. Speech Acts

In literature, a speech act is defined as the '*act of speaking in a form that gets someone else to act*'. Speech acts persuade or change people's minds about what goals are valuable and about the roles they play (or should play) in social life.[54] When speech acts have these effects, it is doing important social

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[52] **Swindler, J.K., 1996,** "Social Intentions", Philosophy of Social Sciences, 26, pp. 61-76, in **Wendt, Alexander**, "The state as Person in International Relations", 2004, Review of International Studies, pp. 289-316.

[53] **Geerts, Clifford**, 1988, "Interpretation of Cultures", Institute for Advanced Study, Princeton, NJ.

[54] **Ulusoy,** 2003, p. 71.

construction work, creating new understandings and new social facts that reconfigure politics.[55] Speech acts generally fall into three categories as *assertive* speech acts, *directive* speech acts and *commissive* speech acts.[56] Repeated speech acts turn into convention, because everyone comes to believe that the words themselves are responsible for what happens. Assertive speech acts inform agents about the world and underline what consequences are likely to follow if they disregard this information. Directive speech acts are accepted as imperatives. Commissive speech acts involve promise. The below mentioned table shows transformation process of constructivist elements in one specific order.
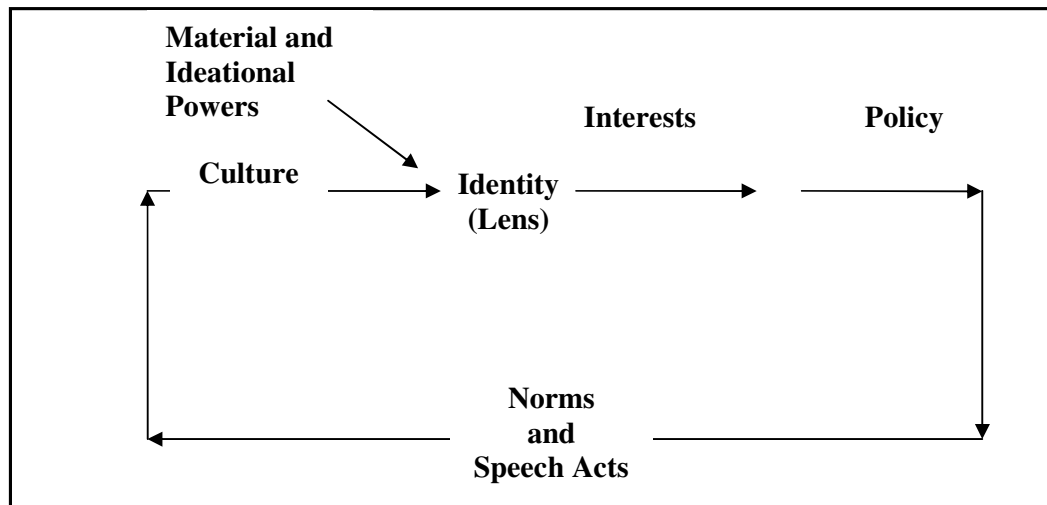
Figure.1. Combination of constructivist elements in international relations

Source: **Ulusoy, Hasan**, 2005, "A Constructivist Analysis of Turkey's Foreign and Security Policy in the Post Cold War Era", unpublished PhD Thesis, IR, METU, p. 76.

To sum up, it can be said that *identities*, *interests*, *culture* and *speech acts* are the basic variables in constructivist theory. Constructivism contends that state identities constitute national interests, and enable or constrain state policies and strategies.

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[55] **Finnemore** and **Sikkink**, 2001, p.402.

[56] Rules in the form of assertive speech acts inform agents about the world and inform what consequences are likely to follow if they disregard this information; directive speech acts are recognizable as imperatives; and commissive speech acts involve promises.

2.4. LANGUAGE AND DISCOURSES IN CONSTRUCTIVIST THEORY

Discourse is a concept which is used in different contexts. In the narrower etymological sense, '*discourse*' is simply defined as '*speech*' or '*battle of words*'.[57] Also some other related concepts like '*discussion*' and '*treatise*' or '*conversation*' and '*exchange of ideas*' may be respectively added to this definition.[58] In a larger sense 'discourse' is commonly used in the sense of a comprehensive body of scientific theory or discussion that is representative of, say, a particular school or epoch.[59] In the third sense the term '*discourse*' is understood as a term to designate every kind of symbolic order of intentional processes of communication and understanding.[60]

It is argued that discourse on the other hand is accepted as 'interpretive community' framing of its existence. This level is regarded as more comprehensive than other two definitions. At this level, it is not restricted to some specific formation of knowledge, but it is open to diverse perspectives and life-worlds.[61] It is this third and most comprehensive sense that we will talk about discourses in the following text. Discourses are not only seen as moveable orders that exist temporarily in the contexts of social understandings, but also seen as moments of articulation and transitions toward other discourses.[62] It is also underlined that certain parts of discourses are always missing, absent and contingent.

According to Constructivism the objects of our knowledge is not independent from understandings and language. Social facts are formed by structures of language, and consciousness can be studied only by language. It is

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[57] **Neubert, Stefan** and **Reich, Kersten**, 2002, "Toward a Constructivist Theory of Discourse: Rethinking the Boundaries of Discourse Philosophy", University of Cologne, p.2.

[58] **Neubert, Stefan** and **Reich, Kersten**, 2002, p.2.

[59] **Neubert, Stefan** and **Reich, Kersten**, 2002, p.2.

[60] **Neubert, Stefan** and **Reich, Kersten**, 2002, p.2.

[61] **Neubert, Stefan** and **Reich, Kersten**, 2002, p.9.

[62] **Neubert, Stefan** and **Reich, Kersten**, 2002, p.3.

accepted that there is nothing outside of human interpretation. Existence of things depends on human consciousness and language. Constructivism especially emphasizes the role of language in social life. Language is regarded as the medium for the construction of meanings having inter-subjective characteristics. It is thought that linguistic expressions present a potential for new constitutions of reality, and discourse is a source of change.[63]

Discourse and its power construct reality. Concepts such as "*collective learning*", "*life cycle of norms*" requires internalization of knowledge, practices and discourses. Especially it is believed that discourse help to demonstrate or legitimize the validity of arguments and also supports the internal unity of collective understandings. Constructivism also shows and gives examples about how actors draw boundaries like '*inside*' or '*outside*', and how these boundaries produced, re-produced, legitimated, challenged, changed by language. It is believed that these divisions are among important determinants for understanding international relations and politics conducted by states in their foreign policies. Mostly foreign policies are regarded as reflections of those discourses and linguistic constructions. This situation can be described or defined as transformation of material realities into intersubjective constructions.

Constructivism also makes a special emphasis on the effects of *act of social communication*. In this context, it seeks to find how debate and persuasion can help to promote shared understandings. By focusing on the roles of argumentation, persuasion or deliberation they see language as a determining mechanism leading to changes in core agent properties, such as identity, behavior and interests.[64] As mentioned above this act of social communication depends on spoken and written language that is seen as an essential, but not unproblematic feature of the process.[65]

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[63] Discourse, the mediation of meaning through language, speech acts and textual analysis.

[64] **Checkel, Jeffery**, 2004, "Social Constructivisms in Global and European Politics: A Review Essay", Review of International Studies, Cambridge, 30, pp. 229-244.

[65] **Folker, Jeniffer Sterling**, 2005, "Making Sense of International Relations Theory", Lynne Rienner Publishers, London, pp. 115-126.

Also it is thought that human beings, capable of language and action, are constituted as individuals only by growing into an intersubjective shared life world, whose members are parts of a particular language community.[66] Actors help to reproduce structures in total of interpretive meanings. According to Ba and Hoffman transformation can be described with the *transformational logic involving the notion that actor's words, deeds, and is affected by discursive practices that shape their behaviors in which they live.[67]*

As mentioned above with help of discursive or linguistic elements, structures change actors' basic properties - identities, interests and cultures. However, on the other hand constructivists assume that structures are simultaneously affected by acts and practices of agents. In sum, constructivist theory accepts that agents and structures simultaneously constitute, enable, constrain and change each other with elements that were constructed in discursive processes. In such an environment how agents and structures are related becomes a central point. In other words, what kind of discursive elements relate agents and structures? The next section of this work will try to give an answer to this question.

2.5. THE AGENT-STRUCTURE DEBATE

The conceptual problem at the heart of the agent-structure debate is: How are agents and structures related? In this regard, there have been many attempts to answer this question. The first attempt came from Alexander Wendt. His solution to the problem of agency-structure is to import Anthony Giddens's structuration theory that was developed by Roy Bashkar.[68] Structuration gives agents and a structure "equal ontological status" and accepts them as "co-

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[66] **Habermas, Jürgen**, "Theory of Communicative Action", Vol. I. p.335, cited in **Erman, Eva**, 2005, "Human Rights and Democracy: Discourse Theory and Global Human Rights Institutions", Ashgate, Hampshire, England.

[67] **Ba,** and **Hoffman**, 2003, pp.15–33.

[68] **Küçük, Mustafa**, 1999, "Constructivism and the Study of Security and Foreign Policy: Identity and Strategic Culture in Turkish-Greek and Turkish-Israeli Relations", unpublished PhD thesis, Bilkent University, Ankara, p. 39.

determined" or "mutually constituted".[69] In general terms Wendt's arguments were bearing two assumptions: a rejection of a priori assumptions and their explanatory power.

Subject (agent) and system (structure) in this explanation are explained in such a way that each can be understood in terms of the other. In other words, neither the agent nor the structures have an ontological precedence. Structures are formed or created by individual subjects and at the same time these structure constitute individuals' subjectivity.

Another solution came from Walter Carlsnaes. By adopting a structurationist perspective he used a morphogenetic approach suggested by Margaret Archer.[70] This approach was involving time dimension and sequentalist reciprocal interaction between agents and structures. It is seen that in that approach there was a dialectical relationship between agents and structures starting from somewhere and ending another locale. This is defined as continuous process.

David Dessler in his work developed a transformational model in which 'structure both enables action and constrains its possibilities… It is the outcome as well as the medium of action.'[71] He identified two instruments: *rules* and *resources*. Resources were seen as material capabilities. Rules are accepted as necessary mediators and linkages through which action become.[72]

Like Dessler, Onuf underlined the place of rules as mechanism relating agents and structures. According to him rules are playing the central role in the

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[69] **Wendt, Alexander**, 1987, "The Agent-Structure Problem in International Relations Theory," International Organization 41, 3, pp. 335–370 and **Gould, Harry**, 1998, "What's at Stake in the Agent-Structure Debate", in International Relations in a Constructed World, edited by V. Kubalkova, N. Onuf and P. Kowert, International Relations in a Constructed World, Armonk, NY: M.E. Sharpe pp.79-98.

[70] **Küçük, Mustafa**, 1999, p. 39.

[71] **Dessler, David**, 1989, "What's at Stake in the Agent-Structure Debate", International Organisation, p. 452.

[72] **Dessler, David**, 1989, p.467.

process. With rules people become active participants (or agents) in society, and they gave any society its special characteristic (or structure). They define agents in terms of structures, and structures in terms of agents. When rules change in number, kind and content; they redefine and reshape agents and structures in terms of others. According to Onuf language gives the rules an autonomous character. Rules define the conditions under which agents intervene in the world. It is accepted that after a threshold point rules became institutions that are seen as embedded and concrete structures shaping and affecting agents and their activities. In this approach we see rules that are used in terms of regulative and constitutive nature. In practice, the regulative have constitutive implications. Rules are found in the middle of agent-structure dichotomy. According to him, structure is not just an environment or context, but a medium, and a mean to social action and interaction. Any given action reproduces some part of social structure. Social action in this regard is seen as product and by-product.

Constructivists see international relations as deeply social, as a realm of action in which the identities and interests of states and basic elements of structures are discursively structured by inter subjective rules, norms and institutions.[73] It studies the sources and the content of state interests and preferences, emphasizes the ideational, normative and social side of international politics.[74] As mentioned above it accepts there is a mutual constitution process between agents and structures. In this mutual constitution process norms play important roles. According to Onuf, spoken and discursive methods within the specific process transform ideational factors and values to reality. Norms, rules and institutions which bind agents and structures together, are accepted as final products of this process in turn shape actors' identities and interests. In other words, for constructivist theory norms are important variables having important effects over agents' basic properties. They are regarded as

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[73] **Reus-Smith**, **Christian**, 2002, "Imagining society: constructivism and the English School", British Journal of Politics and International Relations, Vol. 4, No. 3, pp. 487–509.

[74] **Ulusoy, Hasan**, 2003, p. 7.

mediators in mutual constitution process that has been studied within the framework of agent-structure debate.

The next section of this thesis firstly it will explain norms that are seen as mediators in mutual relationship between agents and structures; secondly it will make explanations about international networks which use norms and normative frameworks in different perspectives in valid international arena; and thirdly international norm socialization will be mentioned through which agents internalize international '*civilized*' norms in current structures. To illustrate these explanations in the next part of these work human rights will be used as basic building blocks of existing normative structures, because they are seen elements challenging state authority, accepted as universal property and common language among people; and internalized by international organizations working in human rights area.

The next part of the work aims to reveal mutual relationship between constructivism and human rights, because it is assumed that today human rights are clear examples of what constructivists call *social constructions* and invented social categories that exist only because *people believe and act as if they exist.* In this regard, human rights are regarded as '*civilized*' normative patterns and necessary criteria, to be a legitimate member of international community. Human rights taking their roots from ideational elements are affected by different discursive processes. The next part of this work will summarize and try to bind them together.

CHAPTER III

NORMS, INTERNATIONAL NETWORKS AND NORM SOCIALIZATION

3.1. POWER AND MEANING OF NORMS, RULES AND INSTITUTIONS

Definition of norms is one of the main concerns of constructivist approach. Accordingly, norms are defined as "*descriptions of collective expectations for the proper behaviour of actors with a given identity*" and serve as "*social facts that constrain the range of individuals' choices or prescribe appropriate behavior for a given context*".[75] Norms as mentioned above are products of discursive processes. In other words, ideational frameworks and elements with the help of discursive practices and processes become solid products shaping both agents and structures.[76]

Norms and broader frameworks namely institutions sometimes are used in different places referring to the same meaning. However, while norms correspond to the single standards of behavior, institutions emphasize the ways in which behavioral rules are structured together and interrelate.[77] According to Stephen Krasner 'institutions can be regarded as generating agents that reinforce or enact, as a result of normative socialization into a common civilization, a

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[75] **Katzenstein, P.J**., 1996, "The Culture of National Security: Norms and Identity in Word Politics", edited by P. J. Katzenstein, New York: Columbia University Pres, p. 5.

[76] Authors generally note one or more of the following characteristics when discussing and defining 'norm' irrespective of the theoretical perspective of the study in question; **1.** Compliance with the standard or strategy throughout (most of) society; **2.** Stabilization of expectations around the standard—shared expectations; **3.** Self-reinforcement.

[77] Institutions are viewed not merely as constraining behaviour but rather as constituting actors by providing them with understandings of their interests and identities. Institutions provide rules of social action and constitute as well as provide an environment for social learning. In this sense, they can be said to socialize or have socializing effects on actors. **March, J. G.** and **Olsen**, **J. P.**, 1998, "Rediscovering Institutions". New York: Free Pres, and **Finnemore Martha**, and **Sikkink**, **Kathryn**, 1998, "International Norm Dynamics and Political Change", International Organization, p.891.

particular set of principles, norms and rules'.[78] In sum, with reference to ideas, it is accepted that ideas and institutions are seen as entities carrying ideas, knowledge and values in themselves.

Constructivism as mentioned above holds that agents make structures and structures make agents: '*Society (structure) is a human product. Society (structure) is an objective reality. Man is product of that society (structure).*'[79] It is assumed that norms and rules that are found in the middle link agents and structures. This situation can be described as a continuous, *two-way process*. It is argued that social structures continually impose behavioral limits on actors through norms and other forms of intersubjective and collective knowledge and in turn, actors contribute to the form of this structure by continuous actions in accordance with such limits.[80] In this process, norms and rules make people active participants in society and these people give any society its distinctive or special character. This process also includes change in the collective understanding of social phenomena under investigation, as social facts depend upon the attachment of collective knowledge to physical reality.[81]

Constructivism suggests that norms are expressed through '*language and argumentation*' and that such rhetorical argumentation later place constraints on what choices states have.[82] In other words, creation of normative process is built into the "*vocabulary*". This vocabulary when enriched with maxims, proverbs and wise sayings can be collected or defined under the heading of "*collective*

[78] **Krasner, Stephen**, 1999, "Sovereignty: Organized Hypocrisy", Princeton, NJ: Princeton University Press, p.71 and **Reus-Smith**, **Christian**, 2002, "Imagining society: constructivism and the English School", British Journal of Politics and International Relations, Vol. 4, No. 3, pp. 487–509.

[79] **Berger and Luckmann**, 1967, p.61.

[80] **Adler, Emanuel**, 2002, "Constructivism and International Relations", in **W. Carlsnaes**, **T. Risse** and **B. Simmons** (eds), Handbook of International Relations. London, Thousand Oaks CA, New Delhi: Sage Publications, pp. 95–118, p. 101, cited in **Solomon, Ty**, 2006, "Norms and Human Rights in International Relations", Political Studies Review 4 (1).

[81] **Adler, Emanuel**, 2002, p.100, cited in **Solomon, Ty**, 2006, pp. 44.

[82] **Foot, R.**, 2002, "Rights Beyond Borders: The Global Community and the Struggle Over Human Rights in China", cited in **Solomon, Ty**, 2006, pp. 36–47.

explanatory schemes."[83] These schemas include knowledge that is seen or regarded as the first level upon which other theories and structures are constructed successively. This knowledge renders the definition of areas possible to be institutionalized. Also, it defines and constructs the roles to be played within the context of the institutions in question.

This knowledge and norms are learned and internalized in the course or the process of socialization processes. In this context, it is believed that, besides norms, knowledge is found at the heart of mutual process between agents and structures. In socialization process, knowledge and norms require specialized personnel who are helping transmission of normative frameworks through formal process. In other words, rules and norms are underpinned by knowledge, discursive elements and expert agents that act together and in various combinations.

According to constructivists, norms can not be regarded as ideas floating around inside peoples' heads; rather they are accepted as beliefs that are "*out there*" in the real world. [84] They help agents to define themselves in different situations. In that definition process, identity of state is constructed through those norms. Those norms, principled rules, institutions and values which are created linguistically determine members of the international society.[85]

Norms channel and regularize behavior, produce social order, stability and patterns, and as mentioned above, they limit the range of choice and constrain actions of agents.[86] These patterns that are built up in the course of shared history, namely - rules, norms, and institutions - give society a structure and

[83] **Berger,** and **Luckmann**, 1967, pp. 92–116.

[84] **Farrel, Theo**, 2002, "Constructivist Security Studies: Portrait of a Research Programme", International Studies Review, (4)1, p. 60, cited in **Ulusoy Hasan**, 2005, "A Constructivist Analysis of Turkey's Foreign Policy Analysis In the Post-Cold War Era", Unpublished PhD Thesis, METU, Ankara.

[85] **Finnemore**, **Martha**, 1996, "Norms, Culture, and World Politics: Insights from Sociology's Institutionalism", International Organization, Vol. 50, No. 2, spring, pp. 325-347.

[86] **Finnemore Martha**, and **Sikkink**, **Kathryn**, 1998, "International Norm Dynamics and Political Change", International Organization, p.894.

imply historicity and control.[87] This situation converges to typification. Typification implies that the action in question may be performed again in the future in the same manner and with the same effort.[88] After some level they become habitual. These typifications determine actors and their actions. Habitualization narrows choices. Norms control human conduct, set patterns and channel agents in one direction.

Knowledge is transmitted to the next generations with institutions that are created in the course of time. Facts that are objectivated or solidified in these processes are learned in the socialization agenda and internalized by agents. Institutions and their contents shape identities and interests of the target states and result in creation of certain type of actor. According to Berger and Luckmann, although the institutions and routines, once established, carry within them a tendency to persist, the possibility of changing them remains at hand in consciousness.[89] As will be mentioned later, these norms increase the rate of predictability of agents' behaviors.

It is argued that an increased degree of normativity or normative structure bolster predictability in international relations. According to Vaughan Lowe 'the goals such as certainty and predictability are advanced if there is a consistent principle that motivates agents.'[90] The need for clarity for purposes of predictability also has recently been expressed by different actors in the scene.[91]

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[87] **Berger,** and **Luckmann**, 1967, p.54.

[88] **Berger,** and **Luckmann, 1967,** Social Construction of Reality", pp. 42-51, cited in **Calhoun, Craig J., Gerteis, Joseph Moody, Pfaff, James Steven**, 2002, "Contemporary Sociological Theory" Blackwell Publishing.

[89] **Berger** and **Luckmann, 1967,** Social Construction of Reality", pp. 42-51, cited in **Calhoun, Craig J., Gerteis, Joseph Moody, Pfaff, James Steven**, 2002, "Contemporary Sociological Theory" Blackwell Publishing.

[90] **Lowe, Vaughan**, 2002, "The Politics of Law-Making: Are the Method and Character of Norm Creation Changing?", in The Role of Law in International Politics: Essays in International Law 207, p. 215 (Michael Byers ed., cited in **Richemond, Daphne**, 2003, "Normativity in International Law: the Case of Unilateral Humanitarian Intervention", Yale Human Rights and Development Law Journal.

[91] **Richemond, Daphne**, 2003, "Normativity in International Law: the Case of Unilateral Humanitarian Intervention", Yale Human Rights and Development Law Journal, pp.45-80.

It is argued that when the norm or rule is clear, there can be consensus among agents; on the other hand when there is ambiguity, it is more difficult to form a stable environment.[92]

It can be said that the above mentioned argument rests on the assumption that states mainly try to legitimize their actions within the context of legal standards. It can be said that the more conduct is institutionalized, the more predictable and the more controlled it becomes.[93] After such a threshold level, the meaning of conduct is given as taken for granted and other institutions become unpopular. Language is also seen as another important variable and determinant in this process. It is believed that language provides ways of the realization of institutions. Besides these, institutions and patterns require legitimation, the ways by which institutional structure can be explained and justified.[94]

Legitimation, as mentioned above, is an important conception regarding the norms. It is defined by Berger and Luckmann as a *second order* objectivations of meaning.[95] When it is looked closely, it can be seen that legitimation process reinforces and empowers meanings and institutions. In international sphere, this reinforcement is possible only with codification and application of norms that are formed in line with its original purpose.

The function of legitimation is also defined as to make objectively available and subjectively plausible the *first order* objectivations that have been institutionalized before, or as a process of *explaining* and justifying.[96] These explanations and justifications are created by normative structures. Legitimation as explained before is generally about already established order and to increase

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[92] **Richemond, Daphne**, 2003, "Normativity in International Law: the Case of Unilateral Humanitarian Intervention", Yale Human Rights and Development Law Journal, pp.45-80.

[93] **Berger** and **Luckmann**, 1967, p.62.

[94] **Berger** and **Luckmann**, 1967, p.61.

[95] **Berger and Luckmann**, 1967, p. 92.

[96] **Berger and Luckmann**, 1967, p. 93.

cognitive validity of well known or objectivated meanings.[97] It strengthens practical imperatives of already established institutional order by giving them a normative formality.[98] Therefore, legitimation is seen as two faced phenomenon involving cognitive and normative elements.[99]

According to Berger and Luckmann legitimation is not just a matter of "*values*", it also implies "*knowledge*" as well.[100] It is seen important to explain the meaning of knowledge here, because it provides a kind of tool to be used in agent-structure debate. In this context I want to quote a short passage from Berger and Luckmann:

> A kinship structure is not legitimated merely by the ethics of its particular incest taboos. There must first be knowledge of roles that define right and wrong actions within the structure. The individual, say, may not marry within his clan. But he must first "know" himself as a member of this clan. This knowledge comes to him through a tradition that explains what clans are in general and what his clan is in particular.[101]

With reference to this quotation, it can be said that agents that are found in any specific structure are taught by norms and rules. These rules say agents what kind of situation or structure is that and help them to find answer to the following question: *what should an agent do?* Knowledge and rules that are transmitted to agents show the appropriate or so-called right ways to actors. Agents taught by those patterns internalize fundamental characteristics of that structure and regulate their behaviors accordingly. It is asserted that legitimation process is sustained with discursive methods. It is always necessary to convince

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[97] **Berger and Luckmann**, 1967, p. 93.

[98] **Berger and Luckmann**, 1967, p. 93.

[99] **Berger and Luckmann**, 1967, p. 93.

[100] **Berger and Luckmann**, 1967, p.93.

[101] **Berger and Luckmann**, 1967, p.93.

actors to the validity of established norms and institutions. It is assumed that agents have acknowledged that rules and norms would help them to reach their goals. It can be asserted that those beliefs of agents make legitimation process easier.

In the legitimation process, states are socialized by norms of international society. In this process a rule or norm supporting another rule strengthens the latter by increasing the chance that agents will choose to follow, and also the more agents follow rule or norms, the stronger will be.[102] It brings norms legality and validity. Those norms a have quality of *oughtness* and prompt justification for the actions of the actors.[103] In constructivist approach, these norms are classified under two titles: Regulative and constitutive.

Norms are defined as '*regulative norms',* which order, constrain or prescribe behavior (for already constituted identities), and '*constitutive norms*', which create new actors, interests, or categories of action.[104] Constructivists who make special emphasis on the contemporary international system and tend to study the ways in which norms serve as collective explanations with both '*regulative*' and '*constitutive'* effects on the proper behavior and identities of factors.[105] They assumed that norms and rules play regulative and constitutive roles at the same time. Norms establish expectations about how actors will behave.[106]

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[102] **Onuf, Nicholas**, 1998, "Constructivism: A User's Manual", pp. 58–79, in **Onuf Nicholas, Kowert, Paul, and Kubalkova, Vendulka**, eds, 1998, "International Relations in Constructed World", M.E. Sharpe.

[103] **Finnemore, Martha** and **Sikkink Kathryn**, p. 892.

[104] **Ulusoy, Hasan**, 2005, "A Constructivist Analysis of Turkey's Foreign Policy Analysis In the Post-Cold War Era", Unpublished PhD Thesis, METU, Ankara, p. 69.

[105] **Katzenstein, Keohane**, and **Krasner**, **Stephan**, 1998, "International Organization and the Study of World Politics**",** International Organization, Vol. 52, No. 4, International Organization at Fifty: Exploration and Contestation in the Study of World Politics, pp. 645-685.

[106] **Jepperson, Ronald L., Alexander Wendt** and **Peter J. Katzenstein**, 1996, "Norms, Identity, and Culture in National Security." In The Culture of National Security: Norms and Identity in World Politics, ed. Peter J. Katzenstein. New York: Columbia University Pres, p. 54.

Internalization of norms is another point for debate. In literature there are two different approaches: the first version claims that rules become a part of the identity of actors through a process of socialization and internalization.[107] The second version argues that individuals and groups rhetorically adopt such rules not because they inherently believe in them, but because they '*are often unsure of what they should do*'.[108] In the first perspective, actors are directly constituted by the rules, while in the second perspective the actors only adopt roles that are shaped by the rules and scripts.[109] This process will be explained in the following parts of this chapter.

It is known that constructivist approach assumes an ideational change in international relations. However, we have to determine which ideas are effective, how they are determined and codified? In reality answers of these questions are shaped by existing power relations in international relations. Therefore, ideational side of changes is shaded by distribution of power. Constructivism ignores the effects of power relations in international relations and underlines the effects of ideational frameworks.

In other words, prescriptions and norms are determined by dominant actors who have economic, ideological/normative, military and political power. Certain power groups play privileged and important roles social construction processes. Therefore, so-called civilizing discourses and expected normative patterns are regarded as products of powerful actors. In this regard, interest of a particular group is accepted as the interest of other parties. In order to sustain valid constitution, as mentioned above, speech acts, norms and rules are used; they at the same time constitute and regulate the balance of power. Norms used by these actors justify and render their actions and behaviors valid and legitimate. Within the existence of different perspectives, existing concepts are re-defined and reinforced again by communication opportunities. These

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[107] **Risse, Ropp,** and, **Sikkink**, 1999, pp. 1–39.

[108] **Krashner**, 1999, p.64.

[109] **Schmitz, Hans Peter** and **Sikkink, Kathryn**, "International Relations Theory and Human Rights", Cambridge: Cambridge University, p.12.

concepts draw general framework for the inclusion of agents to international realm. It is believed that in international arena international norms prescribe cooperation to the actors. However this cooperation is determined with rules of dominant actors.

It is believed that norms direct weaker agents and carry out a much stronger state's wishes.[110] Therefore, they have unequal consequences. Sometimes they can create a chain of command or an organization. It is assumed that over time those created institutions and environment work to the advantage of some agents. Internalization of these normative patterns is seen as pre-requirements to be member of international community. It is believed that internalization of these normative patterns guarantee application of desired behavioral patterns.

As mentioned above the rules, norms and speech acts constituted by relatively powerful actors bring some advantages to some agents to exercise control, and obtain advantages over other agents. Therefore, it can be said that rules and norms form a stable pattern, but not a symmetrical one.[111] According to constructivism, boundaries are created by rules, and those boundaries distribute resources unequally. This unequal distribution of resources, within and between nations, in time result in some forms of rule: hierarchy, heteronomy, and hegemony.[112] In other words, norms and rules used by some actors having power and other kinds of abilities create and emit different global patterns of hierarchy and stratification.[113]

Norms on the other hand become tools to evaluate place of agents in the existing structures and their behaviors. States (agents), according to their so-

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[110] This point of view is possessed by critical constructivism. This situation also can be explained within the assumptions of international society centric Constructivism.

[111] **Onuf, Nicolas**, 1989, p.60.

[112] **Burch, Kurt**, 2002, "Changing the Rules: Reconceiving Change in the Westphalian System", International Studies Review, pp. 181-210.

[113] It is believed that Rules emerge because agents want to use rules and deploy resources in accordance with those rules so as to secure and ensconce advantages over other agents.

called positions, are classified as '*zones of compliance* or *instability*'. Even, at the end of that process constructivists argue that interaction and norms lead to the development of identities such as competitor and rival, or friend and ally, which can be reinforced by continued interaction later on.[114] By conforming to the norms of international society, states enhance their international agential powers and solve the collective action problem. "Good people do (or do not do) X in situations A, B, C . . ." because "we typically do not consider a rule of conduct to be a social norm unless a shared moral assessment is attached to its observance or non-observance."[115]

However, norms and social understandings have different influences on different actors. Without understanding how domestic processes work, it is not possible to understand the political effects of global structures. Conforming to such norms occurs, because states do not want to see themselves outside of the so-called '*civilized*' international society. States are regarded as '*normative-adaptive*' entities. In this context, they are socialized by the socializing principle of the international normative structure.

This socialization process, as will be mentioned later on, is dominated by international agents and discursive processes. These international human rights norms are learned by international agents; they are internalized and socialized in their internal structures. In other words, agents are taught by non-state actors to adopt policies which are consistent with '*civilized*' modes and norms of international realm.[116] With these ways, norms shape domestic and construct international normative structures in which states constitute their identities, define their interests, and conduct their relations.

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[114] **Kowert, Paul**, A., 1998, "The Peril and the Promise of Constructivist Theory", Florida International University, p.4.

[115] **Fearon**, and **Wendt**, **Alexander**, 2002, "Rationalism v. Constructivism", in W. Carlsnaes (et al) Handbook of International Relations, London: Sage Pub. Ltd., p. 25 and **Finnemore Martha**, and **Sikkink**, **Kathryn**, 1998, "International Norm Dynamics and Political Change", International Organization, p.892.

[116] We only know what is appropriate by reference to the judgments of a community or a system in general. In this context, we recognize norm-breaking behavior because it generates disapproval or stigma, and norm conforming behavior either because it produces praise or it provokes no reaction.

Today human rights norms that are formed by inter-subjective ideational values, comprise an important aspect of the new international agenda. They are regarded as solid reflections which are regarded as expected normative behavioral patterns from '*civilized*' nations. Besides these they perform important benchmarks to determine legitimacy of international agents and are mostly used as pre-requirements for membership of different organizations. Today agents in international relations internalize these norms and normative frameworks with growing efforts of international organizations. These organizations using different mechanisms and methods play important roles to widen the sphere of influence of human rights and related ideational frameworks in the international realm.

3.2. HUMAN RIGHTS NORMS

3.2.1. The Concept and Historical Development of Human Rights

Human rights (HR) are regarded as a set of principled ideas about the treatment to which all individuals are entitled by virtue of being human.[117] The idea that the state should respect the human rights of its citizens is an old one, dating back to the writings of Locke and Rousseau, and to the U.S. Bill of Rights and the French Declaration of the Rights of Man and of the Citizen.[118] In time, these ideas have gained wide-spread appreciation as international norms defining what was essential for humans to prosper, both in terms of being protected from abuses, and provided with the elements necessary for a life in dignity.[119]

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[117] All the details mentioned and used (namely, explanations and sentences) in this part of the thesis work without any change were taken from **Schmitz, Hans Peter** and **Sikkink, Kathryn**'s work of "International Relations Theory and Human Rights", pp.1-25. Their work's sentences were used without any change.

[118] **Weissbrodt, David S.** and **Teresa, O'Toole**, 1988, "The Development of International Human Rights Law." in the Universal Declaration of Human Rights: Human Rights, the United Nations, and Amnesty International. New York: Amnesty International, cited in **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp.1-25.

[119] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", p. 1.

It is believed that, the intellectual groundwork of the international human rights discourse was mainly developed in Europe and the United States. In this regard, Donnelly argued that the concept of a right arose in the West, primarily in response to the rise of the modern state and modern industry, as a '*social construction*' that provided the conceptual tools to help protect individuals from the increasingly invasive powers of the state and the market.[120] Therefore, it is believed that human rights norms are creations of the Western World. Ishay, Glendon, Lauren, and Morsink gave extensive evidence on global sources of human rights thinking and activism as well as the crucial role of non-Western participants in the drafting of the 1948 Universal Declaration of Human Rights.[121] It was asserted that the values enshrined in the Universal Declaration reflect "agreement across cultures" although the participants in this ongoing discourse often disagree about how to balance and prioritize different rights.[122]

In 1970s many policy makers were thinking that promotion of human rights was a *moral* concern that was not an appropriate part of foreign policy or international relations.[123] Contrary to this today human rights norms became one of the fundamental elements of international politics. In other words, it was believed that human rights should be an integral part of foreign policy and international relations. This situation carried human rights issue into international arena, provided suitable and fertile environments for human rights to prosper, made citizens subjects of international law, created links between individual rights holders and states, and finally brought serious responsibilities over states to protect them.

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[120] **Donnelly, Jack**. 1989, "Universal Human Rights in Theory and Practice", Ithaca: Cornell University Pres, pp. 7-22 cited in **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp. 1-25.

[121] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", p.2.

[122] **Glendon, Mary Ann**, 1991, "Rights Talk: The Impoverishment of Political Discourse", New York, Free Press, pp. 110-125, cited in **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp.1-25.

[123] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", p.1

Despite their growing importance there have always been some disagreements about definition and origins of human rights ideas. The passage of the Universal Declaration of Human Rights in 1948, and the subsequent widespread ratification of the two general human rights treaties, the Covenant on Civil and Political Rights, and the Covenant on Economic, Social and Cultural Rights provide international standard definitions and benchmarks for what constitutes international human rights.[124]

The modern human rights movement was globalized with the Universal Declaration of Human Rights (UDHR). Prior to this, human rights were seen as domestic issue. In other words, international law was regarding the relations of state and its citizens as domestic affair.

It can be asserted that the contemporary human rights movements were stemmed from human rights abuses occurred in the World War II. In fact, before 1945, there were some efforts of International Labor Organization and Mandates Commissions of the League of Nations were seen to internationalize human rights. However, only after the creation of the United Nations, human rights could become internationalized. The promotion of human rights is one of the principal purposes of the United Nations as stated in the Charter and Articles 55 and 56 levy a legal duty on states to cooperate in both the promotion and protection of individual human rights.[125]

Supplementing the 1948 Universal Declaration of Human Rights, two 1966 UN Covenants detailed rules for civil, political, economic, social, and cultural rights.[126] Other treaties sponsored by the UN system likewise specified detailed rights pertaining to such matters as genocide, racial discrimination, political rights of women, nationality of married women, marriage, refugees,

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[124] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", p.2.

[125] **Forsythe, David P.** and **Pease, Kelly Kate**, 1993, "Human Rights, Humanitarian Intervention, and World Politics", Human Rights Quarterly, Vol. 15, No. 2, May, pp. 290-314.

[126] **Forsythe, David P.** and **Pease, Kelly Kate**, 1993, pp. 290-314.

torture, children, freedom of association, and collective bargaining.[127] The 1975 Helsinki Accords initiated new era in human rights area. Political and economic rights were added. Helsinki process also helped to re-legitimate human rights as a diplomatic issue. Helsinki Accords established a normative structure for the spread of democracy and promotion in sphere of human rights. Helsinki process also opened the way for other developments such as political pluralism, protection of minority rights and multi-party systems.

The bipolar balance of the Cold War dominated world politics and overshadowed the human rights developments and movements. While governments, for the most part, were ignoring the issue, NGOs were increasing their activities and becoming primary advocates of human rights. In this period major advocacy networks established. These networks that are named as "transnational advocacy networks" by Margaret Keck and Kathryn Sikkink began to work internationally. We have seen that since their establishment, in addition to norm implementation, they have provided political spaces and communicative structures in which actors negotiate. These spheres are defined as "international platforms".[128] Since the World War II these advocacy networks have played important roles in internalizing human rights norms. These organizations, as will be explained later, play crucial roles in norm emergence and norm cascade stages. They construct these norms within the discursive spheres and with help of dominant powers. This discursive production process at the same time draw boundaries of existing international structures and re-shaped them within the framework of human rights ideas. These norms became normative frameworks of existing organizations and constitute important places in bilateral and foreign policies of international agents.

Human rights norms in most cases have been used to make distinctions among agents. With these norms dominant powers define zones of instability and of compliance. With these clear cut distinctions international organizations

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[127] **Forsythe, David P.** and **Pease, Kelly Kate**, 1993, pp. 290-314.

[128] **Finnemore, Martha**, and **Sikkink Kathryn**, 1998, "International Norm Dynamics and Political Change", International Organization Vol. 52, No.4, pp. 887-917.

forced actors to internalize these human rights norms (so-called *civilized* behavioral patterns) that were constructed in discursive processes or frameworks of international organizations and dominant powers. In order to secure these internalization process different monitoring mechanisms were introduced. For instance the Council of Europe was created with functional jurisdiction.

From the beginning of the 1990s the many of international agreements on the creation and the strengthening of the necessary institutional arrangements, to pressure governments into respecting their citizens' rights, have suggested the adoptation of international norms into the agents' domestic jurisdiction. These mechanisms have also been supported by some economical, political and also military conditions. Treaties and agreements have been strengthened, but it has been seen that some states have not allowed adopting treaties. On the other hand, many countries accepted monitoring systems of varying strength for the supervision of the implementation of those internationally accepted human rights.[129] There is an overwhelming official consensus that at least discussion of human rights is a proper international subject matter, even if many disagreements remain over definition and implementation.[130]

3.2.2. Human Rights and Constructivism

As mentioned above human rights are accepted as clear examples of what constructivists call *social constructions* and invented social categories that exist only because *people believe and act as if they exist*.[131] However, they have the capacity to shape the social and political world. The idea of rights has developed a grip on human imaginations that has exerted an increasingly powerful impact

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[129] **Forsythe, David P.,** 1993, "Human Rights, Humanitarian Intervention and World Politics", Human Rights Quarterly, Vol. 15, No. 2, pp. 290-314.

[130] **Forsythe, David P**, 1991, "Human Rights in the Post Cold War World", the Fletcher Forum, summer: pp. 55-70.

[131] All the details mentioned and used (namely, explanations and sentences) in this part of the thesis work without any change were taken from **Schmitz, Hans Peter** and **Sikkink, Kathryn**'s work of "International Relations Theory and Human Rights", pp.1-25. Their work's sentences were used without any change.

on world politics. Brzezinski called human rights the single most magnetic political idea of the contemporary time.[132]

As mentioned above most human rights treaties agreed upon after 1945 to regulate the domestic behavior of governments towards their own citizens. With these significant expansion state actors restricted formal and informal limits of policy choices of agents. Human rights are accepted as social constructions that provided the conceptual tools to help protect individuals from the increasingly invasive powers of the state and the market.[133] In international arena human rights norms, as will be explained later on in theoretical level, experienced a norm cascade and they are internalized in the international system. Human rights after these expansions began to challenge state sovereignty expressed in the norm of non-intervention.[134] This widespread acceptance, independent and growing influence of human rights supported strength of constructivist assumptions against competing approaches.[135]

For constructivism independent role of human rights norms and non-governmental organizations affect international and domestic policy outcomes of agents.[136] According to Finnemore, Constructivists shift attention from how states pursue their interests to how they define those interests in the first place.[137] Human rights norms and principled ideas are assumed to have constitutive effects on identity formation of actors, rather than simply intervening between interests and behavior. Constructivists see agents embedded in a set of norms, including human rights norms, and rules often

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[132] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", p.1.

[133] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", p.2.

[134] **Krasner**, **Stephen**, 1999, "Sovereignty: An Organized Hypocrisy", Princeton University Press, cited in **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp.1-25.

[135] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp. 1-25.

[136] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp. 1-25.

[137] **Finnemore**, 1996, pp. 325-347.

described as "world culture".[138] They take longer perspectives in linking norm-induced change in identities and institutions to changes in behavioral patterns.[139]

For constructivists, human rights have gained strength because of their essential universalistic qualities. These norms give guidance with regard to the fundamental purpose of statehood. They argue that human rights' strength is either directly linked to their Western origins or derives from their potential to resonate with basic ideas of human dignity shared in many cultures around the world.[140] For constructivists, the global acceptance of human rights norms since 1945 followed a two-stage process labeled a *norm cascade*, whereby support for a particular norm gathers slowly until reaching a threshold or *tipping point*.[141] Thereafter the adoption by other members in the community occurs more rapidly and leads to a cascading effect. This opens questions with regard to the individual state's motivation to rhetorically accept a specific set of norms.

Constructivist scholarship in human rights area has developed distinct answers to the above mentioned questions. Some constructivist theorists maintain a worldview dominated by *state actors*, while others have introduced *non-state actors* along with norms and ideas into the study of international relations.[142] This difference is also reflected in the preferred process of norm diffusion. While some constructivists have broadly adopted the language of sociological institutionalism in highlightening *scripts* and *mimetic imitation*,

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[138] **Meyer, John W., John Boli, George M. Thomas**, and **Francisco O. Ramirez**. 1997. "World Society and the Nation-State." American Journal of Sociology 103 (1), pp. 144-181, cited in **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp. 1-25.

[139] **Iriye, Akira** 1997, "Cultural Internationalism and World Order", Baltimore: The Johns Hopkins University Press, cited in **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp. 1-25.

[140] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", p. 14.

[141] **Finnemore Martha**, and **Sikkink Kathryn**, 1998, pp. 887-917 and **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights" p. 15.

[142] **Wendt, Alexander**, 1999, pp. 21-48, cited in **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp. 1-25.

other perspectives have sought to show a process of normative socialization.[143] This point is emphasized in spiral model of human rights norm socialization model. Transformation of the actor's identity is seen and used as an important variable to show changes.[144]

According to constructivism, in the field of human rights there is a gap between rhetorical commitments and actual rule-conforming behavior.[145] Constructivists argue that transnational actors play important roles in the process of norm socialization. [146] Networks have brought new ideas, norms and discourses into political debates. They also served as communicative structures and create political spaces in which different actors negotiate the social, cultural and political meanings. Since the WWII advocacy networks have played a major role in internalizing Human Rights norms around the World

Since the WW II human rights and human rights discourse have been used to test political legitimacy of actors in international relations. These values have been used by some institutions such as the EU and UN to test conditions of candidates or other states having bilateral relations. On the other hand, the collapse of communist governments in Europe, growth of international and transnational human rights organizations, international economic integration and transformation of production systems, and labor markets have helped to increase

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[143] **Krasner**, 1999, p. 64, cited in **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp. 1-25.

[144] **Meyer, John W., John Boli, George M. Thomas**, and **Francisco O. Ramirez**. 1997. "World Society and the Nation-State." American Journal of Sociology 103 (1), pp. 144-181 cited in **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", pp. 1-25.

[145] **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", p. 16.

[146] This more IR-oriented approach takes internationally codified norms as a starting point and develops a concept of "transnational advocacy networks" to highlight the emergence of a new category of norm-promoting actors. Transnational advocacy networks are capable of circumventing repressive state authorities and build direct connections between the international and domestic realm, **Schmitz, Hans Peter** and **Sikkink, Kathryn,** "International Relations Theory and Human Rights", p. 16.

attention on human rights issues encouraging demands for more and better modern human rights.[147]

The concept of Human Rights today serves a positive function by providing common language for international moral political communication. As mentioned before the universality of HR is the most basic source of this situation. It is argued that the ultimate goal of international human rights discourse is to promote certain moral values through *persuasion.* It is believed that moral persuasion is the best way to establish long-term consensus on human rights and to convince different agents coming from different cultural backgrounds. In the current international HR discourse, persuasion is also used with other means such as threat, coercion, military intervention, and conditionality. Today main argument of international partially can be described with this sentence Agents who share no common values and who are not involved in shaping those values cannot be members of the same community in moral sense.[148]

I suggest that agents are beings with values that renew themselves by reshaping, refining and re-creating their values. One important way of undertaking this process is through dialogue and communication, which allow one to think and reexamine existing values and make judgments to form and reform those that one is at home with. The international HR discourse is accepted as such a process, in which agents attempt to persuade others to accept certain values. This process is not a static one. According to persuader, saying that a certain culture has not had HR values is no longer a legitimate excuse not to accept such values, because persuader's purpose is precisely to convince others to accept new values.[149] From beginning of the process they include

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[147] **Monshipouri, Mahmood**, **Englehart, Neil**, **Nathan, J. Andrew**, **Philip, Katvia**, 2003, "Constructing Human Rights in the Age of Globalization", introduction part.

[148] **Monshipouri, Mahmood**, **Englehart, Neil**, **Nathan, J. Andrew**, **Philip, Katvia**, 2003, introduction part.

[149] **Chenyang**, **Li,** 2003, "Globalizing Cultural Values: International Human Rights as Moral Persuasion", cited in Constructing Human Rights in the Age of Globalization, ed. **Englehart Neil**, **Mahmood Monshipouri , J. Nathan, Kavita,** Philip M.E. Sharpe p. 298.

different mechanisms and sub-processes. The next part of this work will explain the methods and mechanisms through which human rights norms, which are discursively constructed, commonly shared basic values constituting a world culture and are internalized by agents in existing structures.

As mentioned before human rights are basic elements or building blocks of relations between agents and structures. They bind these two sides together, but at this level, it must be answered where these norms perform? Who and for which reasons are they used? Why, how and where they reflect themselves? These are basic questions to be answered to complete general picture. In this regard, some theoretical models provided partial or valid explanatory models serving these needs and questions of constructivist approach.

3.2.3. Mechanisms and Process of Social Construction

Another big problem of constructivism is the identification of mechanisms and processes through which social construction occurs. Norms and specifically human rights norms play important roles in these processes. We know that state's interests and identities are in a mutually constitutive relationship with the international structure. According to Finnemore "simply claiming that 'norms matter' is not enough for constructivism, they must provide substantive arguments, about which norms matter as well as how, where and why they matter?"[150] Work on this set of problems has found different possible mechanisms and processes.

For constructivism norms prescribe range of behavior and that are deemed as appropriate have autonomous characteristics independent from states. As mentioned before it is assumed states in international realm socialized by norms of valid normative structures. Variants of constructivism have brought some explanations or alternatives for these questions. These are (**1**) international-society centric constructivism, (**2**) state-centric constructivism; and (**3**) radical

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[150] **Finnemore, Martha**, 1996, "National Interests in International Society", Ithaca, Cornell University Press, p.130.

constructivism. In this part of the work only international society-centric constructivism will be explained, because the spiral model human rights norms socialization, which will be used as theoretical point of view in this study, converge with this variant of constructivism.

3.2.3.1. International Society-centric Constructivism

It assumes low domestic agential power of the state and high international agential state power. It includes two levels or structures: Surface and deep structures. '*Deep structure*' contains many types of norms through which agents are socialized in specific '*appropriate*' behavioral patterns.[151] Finnemore conceives of an international 'socializing principle' such that states are obliged to conform to benign international norms of '*civilized behavior*'. Second part of this variation is '*surface structure*' including international non-state actors and international organizations.[152] These actors are seen as influential players in transmission or norm diffusion process. On the other hand they teach how to behave and seen as pro-active norm carriers. In this structure, international society constitutes the independent variable while states constitute dependent variable.[153] It is assumed that norms occur because states want to be classified inside of civilized community.

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[151] **Hobson, M. John**, 2000, "The State and International Relations", Cambridge University Press, part 2, Recent Sociological Theories of the State and International Relations: Constructivism, pp. 145-173.

[152] **Hobson, M. John**, 2000, p.150.

[153] **Hobson, M. John**, 2000, p.151.

International Social / Normative Structure

REPRODUCTION OF INTERNATIONAL SOCIETY

States unintentionally reproduce international society and structure

The Socializing Principle

(DEEP STRUCTURE)
Social Norms Prescribed as Appropriate

(Civilized State Behavior)

LOW DOMESTIC /HIGH INTERNATIONAL AGENTIAL POWER

States that do not know what their interests are.

Non-State Actors teach states what their interests in a variety of ways

International Organizations

(SURFACE STRUCTURE)

NGOs of International Society transmit international norms from within the deep structure. They teach states what their interests are

HIGH INTERNATIONAL AGENTIAL POWER

States by conforming to the international normative structure gain international agential capacity

Systemic inputs

Outcomes

Figure.2. International Society Centric Constructivist Approach.

Source: **Hobson, M. John**, 2000, p.150.

For Finnemore, states in these structures are accepted as normative-adaptive entities. They are socialized by socializing principle of the international normative structure. In these processes states adapt or change their policies in compliance with '*civilized state-behaviors*' that were transmitted to states through the teaching activities of international organizations. Norms functioning in these structures lead states to choose them subconsciously and to cooperate in international realm.

Besides these norms constitute suitable environments and render possible principles of accountability be applied to world politics and agents'

behaviors.[154] Institutionalization and rule-order that are found in existing structures increase credibility of agents or states and reduce uncertainties, but presence of uneven distribution of external accountability that creates power asymmetries in world politics.[155] In these structures it is expected that states should be transparent and accountable. To join to the right clubs, states have to behave in appropriate ways, such as a process of socialization.[156]

As mentioned above, the Helsinki process helped to legitimate human rights as an issue in international human rights.[157] This legitimation process after the end of the Cold War became salient, but at that point another problem arose about the method of internationalization of human rights norms. In other words, we know that according to constructivism actors are shaped in the context of international Human Rights regime by the social environment in which they live. But how does it happen? How are these norms shaped and mobilized by domestic, international and transnational actors, and under what conditions? How do the states change their behaviors? What ways are used in that process? With what results? All methods and processes introduced to the international realm had been situated into specific discourses and argumentation processes. Answers of these questions will be explained in the following section in the context of different methods.

3.2.3.2. Internalization of Human Rights Norms: Mechanisms, Processes and Actors

As mentioned above, today HR has become a global concept. There are numerous HR conventions, agreements and inter or non-governmental organizations whose staff and resources are devoted to different HR issues.

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[154] An accountability relationship is one in which an individual, group or other entity makes demands on an agent to report on his or her activities, and has the ability to impose costs on the agent.

[155] **Keohane, O. Robert,** 2006, "Accountability in World Politics", Scandinavian Political Studies, Vol. 29, No.4, p. 3.

[156] **Keohane, O. Robert,** 2006, pp. 8-10.

[157] **Daniel, Thomas,** 1999, "The Helsinki Accords and Political Change in Eastern Europe", pp.205-234 cited in **Risse** and **Ropp**, "The Power of Human Rights".

Reporting and monitoring of HR problems and violations are the basic tasks of these organizations or institutions. The first and the foremost aims of international organizations are to get other international organizations and states into the action and alert the world about the human rights violations. Keck and Sikkink mentioned in their work, violators are mostly states, violations are directed to the civil and political rights and there is a clear cut chain between violator and violation.[158] These works and efforts of international organizations will be the main subject of this part of the work. In sum this section of this thesis will make explanations about related sides of norm internalization, namely mechanisms, processes and actors.

For years in order to explain norm internalization process, many approaches have been introduced to international realm. In this part of our work, we will use one of the current approaches, namely the spiral model human rights norm socialization.[159] The model essentially conceptualize or attempt to explain a state's shift from norm violation in human rights norms to the internalization of the norms through ratification of treaties and the institutionalization of norm prescriptions into domestic practices, and the rule-abiding behavior that results from this internalization.[160] In other words, the model tries to explain how states understand, interpret and internalize international human rights norms. The model also mentions that the target state's identity, interest and behaviors are affected by international human rights norms in the model's different phases.

Variables embraced by the model, and answers given by the model, which are more comprehensive and satisfactory than previous approaches, corresponding the constructivism' basic questions - why, how and where- for

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[158] **Keck, Margaret** and **Sikkink, Kathryn** 1998, Transnational Advocacy Networks in International Politics, "Activists beyond Borders: Advocacy Networks in International Politics", Ithaca: Cornell University Press, p. 27.

[159] **Risse, Thomas** and **Sikkink, Kathryn**, 1999, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction", pp. 1-39.

[160] **Risse, Thomas** and **Sikkink, Kathryn**, 1999, pp. 1-39.

norm internalization make the model valuable and important for us. The spiral model in line with constructivism' assumptions give an important place to international organizations and analyses effects of international organizations within the multi-phased model. In its analysis the model uses human rights, as its basic variables. Main reasons behind this situation are defined as the effectiveness of human rights to question concept of state sovereignty, place of human rights in agendas of international organizations and common universal characteristic of human rights. The spiral model contrary to previous models adopts persuasion in principle. Persuasion and indirectly the model assume that it can be reached to permanent changes only in such a process where states question their values and norms within the context of external and internal actors and groups.[161]

The model adopting persuasion mechanism analyses changes in different stages which are directed by different internal incentives. The model asserts that initial stages' dominant incentive is material-instrumental. In parallel with progression to next levels dominant mechanism firstly turns to moral consciousness-raising argumentation and than in final stages of the model incentive changes and turns to institutionalization / internalization. The model consisting of 5 different stages assumes that through these stages states become more vulnerable against external criticisms and show willingness comprehensive changes in human rights regulations. It is believed that these changes help domestic opposition groups to increase their influence sphere.

The main anchor or starting point of all these changes is activities of international organizations. Therefore, it is believed that expected changes occur within the context of top-down movements or initiatives. According to the model, states are regarded as dependent; international system, norms and organizations are independent variables. At this point we see traces of international society-centric model. Actors having low agential power are shaped by structures and international organizations having high level agential

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[161] **McLaughlin Mitchell, Sara**, 2000, "A Kantian System? Democracy and Third Party Conflict Resolution", first draft of the paper designed for article in the American Journal of Political Science, p.7.

power. Thus, norms, which are seen as concrete reflections of ideational elements meeting with discursive practices, are internalized by international agents.

The spiral model in this thesis work is positioned in Finnemore and Sikkink's life cycle model.[162] In particular it is positioned in the intersection of socialization and habitualization coming after norm emergence level. In fact, the norm emergence phase is important for this work, because in this level ideational elements are converted to norms in discursive processes of international organizations. These efforts are called as framing. As mentioned above within the context of the model it is assumed that human rights are internalized by agents, who violates or do not show sufficient effort to internalize existing norms, with efforts of various international organizations and within framework of different mechanisms. In other words, in this thesis work it is assumed that model initiates a kind of socialization process in norm violating states. Thus the state moves to the second level 'socialization'. After these developments it is assumed that norm violating states gradually pass to the third level 'habitualization'. After all these explanations the next chapter of the thesis will assess the validity and applicability of these assumptions within the context of human rights dimension of EU-Turkey relations.

3.2.3.3. The Norm Life Cycle

As mentioned above the norm life cycle model is cycle composed of three linked stages: emergence, cascade and internalization.[163] The first stage is *norm emergence*; the second stage involves broad *norm acceptance* or *norm cascade*; and the third stage involves *internalization*. The first two stages are divided by a threshold or *tipping point*, at which a critical mass of relevant state actors adopt

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[162] **Finnemore Martha**, and **Sikkink Kathryn**, 1998, pp. 887-917, and **Clifford, Bob**, 2005, "Rights on the Rise: International Mobilization for New Human Rights", Presentation for the American Political Science Association, pp. 2-11.

[163] **Finnemore,** and **Sikkink**, 1998, pp. 887–917.

the norm.[164] Change at each stage is characterized by different actors, motives, and mechanisms of influence.

In the first stage of the norm life cycle model in *norm emergence* stage norm entrepreneurs, namely international organizations try to convince agents to accept new norms. The first part of this model generally summarizes creation of norms whose origins are found in ideational elements or demands of claimants. In the second stage *norm cascade* occurs. In this stage norm leaders turn their attentions and give their efforts to socialize other states and to make them norm supporters. In the second stage the combination of pressure for conformity, desire to enhance international legitimation, and the desire of state leaders to enhance their self-esteem are found.[165] At the end of the norm cascade, *norm internalization* occurs; norms acquire a taken-for-granted quality and are no longer a matter of public debate.[166]

Norm Emergence		**Norm Cascade**	**Internalization**
Stage 1	**Tipping Point**	**Stage 2**	**The Spiral Model** / **Stage 3**
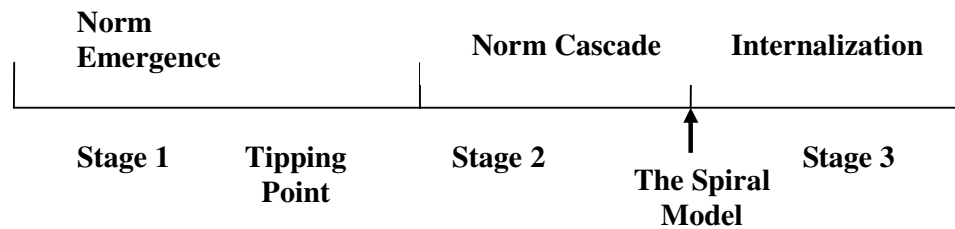
Figure.3. The Norm Life Cycle.

Source: **Finnemore** and **Sikkink**, pp. 887-917.

As will be seen later on international organizations play important roles in each chain of the process. In each stage they put their initiatives and efforts into the process towards progression in HR area. The progressive international organizations push states towards the existing and appropriate limits and normative standards. On the other hand, they convince important international actors to change their existing conceptions.

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[164] **Finnemore**, and **Sikkink**, 1998, p. 895.

[165] **Finnemore**, and **Sikkink**, 1998, p. 895.

[166] **Finnemore**, and **Sikkink**, 1998, p. 895.

3.2.3.3.1. Stage One: The New Norm Emergence

In this stage of the norm life cycle model international organizations work as *meaning managers* or meaning *architects* in the process of creation of HR norms.[167] In most cases, the emergence process begins at the domestic level as domestic practices become international with efforts of various kinds of entrepreneurs. As mentioned above, norm entrepreneurs are critical for norm emergence, because they call attention to issues or even create issues by using language that names, interprets, and dramatizes them.[168] Social movement theorists refer to this reinterpretation or renaming process as *framing*.[169]

These organizations, in that life cycle process, work to persuade other actors to alter their behavior and beliefs in accordance with ideas about how actors should behave and think. Entrepreneurs in this process provide suggestions or demands for how individuals should locate themselves. At this level, power of ideas depends largely on how much institutional support ideas receive, especially from influential political and intellectual elites, and how much institutional access such actors have to key policy-making arenas.[170] These organizations believe in the ideals and values are embodied in the norms.[171] When organizations are successful and new frames resonate with broader public, their ideas are adopted as new ways of for understanding of issues.[172] In other words, spoken and discursive methods within the specific process transform ideational factors and values to reality and norms emerge. Norm entrepreneurs working in this process can be listed as **(1)** new rights claimants at the domestic level; **(2)** rights *gatekeepers* among NGOs and

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[167] **Finnemore**, and **Sikkink**, 1998, p. 897.

[168] **Finnemore**, and **Sikkink**, 1998, p. 897.

[169] **Finnemore**, and **Sikkink**, 1998, p. 897.

[170] **Fabbri, Claudia M.**, 2002, "An Analytical Framework for Understanding Processes of Regional Integration: the Role of Ideas and Institutions", 17-19 October 2002, Canada, p.9.

[171] **Finnemore,** and **Sikkink**, 1998, pp. 887–917.

[172] **Finnemore**, and **Sikkink**, 1998, p. 897.

intellectuals at the transnational level; and **(3)** states and interstate organizations at the international level.[173]

As mentioned in Clifford's work, *claimants* mean individuals and groups suffering grievances within their home states, and also parties seeking both group rights and individual rights for their members; *gatekeepers* include major human rights NGOs such as Amnesty International and Human Rights Watch and human rights intellectuals. [174] These organizations and intellectuals mostly have resources and personnel to devote to documenting particular cases of abuse as well as campaigning on broad human rights issues.[175] *Human rights intellectuals* include scholars and other commentators. Their influence is accepted on human rights practice as more limited and more indirect than that of the major international organizations. Their most common active role is the description of the existing setting of human rights practice.[176]

Particularly after the end of the cold war there has been a substantial increase of non-governmental actors both in terms of size and significance.[177] Furthermore, recent developments show that the states and non-state actors cooperate with each other to force norm-breaking countries to comply with international norms. Therefore, in order to describe better the role of the external actors, it is a requirement to pay significant attention to international non-governmental organizations and their alliances. These co-operations between various domestic and international NGOs, International Organizations, and foreign states are called *networks*.

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[173] **Clifford, Bob**, 2005, p.4.

[174] **Clifford, Bob**, 2005, p.5.

[175] **Clifford, Bob**, 2005, p.5.

[176] **Clifford, Bob**, 2005, p.5.

[177] **Katzenstein, Keohane**, and **Krasner**, **Stephen**, 1998, "International Organization and the Study of World Politics**",** International Organization, Vol. 52, No. 4, International Organization at Fifty: Exploration and Contestation in the Study of World Politics, pp. 645-685.

In sum, at the beginning of norm emergence, problems are reframed as claims to rights and a process of re-conceptualization occurs. The first stage typically involves a victim or domestic group's gaining consciousness both of its grievances and their injustice, and of the international human rights regime as a fertile ground in which to lodge claims.[178] Than these demands are framed which is regarded as political project.[179] If international organizations find the claims of these groups valid new sources and may flow, NGOs support and the problem enters to the NGO issue agenda.[180] At this stage, the right gains greater resources, dissemination, and media exposure, and it becomes a recognizable issue on the international scene.[181] This stage is very important, because in order to bear the claim to the next stages claimants need the momentum and resources of these organizations. The third stage of the model involves reception and possible acceptance of a new norm by states and other authoritative decision makers. In the third step, new norms come to the "*decision agenda*" where they are either adopted or rejected in international law.[182] However, even if adopted into international law, there is no obligation to implement them on the domestic level. [183]

The new norm emergence stage includes linear or progressive steps; however, in reality the process is more complicated than the model. In some cases, instead of rights claimants, NGOs and states initiate the process towards the formulation of new rights. After norm entrepreneurs have persuaded a critical mass of states to become norm leaders and adopt new norms, we can say that the norm reaches a threshold or tipping point that is located in *the norm cascade* stage.

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[178] **Clifford, Bob**, 2005, p.7.

[179] **Glendon, Mary Ann**, 1991, pp. 110-125.

[180] **Clifford, Bob**, 2005, p.8.

[181] **Clifford, Bob**, 2005, p.6.

[182] **Clifford, Bob**, 2005, p.6.

[183] **Clifford, Bob**, 2005, p.9.

3.2.3.3.2. Stage Two: Norm Cascade

Up to the tipping point, little normative change happens. After the tipping point has been reached, however, a different dynamic begins.[184] More countries begin to adopt new norms more rapidly even *without domestic pressure* for such change and at this point, often an international or regional demonstration effect or *contagion* occurs.[185] However, international organizations also intend to convert norm breakers to norm followers. International networks reinforce their methods with material sanctions and incentives. International actors target the completion of international socialization with pressure and try to convince actors to adopt new policies and laws and to ratify treaties. International normative structures formed by these organizations are internalized by agents of international arena. Legitimacy, esteem and reputation are among the motives of this stage and process, because, states due to domestic legitimation concern care about international legitimation and leaders of nations want other states to think well of them, and they want to think well of them.[186]

However, as mentioned above some states violate or do not internalize existing international norms or frameworks. These states stay out of the expected process out and do not enter to the second phase. In this point, we assume that international organizations step in and progressive mechanisms begin to work to move the state to the next level and to force it to re-evaluate its internal values and norms. All these developments occur in the spiral model, and international organizations in order to reach permanent solutions use persuasion mechanism in this model. The distinctive points here are the existence of external influence and domestic change starting independent of domestic demands and internal dynamics.

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[184] **Finnemore Martha**, and **Sikkink Kathryn**, 1998, p. 902.

[185] **Finnemore Martha**, and **Sikkink Kathryn**, 1998, p. 902.

[186] **Finnemore Martha**, and **Sikkink Kathryn**, 1998, p. 903.

In fact, international organizations use different methods to convince states to adopt international HR norms. In international sphere mostly two main answers are given against this question:[187] Coercion and persuasion. In this part of the work, we only mention about persuasion, because as mentioned above the spiral model converges with persuasion.

3.2.3.4. Persuasion as Dominant Mechanism of the Spiral Model

Contrary to persuasion, in coercion states and international institutions change behavior of other states not by reorienting their preferences but rather by changing the cost/benefit calculations of that state.[188] Therefore, with coercion strategic choices of states are constrained and states change their behaviour only to gain material interests and profits. Compliance with international norms is largely a function of powerful states' willingness to enforce them.[189] In sum, with coercion it is mostly impossible to reach permanent solutions in domestic sphere. However, the second mechanism of social influence, namely *persuasion*— assumes an active, often strategic, inculcation of norms (often identifying transnational "norm entrepreneurs" as agents of change).[190] States are influenced by the process of social learning and other methods within the context of persuasion. Persuasion can not be regarded as a simple process aiming manipulation of incentives and basic characteristics of the recalcitrant state. It is believed that at the end of the process, persuaded actors *internalize* new or existing norms and appropriate behaviors; redefine their interests and identities.

Persuasion shows itself when the actors actively assess the content of the

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[187] At this point the question is: What are the mechanisms by which international organizations might exert influence over recalcitrant states?"

[188] **Goodman, Ryan, Jinks, Derek**, 2004, "How to Influence States: Socialization and International Human Rights Law", Duke Law of Journal, Harvard University, p. 10.

[189] **Krasner Stephen D.,** 1993, "Sovereignty, Regimes and Human Rights", p. 10, in Regime Theory and International Relations, cited in **Goodman, Ryan, Jinks, Derek**, 2004.

[190] **Risse Thomas**, 2000, "Let's Argue!: Communicative Action in World Politics", International Organization, 1, 4, cited in **Goodman Ryan**, and **Jinks, Derek**, 2004, p. 10.

message coming from the international actors.[191] Violations of the target states are framed by international organizations and are transferred to the agenda of international public opinion, namely target audience of norm entrepreneurs. In such a process international organizations direct target states to think harder about the merits of the message.[192] The process has some sub-dimensions or sub micro processes in which the target states examine and evaluate their positions. Actors and institutions in this process try to convince target audiences to discard previously held views by conveying authoritative information discrediting those views.[193] Exclusion from the world community, bringing the violations of states into the agenda of international organizations, documentation and regular progress reports about the target state, membership criteria, conditioned participation to the international institutions and shorten the adoption time.

In most cases the *badge of otherness* and *badge of legitimacy* are seen by states as a kind of turning point on the way to the internalization of HR norms, because as I mentioned before, states want other states to think well of them. In some cases, international organizations reinforce persuasion mechanism with some qualifying criteria for norm violator states. In this way they aim to encourage candidate state to establish institutional arrangements. International organizations also can require candidate states to establish units responsible for HR in different levels of the government. As will be seen later, all these factors and processes are different parts of the spiral model, and in the EU membership process in Turkey we have witnessed these developments clearly.

As mentioned before, this thesis work asserts that the model is found in the intersection of the norm cascade and internalization stages of the norm life cycle model. It is assumed that mechanisms and international organizations in the model help or force the target states, in which norms socialization process meet with difficulties, into norm compliance. It is believed at the end of the process

[191] **Goodman Ryan**, and **Jinks, Derek**, 2004, p. 12.

[192] **Goodman Ryan**, and **Jinks, Derek**, 2004, p. 12.

[193] **Goodman Ryan**, and **Jinks, Derek**, 2004, p. 12.

agents reach to the point where habitualization begins. The next section of this work will explain the spiral model of Human Rights Norm socialization process which collects all these developments in one unified approach.

3.2.3.5. The Spiral Model of Human Rights Norms Socialization

This sub section will discuss the five phase spiral model. The Spiral Model was firstly proposed by Sikkink, Risse and Ropp's work aiming examination of roles of international HR norms and organizations.[194] Model explains the phases or levels that a state can progress or pass through as it improves its HR norms and regulations. The model shows that in each level norm and organizations affect states differently. The spiral model sharing some basic assumptions of constructivism, underlines how ideational framework influences state practices.

3.2.3.5.1. Basic Characteristics of the Spiral Model

The spiral model basically attempts to explain a state's shift from norm violation in human rights norms to the internalization of the norms through ratification of treaties and the institutionalization of norm prescriptions into domestic practices, and the rule-abiding behavior that results from this internalization.[195] In other words, the model seeks to explain places and importance of states, international agents and networks encouraging international HR norms in target states. The spiral model emphasizes effects of ideas on the behaviors of states.[196] In this context, the model proposes mechanisms by which normative changes in behavior occurs. It tries to explain

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[194] **Risse, Thomas** and **Sikkink, Kathryn**, 1999, pp.1-39.

[195] **Solomon, Ty**, 2006, "Norms and Human Rights in International Relations", Political Studies Review 4 (1), Blackwell Synergy, p. 38.

[196] The process, introduced by the spiral model, by which principled ideas held by individuals become norms in the sense of collective understandings about appropriate behaviour which then lead to changes in identities, interests and behavior is conceptualized as a process of socialization. It also can be defined as the induction new members into the ways of behavior that are preferred in a society. The goal of socialization is for actor to internalize norms.

under which conditions international norms are internalized and implemented in domestic political and societal spheres.[197] It introduces a process independent of time and space. It aims to explain how the so-called civilized normative structures and behavioral patterns are internalized by agents. The model emphasizes and underlines internal change; however, in fact the model brings explanation how agents re-orient their positions and policies in line with accepted standards and criteria. The model and its explanations, including norm internalization, converge or remind a kind of preparation process before comprehensive changes in identities and interests of agents or states.

The model requires the simultaneous activities of these following actors:[198]

1. International non-governmental organizations conducting interactions, the Western states,

2. Domestic society of the norm violating state,

3. Links between international organizations and domestic opposition groups,

4. National government of the norm violating state.

These actors constitute *international networks*. The spiral model is built upon these international advocacy networks. These networks work internationally, use shared values, common discourses and operate exchange of information and services. The diffusion of international norms in the human rights area crucially depends on the establishment and the sustainability of these international networks.[199] As will be mentioned later on, these networks link domestic and international actors; and they alert international public opinion

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[197] **Risse**, and **Sikkink,** 1999, pp. 1-39.

[198] **Risse**, and **Sikkink,** 1999, pp. 1-39.

[199] **Risse**, and **Sikkink,** 1999, p. 5.

and Western governments.[200] These transnational networks and international organizations:[201]

1. put norm-violating states on the international agenda in terms of moral consciousness-raising. In doing so, they also remind liberal states of their own identity as promoters of human rights,

2. empower and legitimate the claims of domestic opposition groups against norm-violating governments, and they partially protect the physical integrity of such groups from government repression. Thus, they are crucial in mobilizing *domestic* opposition, social movements, and non-governmental organizations (NGOs) in target countries and,

3. challenge norm-violating governments by creating a transnational structure pressuring such regimes simultaneously *from above* and from below.

They also apply and employ *informatio*n, *symbolic*, *leverage* and *accountability politics;* and use mechanism of persuasion.[202] With their efforts generative power of norms increase, scope of international norms broadens; and contents of norms are re-negotiated. They also aim to support and legitimize domestic opposition groups by giving them voice and protection in international arena. International organizations try to form a structure that would produce pressure over the target states. The model also introduces a concept namely *boomerang pattern*. It exists when domestic groups in a repressive state bypass their state and directly search out international allies to try to bring pressure on

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[200] **Risse Thomas**, and **Sikkink, Kathryn**, 1999, p. 5.

[201] **Risse Thomas**, and **Sikkink, Kathryn**, 1999, p. 5. NGOs pressure state decision-makers to change their policies to better reflect normative commitments by first framing a behavior as failing within the aegis of a certain norm, then naming those who do not abide by the norm, and finally seeking to shame them into compliance by publicizing how their behavior deviates from their identity as a norm abiding member of a certain community.

[202] **Keck, Margaret,** and **Sikkink**, **Kathryn**, 1998, p.89–101. (Information politics is the capacity to collect quickly reliable and alternative information concerning human rights abuses in repressive, norm-violating states and use this collected information whenever it is required. The symbolic politics refers to the ability to design symbols, actions, and stories that should be sharp, innovative and attract people's attention.).

their states from outside.[203] Beside these networks democratic states also try to form or exert international pressure. In sum, the model underlines and tries to reveal in each phase how NGOs, states and other international organizations can influence a state's practices.[204]

Prior to spiral model many studies under-specified or did not mention the causal mechanisms and importance of ideational factors. They also did not answer basic questions of constructivism about changes in state identities, interests and behaviors.[205] In other words, it can be said that previous studies did not introduce any specific process through which HR norms influenced the identities and interests of states. The spiral model, in order to overcome limitations of prior studies, tried to identify how, where and why international HR norms matter. As mentioned by Finnemore, "*simply claiming that "norms matter" is not enough for constructivists. They need arguments about which norms matter, as well as how, where and why they matter*".[206] In this context, we can say that with their explanation the model provides answers and response the basic needs and questions of constructivist approach. The model also, like constructivism, includes both constitutive and causal relationships[207] and does not discount the influence of material factors or self-interest on target states' actions despite its focus on the influence of norms.

It is important to highlight that the spiral model is positioned in the intersection of international society centric constructivism and state-centric modernist constructivism and it bears properties of international society-centric constructivism.[208] As we know in international sphere, identity and interests of

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[203] **Risse**, and **Sikkink,** 1999, p. 18.

[204] **Risse,** and **Sikkink**, 1999, pp. 1-39.

[205] **Checkel**, **Jeffrey**, 1998, "The Constructivist Turn in International Relations Theory", World Politics, pp. 339-343, and **Finnemore, Martha** and **Sikkink, Kathryn,** "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics", p.397.

[206] **Finnemore, Martha**, 1996, p. 130.

[207] **Zehfuss, Maja**, 2001, "Constructivisms in International Relations: Wendt, Onuf, Kratochwil, pp.54–75.

[208] **Zehfuss**, 2001, pp. 54–75.

states are influenced by international structure and international actors (international society-centric constructivist approach); on the other hand states with their continuous applications both affirm and constitute international structure and its inherent norms and procedures. However, such an international sphere constrains the array of state choices.[209]

The model in its explanations introduces stages including different socialization processes or mechanisms for progress in HR norms internalization. These socialization mechanisms are important to understand how NGOs, states and other international bodies influence a state's practices.[210] It is accepted that through these mechanisms states attains the point where sustained progress in HR practices. Besides these developments, on the one hand domestic sphere of the state and opposition increase their power, on the other hand transnational networks find suitable environment to conduct their activities over the target state.

In the model there are three types of socialization necessary to bring about sustained changes in HR practices. They appear in five phase of the spiral model. A*daptation and strategic bargaining* is the initial reaction of states when they accused of abusing HR.[211] This socialization occurs at the beginning of the norm internalization process. It is motivated by material concerns. States at this level make some concessions, release political prisoners or sign new international agreements, but they do not believe in the validity of HR norms. Moral consciousness-raising argumentation is the second socialization in which actors accept the validity of norms in discursive practices.[212] States at this level become convinced to change their instrumental interests, or to change their interests by following the principled ideas.[213] International organizations in this

[209] **Hopf**, **Ted**, 1998, , pp.171–200.

[210] **Risse** and **Sikkink**,, 1999, p.11.

[211] **Risse** and **Sikkink**,, 1999, p.12.

[212] **Risse** and **Sikkink**, 1999, p. 13.

[213] **Risse** and **Sikkink**, 1999, p. 13.

level in discursive level create divisions among states and re-affirm particular identities that force some states offensive position against changes and claims of international organizations. Under this socialization states change their identities with the desired one. After such a point, the target state and its critics may agree on the moral validity of the norm, but disagree whether certain behaviour is covered by it.[214] Institutionalization and habitualization is the last socialization dominant at the end of the norm internalization process.[215] With this socialization HR norms gradually become embedded in the domestic legislation.

In sum, actors, namely norm-violating states primarily pursue instrumental or material interests and change their behaviors in order to reach their goals. They adjust their behaviors in compliance with the international HR discourse without believing in the validity of the norms. Therefore, adaptation and bargaining is typical reactions of states in the early stages of socialization process. After these stages socialization continues with moral discourses, communication and argumentation. Actors in those stages accept the validity of HR discourses and norms. Actors at the end develop, institutionalize and internalize HR norms.

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[214] **Risse** and **Sikkink**, 1999, p.13.

[215] **Risse** and **Sikkink**, 1999, p.14.
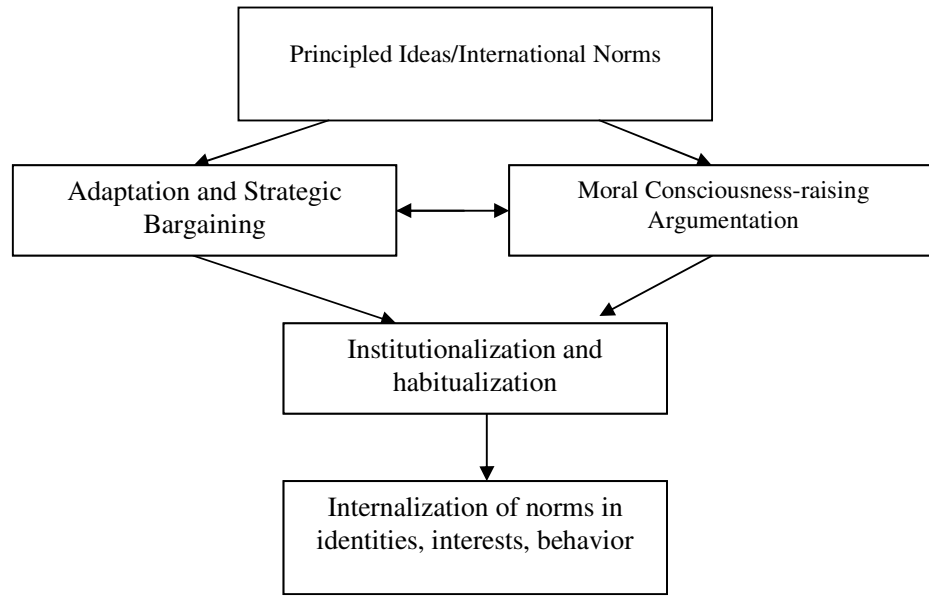
Figure.4. The mechanisms and incentives in norm socialization model,

Source: **Risse, Thomas,** and **Sikkink**, **Kathryn**, 1999, p.14.

3.2.3.5.2. The Phases of the Spiral Model

As mentioned above the spiral model specifies three modes of interaction or mechanisms: instrumental adaptation and strategic bargaining; moral consciousness-raising, '*shaming*', argumentation, dialogue and '*persuasion*'; and institutionalization and habitualization. All these mechanisms appear in five major stages of socialization through which norm-violating states progress to norm-adhering states:[216]

    1. Repression and activation of network,

    2. Denial,

    3. Tactical concessions,

    4. Prescriptive status,

    5. Rule-consistent behavior.

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[216] **Risse,** and **Sikkink**, 1999, pp.22-33, and **Solomon**, 2006, p.38.

3.2.3.5.2.1. Repression and Activation of Network

In this stage of the process states are typically ruled by repressive and norm violating regimes, which usually have no problem quelling domestic opposition to human rights violations.[217] *Transnational advocacy networks*, such as Amnesty International, are usually the first actors to bring international attention to the domestic violations of such states.[218] Indeed, others have found that the ability to raise the international visibility of violations and to frame violations in a way that appeals to the widest international audience are crucial factors in bringing about changes in conditions.[219] Also in this stage, domestic oppression can be described as weak and fragmented. At this level, the main success of international organizations is to gather sufficient information on the repression of the target state. If this condition happens, than the second stage can be possible. From this first phase the domestic groups begin to search out for international allies for cooperation and to bring pressure on their states from outside. This development is defined with the term boomerang pattern by which domestic opposition groups by-pass their state.

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[217] **Solomon, Ty**, 2006, "Norms and Human Rights in International Relations", Political Studies Review 4 (1), p. 38.

[218] **Risse,** and **Sikkink**, 1999, p.22.
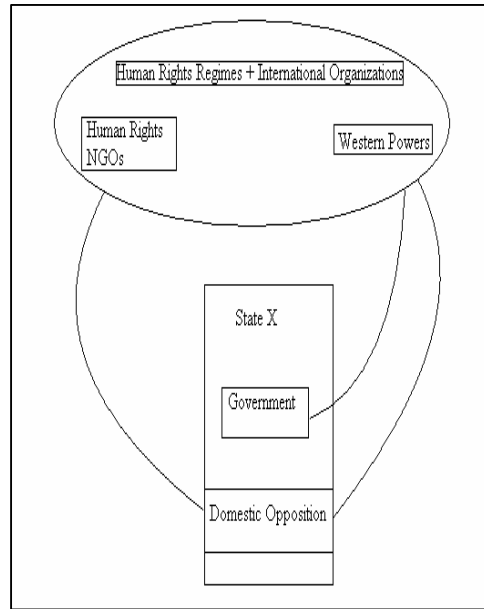
[219] **Solomon, Ty**, 2006, p. 38.

Figure.5. The Boomerang Effect.

Source: **Risse** and **Sikkink**, 1999, p.19.

3.2.3.5.2.2. Denial

In the second phase of the model, norm violating states are put into the agenda of international community to raise the level of international public attention toward the target state. This stage is characterized by the production and dissemination of information about HR practices in the target state. However, this stage is seen as the first phase on the way to the HR socialization, because it is accepted that governments, which publicly deny the validity of international HR rights norms as interference in internal affairs, implicitly accept that they face a problem in terms of their international reputation.[220] However, they reject allegations, denounce their critics as *foreign agents* or ignorant and do not accept that its national practices are subject to international jurisdiction.[221] These processes and developments in some cases create national sentiments and opposition groups against these international organizations. The target state also argues that international organizations employ double standards in their criticisms. The state tries to convince its domestic audiences that these external critics are of ignorant foreigners'.[222] In essence, the degree to which the state identifies itself with the international community defines and determines the vulnerability of the target state to international pressures.

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[220] Resulting from the pressure of international attention, the repressive state then enters stage two, which involves the state's denial of the validity of the claims of critics (which, symbolically, is a denial of the validity of the norm of fair human rights practices) and the invocation of other norms of sovereignty and nonintervention, **Risse** and **Sikkink,** 1999, p.24.

[221] **Finnemore, Martha**, and **Sikkink, Kathryn**, 1988, pp. 887–917; and **Risse** and **Sikkink**, 1999, p. 23.

[222] **Jetschke**, **Antja** 1999, "Linking the Unlikable?" in the Power of Human Rights: International Norms and Domestic Change, p.143 and **Risse** and **Ropp**, "International Human Rights and Domestic Change: Conclusions", p. 251.

3.2.3.5.2.3. Tactical Concessions

In this phase, local networks and actors are strengthening with the support of increased attention of international public opinion. After sustained international pressure from transnational networks, norm violating states typically begin to make *tactical concessions* or *cosmetic changes to pacify international criticism.*[223] Governments begin to improve HR standards gradually and do not deny the validity of international HR norms. In this stage enduring changes begin to occur and the state repression gradually decreases.

At the beginning of the third phase, domestic HR movements are often dependent upon key leaders and it is accepted that at the end of this phase, control of the national state is diminished over domestic situation.[224] This development is defined with the term *self-entrapment with their own rhetoric.*[225] It is argued that the repressive government cannot estimate the possible effect of these minor changes. In parallel with this development domestic groups become more powerful, and fears of people begin to disappear. In this phase, where instrumental and argumentative rationality are seen and affect together, developments begin for instrumental reasons. However, at the end instrumental reasons turn to be the beginning of specific HR allegations.[226]

This third stage is an important transition period for the target state, because only after this phase global HR regime and related norms can be internalized by the target state. It is accepted that tactical concessions is the most important phase for transnational networks to move the target state to the fourth stage of the model where behavior of the target state crucially changes. In fact, it depends on the vulnerability of the state and the strength of transnational networks. Vulnerability largely depends on the desire of the state to be a

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[223] **Risse,** and **Sikkink**, 1999, p. 25.

[224] **Risse,** and **Sikkink**, 1999, p. 26.

[225] **Risse,** and **Sikkink**, 1999, p. 28.

[226] **Risse** and **Sikkink**, 1999, p. 22.

member of international community. The tactical concessions stage ends when a state begins to institutionalize HR standards into domestic practices. In this level, repressive practices decrease[227] and this situation leads the state to regime change.

3.2.3.5.2.4. Prescriptive Status

At this stage, communicative behavior between the national governments and their domestic and international critics closely resemble process of dialogue, of argumentation and justification.[228] At this phase on the one hand norms are internalized in domestic legislation, procedures for individual complaints are instituted, public officials including police forces are trained, new institutions to protect HR are created, the ratification of international human rights treaties is realized; on the other hand criticisms are not regarded as interference to the internal affairs and a dialogue begins with the critics; and apologies and compensation may be given to those whose HR have been abused.[229] At this phase state does not contest the validity of HR norms.

3.2.3.5.2.5. Rule-consistent behavior

This level is signified with sustainable changes in HR condition and international HR norms are fully institutionalized domestically. Enforced by rule of law, norm compliance becomes a habitual practice of actors, and HR norms are considered to be internalized.[230] At this stage of the model, it is argued that the state's identity and interest is compatible with international HR norms.

In sum, it is accepted that NGOs are crucially important in the first stages of the five phase spiral process. They try to put norm violating states into the international agenda, start a process of shaming and moral consciousness-

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[227] **Risse** and **Sikkink**, 1999, p. 23.

[228] **Risse** and **Sikkink**, 1999, p. 30.

[229] **Risse** and **Sikkink**, 1999, p. 29.

[230] **Risse** and **Sikkink**, 1999, p. 31.

raising. Documentation and regular reports are prepared and attention and spot lights of international public are directed to the target state. Strength of domestic opposition groups is one of the efforts of international organizations.[231] As mentioned above the crucial phase is the third one, where crucial transition takes place. Only after this stage, sustained improvement in HR conditions can be reached. In these initial phases of the model instrumental reasons are dominant. In this context, norm violating states in order to remain in power or gain foreign aid begin to make some cosmetic and realistic changes in domestic legislation. In the fourth phase of the model argumentative discourses become dominant. National government begin to change its rhetoric, gradually accept the validity of international HR norms, and start engaging in an argumentative process with their opponents. Once HR norms have gained prescriptive status in the target state, than institutialization and habitualization becomes possible.

Finally, with continued domestic and international pressure of external and domestic groups rule-consistent behavior occurs, target state alters its HR practices and supports them with the rule of law.[232] HR norms are regarded as the standard procedures in domestic sphere. Once HR institutionalized in this sense, changes in government and in individual leaders become unimportant. However, it must not be forgotten that there is no state with a fully attained rule-consistent behavior. These developments sometimes and in some cases can create adverse or blocking effects in domestic sphere. If states are significantly resistant to international pressures and increase their repressive practices; or if state elites mobilize the national sentiments of their citizens against the pressures of international public opinion the process can be blocked.

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[231] **Clifford, Bob**, 2005, pp. 1-16.

[232] **Risse** and **Sikkink**, 1999, p. 31.

CHAPTER IV

HUMAN RIGHTS DEVELOPMENTS IN TURKEY WITHIN THE CONTEXT OF THE FIVE PHASE SPIRAL MODEL AND EU-TURKEY RELATIONS

4.1. HUMAN RIGHTS DIMENSION OF EU - TURKEY RELATIONS BETWEEN 1980 - 1997

Human rights restrictions and other deficiencies of Turkish democracy in the 1960s and 1970s did not crucially affect the EU-Turkey relations. When it is closely observed, it can be seen that there was no problem in implementation of Association Agreement and the Financial Protocol. This situation was being explained within the context of two reasons: Turkey's strategic importance for Europe (Greece's withdrawal from NATO's military command) and lack of policy instruments and institutional framework to apply a comprehensive and consistent policy in human rights.[233] However 1980 military coup changed this situation and criticisms coming from Europe intensified.

Right after the military coup the European Commission declared that '*it was following the developments in Turkey with the greatest concern and hoped to see human rights full respected*'.[234] On 17 September 1980 foreign ministers of the Union also declared that they were expecting high consideration from Turkey for re-establishment of democratic institutions, preserving human rights and lives of prisoners.[235] Like 1960s and 1970s, the Community at the

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[233] **Arıkan, Harun,** 2003, "Turkey and the EU: An awkward Candidate for EU Membership", ASHGATE, p.115.

[234] **Agence Europe**, 13 September 1980, No. 2977, cited in **Arıkan,** 2003, p.115.

[235] **Agence Europe**, 17 September 1980, No. 2979, cited in **Arıkan**, 2003, p.115.

beginning took a soft approach to the existing conditions in Turkey. In this regard, the European Council (**EC**) decided commencement of financial protocol and related frameworks. The military regime in Turkey, against these criticisms gave assurance that the restoration of democracy would happen as quickly as possible.[236] However, the European Parliament (**EP**), unlike other actors in European scene, adopted more critical attitude, and mentioned that situation in Turkey was not incompatible with the European normative framework.[237] The Parliament also warned Turkey about the suspension of bilateral relations. Despite the military regime, the EU-Turkey Association Council was held at ambassador level and Association Council agreed that existing legal and political ties should be continued.[238]

In 1981, due to military regime's failure to undertake necessary measures for re-establishment of democracy, the Community began to adopt more critical position and hardened its policy towards Turkey. Breaches of human rights norms forced the EP to issue a resolution to remind Turkey that the Association Agreement would be suspended if Turkey did not turn to democracy within two months.[239] Beside these resolutions, in time the Community issued other declarations specifying normalization of relations was bounded to restoration of democracy. In 1981 release of financial aids was made conditional on Turkey's progress towards democratization. The community with these efforts and works at first hand tried to create a pressure over Turkey and put human rights violations into the agenda of Europe and international community.

In 1982 the EP decided to freeze relations and dissolved joint Parliamentary Committee until the Turkish Parliament had been fully elected by direct Universal suffrage.[240] Turkish government, in order to change this image

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[236] **Uğur, Mehmet**, 1999, "The European Union and Turkey: An Anchor/Credibility Dilemma", Aldershot: Ashgate, p. 217.

[237] **Arıkan,** 2003, p. 116.

[238] **Arıkan**, 2003, p. 116.

[239] **Uğur**, 1999, pp. 220-221.

[240] **Arıkan** 2003, p. 116.

and existing situation made some reforms. In this regard, the constitution was drafted in September 1982 and was voted in favor by a majority of 91.37%. Also it was decided that general election would be held in 1983.[241] These moves of Turkish government were realized after Turkish authorities noticed severity of warnings of European authorities. The main motive or incentive lying behind all these changes was about material-instrumental reason, because Turkey, with changes, wanted to maintain his relationship with the European institutions and benefit from financial aids of the EC. These changes did not satisfy the Community and the Community underlined the need for a process of re-establishment of political parties and criticized the restrictions about the selection of parliamentary representatives. These decisions of the Community are collected in the resolution issued by the EP in 1984 and the Balfe Report of the Political Affairs Committee in 1985. On the other hand, different from the EP, some members of the Union, i.e. UK, Germany and Italy adopted relatively soft policy against Turkey.

In 1983 civil government came to power. In this period changes intensified, remarkable progresses made in democratization and human rights, because Turkey needed the help of Europe not only for economic reasons, but also for political reasons to increase the level of cooperation.[242] Therefore, Turkey decided that normalization of relations with the Community was a priority policy.[243] In light of criticisms mentioned in resolutions and in order to prevent possible negative outcomes in the future for Turkey, newly elected government initiated a reform process. Turkish government, in this context, abolished regulations introduced during the military regime, constitutional amendments were made, and suitable conditions were set for civil society and domestic opposition groups. These developments partially improved Turkey's image in Europe. The European Commission on Human Rights dropped the

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[241] **Uğur**, 1999, p. 222.

[242] **Arıkan,** 2003, p. 118.

[243] **Arıkan,** 2003, p.118,

case against Turkey by agreeing on a friendly settlement; Turkey began to chair the OECD and was offered the postponed presidency of the Council of Europe.[244]

Besides instrumental-material incentives, the possibility of application for full membership to the EC was motivating Turkish authorities towards change. Turkish authorities were thinking that membership to the Community would guarantee the durability of Turkish democracy.[245] In sum, it is seen in that period Turkey, one way or another tried to normalize its relations with the Community. Contrary to the military government, after 1983 civilian authorities began to take decisions and criticisms of the EC into consideration and initiated serious reform efforts. Changes deriving from instrumental reasons made clear that Turkey implicitly or explicitly accept the validity and existence of accusations and human rights violations. The same situation at the same time revealed that in the absence of powerful internal actors and incentives towards the change, European forces, especially the EP, made an important contribution to works conducted for legal amendments in Turkey. This situation shows us the effectiveness of the Community as an international actor that forms external agents with its normative framework.

In 1985 and 1986, Turkish government made additional changes to establish institutional democracy and protection of fundamental rights: restrictions on freedom of thought were lifted and individual appeal to the European Commission of Human Rights (ECHR) was granted. The EP in its resolution that was issued in 1986 mentioned continuation of progress towards the re-establishment of human rights.[246] 1986 was an important turning point for EC-Turkey relations, because there was an increase for the EC pressure on

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[244] **Dağı, İhsan**, 1993, Human Rights in the World Politics: International Constraints and Governmental Response: The Turkish Case, PhD Thesis, Lancaster: Lancaster University, cited in **Arıkan,** Spring 2002.

[245] **Arıkan,** 2003, p. 119.

[246] **Rumford, Chris,** 2003, "Resisting Globalization? Turkey-EU Relations and Human Rights and Political Rights in the Context of Cosmopolitan Democratization", International Sociology, Vol. 18(2), pp. 379-84, SAGE Publications.

Turkey with regard to democracy and human rights. In other words, a more critical stance was adopted towards Turkey, and Council called the full application and restoration of democracy and human rights.[247] The EC representatives made it clear that the progress in restoration of democracy and human rights record were essential requirements for the normalization of relations between Turkey and the Community.[248] The EC's changing external relations and declaration of Turkey for full membership application were other important developments behind the changing stance of Europe against Turkey.

Turkey with effects of above mentioned factors continued to make necessary changes. With efforts of the Turkish government, in 1986, within the context of above mentioned decisions of the EP; the Turkish Assembly introduced amnesty for prisoners and lifted the ban on the expression of opinion on domestic and foreign policy by former politicians. In 1987 an Amnesty International team was allowed to study prison conditions in Adana; a law abolishing the long criticized penalty of internal exile was passed and some other amendments were introduced to lift ban on political party leaders.[249] Also, in January 1987, Turkey recognized the competence of the European Court of Human Rights to hear individual complaints. Also, constitutional restrictions on the former politicians were repealed and voting age was lowered to 20.

When it is evaluated, it can be seen that between 1980 and 1987, the EU with its decisions and resolutions gave a direction and created an impetus in Turkey towards the change for re-establishment of democracy and implementation of human rights. In this regard, it can be argued that the Community adopted a positive human rights policy for Turkey. On the other hand, in terms of response of the Community's demands, Turkish authorities made some positive and progressive changes that were mostly initiated for material interests (economic and political) and to maintain its relations with the

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[247] **Arıkan**, 2003, p. 119.

[248] **Finacial Times**, 3 May 1985 cited in **Arıkan**, p. 119, and **Dağı, İhsan,** 2001**, "**Human Rights, Democratization and the European Community in Turkish Politics: The Ozal Years, 1983–1987", Middle Eastern Studies, Vol. 97, No. 1.

[249] **Arıkan**, 2003, pp. 120-123.

Union. Turkey, made some constitutional amendments, declared amnesty for political prisoners, held a referendum that consolidated democracy, lifted political bans on former political leaders, and accepted individual petition to the ECHR.[250]

These developments were also positive for domestic forces that were suppressed before with the regulations of the military government. While at the beginning of 1981 the situation in Turkey was in the level of repression, in the following years Turkey moved to the next levels namely that can be described with tactical concessions and prescriptive status which signify occurrence of positive developments (gradual improvement in human rights and level of democracy, acceptance of international human rights procedures and norms). The EC with its different tools began to take Turkey to the point where Turkey can be re-shaped with existing and valid normative structure of the Community.

As mentioned before, at the time of Turkey's application for full membership to the EC, the Community adopted more different human rights policy than previous period as part of its external relations. Reflection of this decision showed its effect in the EC-Turkey relations. Therefore, the EC and its members began to adopt more critical stance towards Turkey. However, this critical stance of the Community created its counterpart in the country. Some strong circles in Turkey regarded these increasing criticisms as violations of Turkey's sovereignty and interventions in Turkey's internal affairs. These reactions were expected outcomes of the spiral model. According to this model, mostly in the second level, some circles of the society reject/deny allegations and denounce other party's critics as foreign agents. However, even such a denial was one of the indicators of implicit acceptance of allegations and country's bad international reputation.

As mentioned above the European Parliament (EP) had been underlining the existence of problems regarding about human rights and quality of

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[250] **Arıkan**, 2003, p. 121.

democracy in Turkey. Torture, death penalty, freedom of expression, the political restrictions on the former politicians, the mass trials and the Kurdish problem were among the priorities of the EP and the Union. In addition to the EP and the EC, international human rights organizations such as Amnesty International opened new campaigns supporting claims of the EP and the EC. These campaigns were aiming to influence the European organizations, including the EU, and the European public.[251] The increasing effectiveness of these NGOs began to affect the decisions of Turkish authorities and force them to take serious steps.

Especially, minority rights and related issues gained important position, and emerged as an important policy issue in Turkey EU-Relations. In this regard, the EP in 1987 issued a resolution about so-called Armenian genocide, and in 1988 and 1989 the EP called Turkey to recognize the basic rights of Kurdish minority. In other words, the EP in its different decisions decided that the cultural rights of the Kurdish and 'Christian' minorities were being violated. In those years the EP and different meetings between Turkey and the Union became spheres of debate. In some of these debates or meetings, it was seen that especially representatives of opposition parties were accepting the EP's critiques regarding human rights. It can be seen as an important development, because it is a fact that in order to initiate a reform process in the sphere of human rights, there must be minimum agreement between parties. However, it was asserted by the Turkish authorities that it was the desire of Turkish people lying behind changes, not the pressure of the Union. Minority rights and related calls of the EP can be seen with regard to the increasing pressure coming from the Union. The EP stated that;

> Turkey's membership to the EU was not conceivable
> without full democratization, including freedom of opinion
> and association, and respect for basic human rights as well
> as the full recognition of minority rights.[252]

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[251] Amnesty International even advertised in the significant newspaper arguing there were systematic human rights violations in Turkey.

[252] **Arıkan,** 2003, pp. 122–123.

However, individual member states were careful not to voice strong and open criticism of Turkey, but they used the EP and Council of Ministers to express their concerns over the developments in Turkish politics.[253] Turkish authorities again realized the importance of developments in the Union, intensified their efforts and works, and pledged there would be more comprehensive works towards consolidation of democracy in Turkey. In this context, in 1988, Turkey in order to change the stance of the Union made some changes. Turkey, in response to the EP, in 1988 ratified the UN Convention against Torture and other Cruel, Inhuman, Degrading Treatment of Punishment. Turkey also ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment. In addition to these, in 1990 Turkey recognized the compulsory jurisdiction of the ECtHR and signed the ninth Protocol of ECHR prescribing the right of individual petition to the ECtHR and CSCE Paris on November 1990. The prohibition on the use of torture or any other inhuman treatment or punishment was inserted to the Turkish Constitution.[254] Furthermore, some amendments were made to the Penal Code, reducing the maximum detention period without charge from 15 days to 24 hours and increasing access of lawyers to the detainees.[255] When these changes are evaluated within the context of spiral model, we see the traces of third stage of the model signifying the beginning of the gradual improvements and the fourth stage signifying both institutionalization / ratification of international human rights treaties and establishment of human rights procedures for individual complaints.

Many different non-governmental organizations were established in response to the Community pressures. These developments either show the vulnerability of Turkey against criticisms of the Community, or existence of positive developments towards the full implementation of human rights. The

[253] **Tekeli** and **İlkin**, 2000, "Türkiye ve Avrupa Birliği: Ulus Devletini Aşma Çabasındaki Avrupa'ya Türkiye'nin Yaklaşımı", Cilt 3, p. 86.

[254] **Arıkan**, 2003, p. 124.

[255] **Arıkan**, 2003, p. 124.

Community did not find these developments sufficient, and the Commission stated that 'although successive reforms had resulted in a parliamentary democracy closer to Community models, the political situation in Turkey was not adequate for membership.'[256] The Commission also mentioned that,

> To contribute to the success of Turkey's modernization efforts, the Commission recommends that the Community propose to Turkey a series of substantial measures which, without casting doubt on its eligibility for membership of the Community, would enable both partners to enter now on the road towards increased interdependence and integration, in accordance with the political will shown at the time of the signing of the Ankara Treaty.[257]

The insufficiency of Turkey's political system and human rights system was used as a legitimizing factor by the Community to delay the prospect of Turkey's accession to the Community.[258] However, Turkey's desire to join the Community was seen as the main driving force and the prospect of membership steadied the occurrence of positive developments.

The Customs Union was another step in bilateral relations. With this agreement the Union intensified its power on Turkey and Turkey accelerated reforms and government legitimized its works to improve democracy and human rights.[259] On February 1990 the Commission declared its opinion about Turkey's application and it was approved by the Council. The Council demanded the Commission to prepare a proposal for the intensification of cooperation with Turkey. In June, the Commission adopted the Matutes Package

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[256] **The European Commission**, 1989, cited in **Arıkan**, 2003, p. 124, and **Koç, Yıldırım.** 2001. Türkiye Avrupa Birliği İlişkileri, Ankara: Türk-İş Eğitim Yayınları, p.57.

[257] **Oran, Baskın**, 2002, Türk Dış Politikası, Kurtuluş Savaşından Bugüne Olgular, Belgeler, Yorumlar, cilt.2, 6. Baskı, İstanbul, İletişim Yayınları**,** and **Commission Opinion on Turkey's Request for Accession to the Community, December 20, 1989,** accessed at http://www.mfa.gov.tr/commission-opinion-on-turkey_s-request-for-accession-to-the-community_-december-20_-1989.en.mfa, (12.05.2008).

[258] **Arıkan,** 2003 p. 125.

[259] **Arıkan**, 2003, p. 125 and **Muftuler - Bac, M. and Mc Laren, M. L.** "Enlargement Preferences and Policy Making in the European Union: Impacts on Turkey", European Integration, 2003, Vol.25, p.21.

proposing the completion of a Customs Union by 1995.[260] However, again the completion of the Customs Union was bound up with Turkey's response to the EU's political pre-requisites.[261] On December 4 1990, a Parliamentary Commission consisting of the representatives of all political parties was established within the Parliament to monitor human rights violations in Turkey, to investigate allegations and complaints and to propose amendments to the existing legislation.

The Customs Union process increased the effect of the EU on Turkey, and the EU began to influence internal structure of Turkey with its decisions and resolutions in different subjects. Turkey after this decision again realized that the question of human rights and other political criteria constituted focal point for the application. In this respect, articles of 141 and 142 of the Criminal Code that banned any kind of association or propaganda with the aim of transforming Turkey's basic social or political order repealed in 1991.[262]

In 1992, a reform of judicial procedure was introduced and to suspects the right to ask for the presence of lawyers during preliminary interrogation was granted. Moreover, within the Turkish Grand National Assembly a human rights commission was formed, and the members of this commission participated in a meeting of the Turkish-EU joint Parliamentary Committee.[263] In terms of minority rights, important steps were taken, and for the first time, Turkey officially recognized *Kurdish reality*. In this context, a ban on the use of the Kurdish language was lifted, restrictions about cultural rights were alleviated and it was allowed to celebrate Nevroz officially.[264] However, these developments were not seen sufficient for the members of the Union and they

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[260] **Arıkan**, 2003, p. 126.

[261] **Arıkan, Harun**, Spring 2002, "A Lost Opportunity? A Critique of the EU's Human Rights Policy Towards Turkey", Mediterranean Politics, Vol.7, No.1, p. 121, and **Arıkan**, 2003, p. 126.

[262] **Arıkan**, 2003, p.126.

[263] **Arıkan**, 2003, p. 127.

[264] **Arıkan**, 2003, p. 127.

intensified their criticisms on minority issue. In a resolution of the EP, it was stated that,

> The Kurdish issue can only be resolved by guaranteeing their rights to speak, write, publish and testify in courts of law in the Kurdish language, and to be educated in that language,; by abolishing the state of emergency in the Southeast and by removing provisions which directly or indirectly discriminate persons, groups or associations due to their language or ethnic origin.[265]

1994 was another important year for EU-Turkey relations. DEP was dissolved in June 1994 by the decision of the Constitutional Court and some representatives of the party were detained. This development was met with more critical stance by the Union; the meeting of joint Parliamentary Committee suspended and it was declared that peaceful political solution was the first and the foremost expectation of the Union.[266] After these developments, the EP in order to ratify the Customs Union put some conditions in front of Turkey. They were about the elimination of legal and constitutional restrictions on civil society and political participation; abolishment of Article 8 of Anti-Terror Law and release of DEP representatives.[267] These developments are overt indicators of the possibility of existence of different stages of the model at the same time. On the one hand, Turkish government in order to change its negative image made some amendments in normative side; on the other hand officials with their decisions turned the process backwards and created suitable spheres for further reactions and criticisms against the country.

Turkey in these conditions continued serial amendments and changes. Restrictions on associations and trade unions were lifted; political parties were allowed to broaden their activities, open offices and establish links with international associations. Relatively greater financial power was given to the local authorities. These amendments were for widening of participation in

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[265] **Arıkan,** 2003, p. 127.

[266] **Arıkan,** 2003, p. 128.

[267] **Arıkan**, 2003, p. 130.

political activities. Article 8 of Anti-Terror Law was differed and prison sentence was reduced to between one and three years, the notions of *intentionally* and *explanatory memorandum*s were added to implement the law in light of the European Convention on Human Rights. Restrictions on civil servants' collective bargaining and joining trade unions were abolished; the minimum age of right to vote was lowered from 21 to 18.[268] After this change, it was accepted that involvement in terrorist activities and mere expression of thought were different from each other.[269] In DEP trial, except from 4 defendants, other detainees were released. The EP found them insufficient and its other conditions one way or another still existed. The EP criticized the political system in Turkey and defined it as incomplete for basic freedoms to be exercised.[270] Despite these negative developments, the EP on 13 December 1995 ratified the Customs Union Agreement and issued a resolution calling Turkey to take further steps towards democratization and the improvement of human rights.[271]

As mentioned above, Turkey's intention to conclude the Customs Union Agreement enabled the EU to use and compel Turkey to change itself towards democracy and human rights. However, such a development initiated a reform process to align Turkey and its political context and structure with those of the EU. In other words, the Union with its comprehensive *structure* or *normative framework* influenced Turkey as *the agent* to align. Criticisms of the Union and the negative image of Turkey provided the necessary motivation for Turkish policy-makers to undertake important reforms in the Turkish legislation.

After the EP gave its assent to the Customs Union act, the general EU-Turkey relations had been deteriorating mainly because of Greece's attempts to

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[268] **Arıkan**, 2003, p. 130.

[269] **Rumford, Chris**, 2002, "Failing the EU Test? Turkey's National Programme, EU Candidature and the Complexities of Democratic Reform", Mediterranean Politics 7(1), pp. 51-68.

[270] **Rumford, Chris**, 2002, pp. 51-68.

[271] **Arıkan**, 2003, p. 131.

use the EU against Turkey with regard to the Aegean problem and Cyprus.[272] Beside the Greek attempts, democratization and improvement of human rights were still among most important subjects in bilateral relations. Resolutions of the Parliament were the main indicators of this situation. These declarations and resolutions showed their effect in financial sphere and the Parliament, on 19 September 1996, called on the Commission to suspend the financial aid from the MEDA funds, except for human rights development projects.[273]

In March 1997 the Criminal Procedure Code was amended and maximum detention periods were shortened. In line with the Union's demands, on 9 April 1997, the High Coordinating Committee on Human Rights was established. The role of the Committee was defined as coordination of the implementation of human rights regulations. The Committee prepared a draft laws for civil servants and public officials and draft Civil and Criminal Codes.[274] Turkish authorities were regarding the changes and amendments as the best replies to the criticisms of European Union's and other international institutions' claims.

4.2. HUMAN RIGHTS DEVELOPMENTS BETWEEN 1997-2007

4.2.1. Pre-Helsinki Period

4.2.1.1. Agenda 2000 and Subsequent Developments

July 1997 was an important turning point for Turkey, because the Commission declared its evaluation about the applicant states' membership process. The Commission in its report recommended that that the EU should open negotiations with five countries in Central and Eastern Europe—the Czech Republic, Estonia, Hungary, Poland and Slovenia—as well as (Greek) Cyprus

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[272] **Usul, Ali Resul**, 2003, "International Dimension of Democratization? The Influence of the European Union on the Consolidation of Democracy in Turkey 1987-2002", Unpublished PhD Thesis, Bilkent University, p. 215.

[273] **Usul,** 2003, p. 216.

[274] **Usul,** 2003, p. 233.

next year.[275] The Commission for Turkey proposed some measures to deepen bilateral relations. In this context, the Customs Union Agreement was seen as suitable ground for future relations of parties. According to the Commission:

> Turkey's record on upholding the rights of the individual and freedom of expression falls well short of standards in the EU. In combating terrorism in the south east, Turkey needs to exercise restraint, to make greater efforts to uphold the rule of law and human rights and to find a civil and not a military solution... Recent developments in the administration and the education system, while intended to strengthen secularism, nonetheless underline the particular role of the military in Turkish society... There are ambiguities in the Turkish legal system with regard to civilian political control of the military.[276]

Then Turkish authorities made declarations about unison with the Northern part of the island and operation of the implementation of the Customs Union Agreement. Despite these declarations the EU's stance on Turkey did not change and in different spheres the EU officials also again mentioned domestic tasks namely human rights, the Kurdish problem and economic problems. Some authorities in Turkey made some visits to soften the position of European authorities and decision makers. Their efforts firstly seemed effective and positive, but when Eşber Yağmurdereli, a human rights activist, was jailed, and Akın Birdal was sentenced one year in jail, the so-called positive environment changed and the EU began to criticize Turkey for these decisions.

Before the Summit the EU wanted to invite Turkey to the Euro-conference with different and special status, but for Ankara such a solution was unacceptable and meaningless. Following to these developments Yağmurdereli was released on medical grounds. This release was regarded as positive development by the EU authorities, but the EU was still demanding large-scaled reforms in different spheres. Before the 1997 Helsinki Summit, Turkish officials

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[275] **Usul,** 2003, p. 238.

[276] The European Commission**, "Agenda 2000 Document"**, accessed at http://www.infoeuropa.ro/ieweb/imgupload/1997_Agenda_2000.pdf, and "**Agenda 2000 For a Stronger and Wider Europe**", http://www.rcie.lodz.pl/dokumenty/pdf/agenda2000_for_a_stronger_and_wider_union.pdf (12.05.2008).

made many visits in Europe to persuade EU members for Turkey's membership process.

4.2.1.2. The 1997 Luxembourg Summit

In the Luxembourg summit Turkey could not find a place in the Union's enlargement process and the Union did not grant any pre-accession strategy for Turkey. After this decision of the Union, Turkey decided to freeze bilateral relations, limit its relations with Europe within the context of Customs Union and not to talk about problems mentioned by the Union. Year 1998 was regarded as a lost year for EU-Turkey relations. In March 1998 the Council released a strategy paper for Turkey that could be formulated as "*Customs Union plus*" including some other sectors not included in Customs Union. This paper was not including human rights condition was seen as initial step for eventual membership of Turkey.

EU's efforts were not seen sufficient by Turkey and according to Ankara these regulations or initial steps were not helping Turkey's aim of integration. Besides this development, June 1998 Cardiff Summit and its conclusions did not change the stance of Turkey and was also far from expectations of Turkey. These developments in those years prevented Turkey to take further steps towards the EU membership and democratization.

4.2.1.3. 1998 Progress Report

The European Commission announced the first progress paper for Turkey in November 1998. It was questioning how and to what extent Turkey meets criteria of the Union. On the other hand, it was a very important document for Turkey, because it was the first official paper prepared by the Commission to evaluate political and economic analysis of Turkey. It was based on article 28 of Association Agreement and created brand new starting point for bilateral relations and referred Turkey as candidate. It was stated that all evaluations about Turkey that were found in that report were about organization and

functioning of the public authorities; and protection of fundamental rights. Democracy and the rule of law; and Human Rights and Protection of Minorities constituted political side of the report.

Problems that were found in this report by the Commission can be collected under these headings: The lack of civilian control over the army and army's increasing influence over political issues; insufficient standards of Turkish administration; existence of corruption and favoritism in cadres in the government; decisions of State Security Courts; slowness of trials, status of prosecutor, and impartiality of judges.

On the other hand, the Commission for Human Rights reported cases of torture, disappearances and extra-judicial executions, periods of detention incommunicado in police stations. The Commission underlined that Articles of the Anti-Terrorist Law and the Penal Code were subject to narrow interpretation and were preventing freedom of expression.[277] Report mentioned about the insufficiency of freedom of press in Turkey, of freedom of association and assembly meeting with limitations.

The Report made certain evaluations concerning the Minority Rights and Protection of Minorities. It underlined that Kurds were economically and socially disadvantaged position and existence of State of Emergency were preventing forming of suitable environment to live in South-East region and it called that Turkey had to find a political and non-military solution to repair its international image. [278] The main expectation from Turkey was to improve the situation of democracy and protect minority rights.

Initial response of Turkey was positive. The preparation of such a report was regarded as signal for candidacy and beginning of new period

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[277] The European Commission, **"1998 Regular Report from the Commission on Turkey's Progress towards Accession**", accessed at,
http://ec.europa.eu/enlargement/archives/pdf/key_documents/1998/turkey_en.pdf, (12.05.2008).

[278] **Usul**, 2003, p. 247.

between EU-Turkey. However, according to some Turkish authorities, the Union was disregarding terrorism in Turkey that can be seen as the main source of human rights violations and anti-terrorist law. Explanations and evaluations of Turkish authorities show that they accept the validity and the existence of human rights violations and related allegations against Turkey. However, Turkish officials by showing different sources, for instance terrorist activities, tried to lighten criticisms of the Union and make some changes.

4.2.1.4. 1999 Progress Report

The second report was issued by the Commission on October 1999.[279] In this report, positive remarks were given before the Helsinki Summit. However, it was mentioned that relations did not change since 1998 as a result of deadlock in the relations. The Commission in this report mentioned:

> Turkey has expressed the wish to be a candidate country and should be considered as such. To date the European strategy for Turkey has been more narrowly focused than for the other candidate countries. In particular the financial support from the EU that could have underpinned the process of alignment has been limited. To encourage in-depth reforms, it is now time to take a step forward and to further develop the strategy with regard to Turkey. While retaining specific features linked to the current situation of the country it can in future be aligned more closely on the strategy followed with the other candidate countries.[280]

However, in that report there were many criticisms about political criteria. The report in this context, concluded:

> Recent developments confirm that, although the basic features of democratic system exist in Turkey, it still does not meet the Copenhagen political criteria. There are

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[279] The European Commission, "**1999 Regular Report from the Commission on Turkey's Progress towards accession**", accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/1999/turkey_en.pdf, (12.05.2008).

[280] The European Commission, "**Composite Paper: Regular Report from the Commission on Progress towards Accession by each of the candidate countries, October 13, 1999**", accessed at
http://www.infoeuropa.ro/ieweb/imgupload/1999_Composite_Paper.pdf, (12.05.2008).

serious shortcomings in terms of human rights and protection of minorities. Torture is not systematic but is still widespread and freedom of expression is regularly restricted by the authorities. The National Security Council continues to play a major role in political life. Although there have been some improvements in terms of the independence of the judiciary the emergency court system remains in place.[281]

4.2.2. Beginning of New Period in Bilateral Relations: Helsinki Summit

After 1999 Helsinki summit reform efforts accelerated and in 2000 became relatively radical transformation process. However, after 1999 Helsinki Summit, Turkey faced with pressure or demand for change towards democratization/improvement of human rights to start accession negotiations.

In time, these demands paved the way for the emergence of oppositions against the EU and related reforms, because these demands necessitated changes over distribution of power in the government cadres and over certain taboos of domestic politics that were seen as possible threats against the integrity of the country. However, Turkey in this period when compared with 1990s, accomplished a reform process in a wide range of areas including abolition of death penalty, the fight against torture, the enlargement of individual and cultural rights and freedoms, the fight against corruption, steps towards transparency, and institutional changes in government, judiciary and military-government relations.

On the other hand, membership perspective increased effectiveness of critics and reports of the Union. When the EU membership became attainable likelihood for Turkey, governments in Turkey began to take those criticisms seriously into account and changes in Turkey began to follow a path that was mostly directed or shaped by priorities mentioned in regular reports of the EU

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[281] The European Commission, "**1999 Regular Report on Turkey's Progress towards Accession**", accessed at http://ec.europa.eu/enlargement/archives/pdf/key_documents/1999/turkey_en.pdf, (12.05.2008).

and other international organizations. When it is closely observed, after 1999 it can be seen that both civil society and domestic groups in Turkey increased their power and began to take their positions in the process. Besides this, the year 1999 was also important to see the effectiveness of the EU, the Council of Europe and other trans-national organizations over Turkey and developments towards democratization. The Union, after 1999 in line with its expectations from Turkey initiated different monitoring mechanisms for Turkey. When it is compared, after 1999 the content of reports changed and reports became more complex than previous counterparts. When it is closely observed we can indicate same incentives behind changes. In other words, we see in this period real motivation of Turkey was stemming from strategic calculations. Timing of some reforms takes us to such a conclusion.[282]

4.2.2.1. The 1999 Helsinki Summit

The Helsinki Summit and the decisions of the European Council were signifying an important turning point for EU-Turkey relations. In other words, Turkey's democratization process took a remarkable turn with the acceptance of Turkey's candidacy at the Helsinki Summit.[283] The Union for the first time stated that Turkey could be member, if it fulfilled the Copenhagen criteria of the Union.

> Turkey is a candidate State destined to join the Union on the basis of the same criteria as applied to the other candidate States. Building on the existing European strategy, Turkey, like other candidate States, will benefit from a pre-accession strategy to stimulate and support its reforms. This will include enhanced political dialogue, with emphasis on progressing towards fulfilling the political criteria for accession with particular reference to the issue

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[282] Timing of 2001 and 2002 reforms that were made before the Copenhagen Summit demonstrates a kind of cost-benefit calculation of Turkey. This situation also brings this question to the forefront: Are they desired changes or target based temporary solutions to save the situation?

[283] **Ulusoy, Kıvanç**, 2007, 'The European Union Impact on Turkey's Politics: 1987-2004", Democratization, Volume 14, Issue 3, Routledge, pp. 472 - 490.

of human rights, as well as on the issues referred to in paragraphs 4 and 9(a).[284]

After this decision, Turkey was expected to meet 1993 Copenhagen Criteria for candidate countries' convergence towards EU norms in the economic and political spheres. Besides this, the opportunity to participate in Community programmes and agencies were given to Turkey, establishment of appropriate monitoring mechanisms was conditioned and the European Council asked the Commission to present a single framework for coordinating all sources of European Union financial assistance for pre-accession.[285]

Helsinki decisions were regarded as positive turning point for Turkish officials and for almost all parts of civil society. After this decision, the EU itself and Copenhagen criteria became discussion topics at societal and political levels. Turkish public opinion and influential interest groups supported the EU membership of Turkey and underlined that it was urgent need to internalize entrance criteria for further democratization. It is possible to say that beside its critics, the Union with its decision in the Helsinki initiated a process in Turkey towards democratization. It is also possible to say that Turkey with this decision firstly confronted with a real impetus to become democratic, meet Copenhagen criteria and enter the EU. Therefore the Union, with its open support became leverage for Turkey and for progressive developments. It also showed that, not only criticisms, but also constructive decisions of the Union have important effects on Turkey's membership.

Turkish Prime Minister Bülent Ecevit, foreign minister İsmail Cem and Motherland party chairman Mesut Yılmaz stated importance of decisions taken in the Helsinki Summit, where Turkey accepted as a candidate country, and underlined that there was a need for deep changes in human rights, minority rights and state-society relations. Following these declarations, the Turkish

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[284] The European Council, **"Helsinki European Council 10 and 11 December 1999"**, accessed at http://www.dpt.gov.tr/abigm/abtb/Zirveler/1999%20Helsinki%2010-11%20Aralik.pdf, (12.05.2008).
[285] The European Council, **"Helsinki European Council 10 and 11 December 1999"**, accessed at http://www.dpt.gov.tr/abigm/abtb/Zirveler/1999%20Helsinki%2010-11%20Aralik.pdf, (12.05.2008).

parliament constituted a committee to review the Constitution and weed out its undemocratic articles.[286] This committee was targeted to prepare a report for necessary amendments for the EU membership. Formation of such a committee again showed that the Turkish officials perceived seriousness and importance of the Union's normative framework.

As can be seen above, critics and decisions of the Union and the Commission forced Turkey and Turkish officials to question human rights violations and to find progressive proper solutions that could be regarded within the context of five phase spiral model human rights. But, as mentioned in the introduction part, Turkey contrary to developments during this process showed different characteristics that formed unique case in the enlargement process of the EU. Despite important changes during the process, there were some violations and cases that damaged general picture and positive environment.

At the beginning of 2000, just after the Helsinki Summit, mayors of Diyarbakır, Bingöl and Siirt were arrested and they were charges with having links with terrorist organizations. Despite its clear commitment(s), Turkey with different cases came to the agenda of the Union. After these developments officials of the Union asked Turkish officials to allow broadcasting and education in Kurdish. The Union's and members' reactions and discussions about these developments occurred *non-officially*. Some officials of the Union in some platforms used the phrase of *Kurdish problem* apparently. The Union, beside these, with its representatives, declared and underlined that it was disappointing to see the slow pace of the reformation process especially in minority rights, quality of democracy, revision of penal code, establishment of the new civil code and independence of the judiciary. The Union also decided to establish eight committees that would screen Turkey's harmonization with the acquis.[287] Wording and concepts that were used by the Union were the first signals of the more comprehensive demands of the Union.

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[286] **Usul**, 2003, p. 257.

[287] **Usul**, 2003, p. 259.

The Union, after Helsinki decision began to monitor Turkey and related developments and expressed the fact that Turkey did not meet the Copenhagen criteria. Such views were declared often by officials of the Union. In fact, these repeated evaluations and criticisms about the HR and minority rights, namely efforts of the Union as an important international agent, of the Union formed such a starting point or normative framework for improvements and amendments in Turkey.

4.2.2.2. 2000 Progress Report

On 8 November 2000, Commission's third progress report was issued. [288] It was the first report after membership status was given to Turkey. The report firstly mentioned that Turkey did not fulfill political criteria for opening of accession negotiations. The Commission pointed out existence of ongoing corruptions, incorporation of ECHR decisions into Turkish legislation, and effect of National Security Courts over politics. It was also evaluated that conditions in Turkey changed a little when it was compared with 1999 situation and underlined the poor respect for human rights, the rights of minorities and the situation of Kurds. Debates, initiated on the necessary political reforms in Turkish society, were welcomed by the Commission.[289] The report mentioned some important changes:

1. The government adopted a number of 'priority objectives' in September 2000 for reforms and legislation to meet the political criteria on the basis of the report prepared by the Supreme Board of Coordination for Human Rights,

2. Turkey signed the ICCPR and ICESCR (on 15 August 2000);

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[288] The European Commission, "**The 2000 Regular Report from the Commission on Turkey's Progress towards Accession**", 2000, accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2000/tu_en.pdf, (12.05.2008).

[289] Debates were mainly about democracy and human rights: The minority rights, the role of army and NSC, articles of Constitution, Penal Code and Criminal Code, and Anti Terrorist Law.

3. The public debate about the Copenhagen criteria and Turkey's accession to the EU.[290]

The report followed by the Accession Partnership document for Turkey that was seen as clarifying road map for Turkey.

4.2.2.3. The Accession Partnership Document (AP)

On 8 November 2000, along with the Progress Report, the European Commission issued Accession Partnership (AP) for Turkey. It was the most important development that summarizes pre-accession strategy and necessary/demanded reforms to be fulfilled by Turkey on the way to the EU membership. They can be seen as concrete expectations of the Union from Turkey. The AP was formed "to set out a single framework for the priority areas for further work identified in the Commission's 2000 Regular Report on the progress made by Turkey towards membership to the EU… This AP provides the basis for a number of policy instruments, which will be used to help the candidate in their preparations for membership."[291]

The AP demanded Turkey to prepare a National Programme for the Adoptation of the Acqius before the end of the year on the basis of the AP document.[292] It was demanded that Turkey's National Programme had to include a kind of timetable determining *priorities and intermediate objectives* underlined in the AP document. These priorities were divided into two groups: *short* and *medium term*. Short term objectives were issues that had to be handled until the end of 2001; and medium terms objectives were classified as objectives that would be completed more than one year.

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[290] The Commission of the European Communities, "**Strategy Paper. Regular Reports from the Commission on Progress towards Accession by each of the candidate countries**," accessed at http://www.mfcr.cz/cps/rde/xbcr/mfcr/Enlargement_Strategy_Paper2000_pdf.pdf, (12.05.2008).

[291] The European Commission, "**Proposal for a Council Decision on the principles, priorities, intermediate objectives and conditions contained in the Accession Partnership with the Republic of Turkey**", Brussels, 2000, accessed at,
http://www.avrupa.info.tr/Files/File/EU&TURKEY/l_08520010324en00130023.pdf, (12.05.2008).

[292] **Usul**, 2003, p. 260.

Freedom of expression, freedom of association, torture, state security courts, maintaining moratorium on death penalty, removal of any legal provisions forbidding the use of different languages in TV/radio broadcasting and settlement of the Cyprus problem were among short-term objectives. On the other hand, review of articles of Constitution, abolishment of death penalty, ratification of the ICCPR and ICESC, alignment of role of National Security Council (NSC), guaranteeing of cultural rights for all citizens, end of the state of security and ensuring cultural diversity were among requirements demanded to be fulfilled in the medium term.[293]

These short and medium term objectives were determined as necessary conditions to be fulfilled for the assistance to Turkey. Beside these it was noted that the document did not include terms Kurd or minority. The Turkish government mentioned that conditions and articles of AP document were similar with articles and proposals of the report prepared by Human Rights High Coordinating Council. Beside the Cyprus issue the European Parliament also agreed a resolution making references to the so-called Armenian genocide. Turkish government started initiatives especially for the Cyprus issue to change the wording of the text of AP. In conclusion it was decided to place the Cyprus issue and Aegean issues under *enhanced political dialogue*. The next year on 8 March 2001, the AP document was approved. In response to these developments Turkey issued its National Programme for the Adaptation of the Acquis in March 2001.

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[293] Delegation of the European Commission to Turkey, "**Turkey: 2000 Accession Partnership document for Turkey",** accessed at
http://www.avrupa.info.tr/Files/File/EU&TURKEY/l_08520010324en00130023.pdf, (12.05.2008).

4.2.2.4. Turkey's National Programme for the Adaptation of the Acquis (NPAA) (March 2001)

The preparation of National Programme for Adoption of the Acqius (NPAA) was regarded as an important turning point in bilateral relations.[294] The NPAA, formed after long discussions, gave a kind of clear commitment to the EU for the transformation of political structure. Sensitive areas, for example use of languages other than Turkish, prevented creation of compromise between coalition leaders. On 19 March NPAA committing new economic and political changes towards the EU membership was adopted. Günter Verheugen on behalf of the EU Commission said that the NPAA was crucial in Turkey's preparation to the EU membership and can be regarded as a kind of essential point for Turkey's transition to modern democracy.[295]

The NPAA was a wide-ranging document addressing most of the priorities stated in the Accession Partnership document.[296] The NPAA brought different political and economic reforms into agenda of the country. It seems that the document was far from providing clear deadlines for planned changes. Besides these it was seen that the document did not mention any point about priorities mentioned in the AP. Reforms within the context of political agenda are listed below:

Table.1 Reforms in the political agenda of NPAA

Political Criteria
Freedom of Thought and Expression (Short Term)
Review the Turkish Constitution and relevant provisions of other legislation, in the light of the criteria referred to in Article 10 of the ECHR,   Review the Article 312 of the Turkish Criminal Code and Articles 7 and 8 of the Anti-Terrorism Act,   Review the act on the Establishment of Radio and TV.

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[294] Belgenet, "**2001 Turkey's National Programme for the Adaptation of the Acquis"**, accessed at http://www.belgenet.com/arsiv/ab/up_002.html, (12.05.2008).

[295] **Usul**, 2003, p. 268.

[296] **Usul**, 2003, p. 268.

(Table.1. continued)

Political Criteria	
Freedom of Thought and Expression (Medium Term)	
Review the Political Parties Act, Review the Act on the Duties and Competences of the Police and the Gendarmerie, Rewiev the Act on Cinema, Video and Musical Works.	

Freedom of Association and Peaceful Assembly and the Civil Society	
Short Term	Medium Term
Enhance constitutional safeguards for non-governmental organizations, Enactment of the draft law on the Economic and Social Council, Enactment of Draft Law on Job Security.	Review of the legislation on the freedom of association and peaceful assembly, Review any restrictions in the area of trade unions rights.

Torture	
Short Term	Medium Term
To undertake arrangements to modernize the Forensic Medicine Institution	Enactment of the new Turkish Criminal Code and the Code of Criminal Procedure,
Improving Functioning of the Judiciary	
Short Term	Medium Term
Review of constitutional provisions on the State Security Courts and independence of the Judiciary	Review of the Military Penal Code and procedures of Military Courts

Also, it was decided to enact improvements in gender equality, take further practical measures to facilitate the practice by non-Muslim foreign nationals residing in Turkey the requirements of their religions, and in relation to other practices concerning, review relevant articles of the Constitution and other legislation in the medium term to define more clearly the structure and the functions of this National Security Council and lift the State of Emergency.[297]

For the Union, these developments were positive, but the Union expressed its need for further progress and advised Turkey to adopt more visible measures for implementation of the priorities of the AP document. In those days, the decision of the Constitutional Court to close the Fazilet Partisi (FP) was another topic for discussions and criticisms. Therefore, it was stated that articles within the Constitution that were especially about freedom of expression were seen as lagging behind the Copenhagen criteria.[298]

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[297] **Usul**, 2003, p. 271, The State of Emergency was fully lifted on 30 November 2002. This development is in accordance with the pledges given in the NPAA document.

[298] **Usul**, 2003, p. 272.

4.2.2.5. Constitutional Amendments Regarding Human Rights / 2001 Constitutional Amendment

As mentioned above the year 1999 was a real tuning point for Turkey. Turkey when declared as a candidate for the EU membership, for the first time found itself in the midst of the comprehensive reformation process that could make Turkey more democratic and improve its human rights records. The impetus behind this demand of change was being fed by two main resources: the Union's pledge in 1999 Helsinki Summit that if Turkey could satisfy the Copenhagen criteria the Union would accept Turkey as a full member; and criticisms that were directed against Turkey form different international organizations, which were damaging the image of Turkey in international sphere. The Union was one of these international organizations. In Turkey at the beginning of this process different debates were initiated on basic problematic issues that were mentioned in previous progress reports, NPAA and AP documents.[299]

The Union, in the 1999 Helsinki Summit mentioned what was needed in order to comply with Copenhagen political criteria and than issued progress reports and specified its basic conditions in the AP. Then Turkey initiated a vigorous process to re-structure itself in the light of the EU criticisms. In this context, *the Political Criteria Sub-committee Report* that was prepared by the Prime Ministry State Planning Organization (DPT) General Directorate for Relations with the European Union was an important development for Turkey. This report was listing and including crucial measures to be taken by Turkey to fulfill the Copenhagen Criteria. The report mentioned needs of change in Article 118 of the Constitution, the Turkish Penal Code, the Turkish Code of Criminal Procedure, the State of Emergency Law of 1983, the Police Duties and Powers Law, anti-Terrorist Law and the Political Parties Law to prevent freedom of

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[299] The basic problems standing in the way of a democratic Turkey have been debated mainly with references to the accession to the EU. The phrase of the Copenhagen criteria cited in the debates about democracy and human rights in Turkey.

expression.[300] It underlined the need of the lifting the death penalty and the signing the Sixth Annex protocol of the ECHR. This was an important step for Turkey, because possibly for the first time Turkey criticized itself crucially about human rights. As mentioned above this need of change showed itself after criticisms of the Union and its different resolutions/progress reports. It can be asserted that Turkey again moved/oscillated towards/between stages of five phase spiral model human rights model.

However, proposals mentioned in the previous report were objected by the report of the General Secretariat of the NSC. The report of the NSC highlighted some Articles of previous report and contended that *such reports were prepared to a great extent in accordance with the views of the institutions which are biased and subjective.[301]* In this report essential emphasis were over Turkey's national unity and its national interests. In the report, the Union was criticized and it was claimed that the Union's desires could increase separatism among people. On the other hand, the NSC report supported the abolition of State Security Courts and the death penalty. As mentioned above, the latter development proves the existence of opposition group and of the second level of the model namely, denial.[302] The third report that was submitted by the EU department of the Ministry for Foreign Affairs submitted a report about the minority rights to *the Supreme Board of Co-ordination for Human Rights Secretariat;* this report underlined the *comprehensive citizenship* to solve the minority problem.[303] In this context, the report proposed that education and broadcasting in Kurdish should be allowed in individual levels.

On September 21, 2000 it was declared that the government accepted the report that was submitted by the Supreme Board of Co-ordination for Human

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[300] **Usul**, 2003, p. 280.

[301] **Usul**, 2003, p. 281.

[302] In this stage of the model, allegations were rejected and critics were denounced as "foreign agents". However, this situation implies the implicit acceptance of validity of claims.

[303] **Usul**, 2003, p. 282.

Rights Secretariat as *reference document*. The government underlined that adaptation laws should be given priority by the Parliament and also it was decided that that all claims of human rights violations must be pursued with determination while work for adaptation to the EU norms and criteria in all fields should be accelerated.[304] According to the Turkish government labor rights and the law on political parties had to be amended; freedom of thought and expression had to be widened; the judicial system had to be reformed; torture and ill-treatment issues had to be handled immediately and it was stressed that training of staff on issues regarding the EC legislation was needed. What makes Turkey is a special case for the model is existence of different characteristics of the third and the fourth stages.[305]

In this regard, the prime minister underlined that in the next legislative year the government would closely monitor developments in Parliament regarding fundamental rights namely human rights, democratization and consolidation of the rule of law and would do whatever needed to facilitate the process.[306] In order to fulfill all these decisions, a government decree with the power of law concerning the *establishment of the Human Rights Department attached to the Prime Ministry* was approved in the Official Gazette on October 5, 2000 to maintain contact with all bodies and institutions working in the field of human rights and coordinate their activities.[307] Furthermore, *an additional body, the Human Rights Advisory Board* was also established. The board would perform as *a liaison function between governmental and nongovernmental human rights organizations.*[308]

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[304] **Usul**, 2003, p. 283.

[305] At these stages new institutions to protect HR are created, public officials including police forces are trained.

[306] **Usul**, 2003, p. 284.

[307] **Usul**, 2003, p. 284. These developments also show the same characteristics.

[308] **Usul**, 2003, p. 284.

4.2.2.5.1. The Constitutional Amendments (2001)

Before Helsinki, as far as democratization was concerned, the only amendment to the Constitution within the sphere of the chapter was fulfilled on 18 June 1999, which was about *Civilianization of the State Security Courts.*[309] This development was realized within 5 days. It was motivated by trial of Abdullah Öcalan. In May 2001 the Parliamentary committee was formed to complete necessary preparations for changes that would be in compliance with the European Union criteria. This draft included the change of the saying "*The language of the Turkish Republic is Turkish" into "The official language of the Turkish Republic is Turkish.*"; an increase of civilians number in the NSC; extension of boundaries of individual privacy and improvement on the right to public demonstration.[310]

On June 2001 the committee declared the draft included 37 articles for amendment. This draft was discussed in the Parliament and that 34 of 37 articles were accepted. 33 of these amendments were approved and the law entered into force on 17 October 2001. Amendments included the introduction of equality of men and women, an increase in the number of civilian members in the NSC and some welcome steps to an improvement of human rights in Turkey. These included the reducing of detention periods; the abolition of the death penalty for criminal offences; the introduction of the right to a fair trial into the Constitution; and the lifting of the ban on statements and publications in Kurdish.[311] The principle of proportionality has been introduced.[312]

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[309] **Usul**, 2003, p. 285.

[310] **Usul**, 2003, p. 285.

[311] **Usul**, 2003, p. 286.

[312] **Usul**, 2003, p. 287.

Another positive step was the abolition of Article 26 (3) on freedom of expression and article 28 (2) on freedom of the press that had banned statements and publications *in a language prohibited by law*.[313] For Özbudun,

> Most of these amendments deal with matters of detail or are simply changes in language which did not create a new legal situation. However, some of them are in the nature of genuine democratic reforms such as the shortening of pre-trial detention periods, the limitation of the death penalty, the changes that made the prohibition and dissolution of political parties more difficult… In short, while these amendments are not sufficient to fully satisfy the European Union criteria, they constitute a modest but important step in the right direction.[314]

4.2.2.6. 2001 Progress Report

On 13 November 2001, the Commission issued the fourth progress report.[315] This report was the first report prepared after announcement of the NPAA. It also included September 2001 Constitutional amendments that were seen very important, but insufficient for Turkey's democratization. The 2001 progress report was different from previous reports, because it was longer than previous reports and included a separate chapter for the assessment of the NPAA.

The report regarded the recent constitutional amendments as significant steps towards strengthening guarantees in the field of human rights and

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[313] **Usul**, 2003, p. 287.

[314] **Özbudun, Ergun**, 2002, "2001 Anayasa Değişiklikleri ve Siyasal Reform Önerileri", Istanbul: TESEV Yayınları, p. 12.

[315] The European Commission, **"2001 Regular Report from the Commission on Turkey's Progress towards Accession"**, accessed at http://ec.europa.eu/enlargement/archives/pdf/key_documents/2001/tu_en.pdf, (12.05.2008).

fundamental freedoms and limiting capital punishment and mentioned that a number of restrictions on the exercise of fundamental freedoms had remained. [316] The Commission demanded from Turkey to revise the NPAA to make it more concrete and clear. The NPAA especially was seen insufficient to meet priorities of guaranteeing cultural rights for all citizens, of removal of all legal provisions forbidding the use of different languages other than Turkish, and of signing Protocol 6 of the ECHR. [317]

After 2001 constitutional changes made in September 2001 Turkey began to wait positive steps expected from the EU side to enhance its goal namely membership target. However, in December 2001 in Laeken Summit, expected positive remarks towards the membership were not seen and in conclusion it was stated that

> Turkey has made progress towards complying with the political criteria established for accession in particular through the recent amendment of its constitution. This has brought forward the prospect of the opening of accession negotiations with Turkey. Turkey is encouraged to continue its progress towards complying with both economic and political criteria, notably with regard to human rights. The pre-accession strategy for Turkey should mark a new stage in analyzing its preparedness for alignment on the acquis. [318]

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[316] The European Commission, **"2001 Regular Report from the Commission on Turkey's Progress towards Accession**", accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2001/tu_en.pdf, (12.05.2008).

[317] The European Commission, **"2001 Regular Report from the Commission on Turkey's Progress towards Accession**", accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2001/tu_en.pdf, (12.05.2008).

[318] The European Commission, "**Presidency Conclusions"** (14–15 December 2001), European Council Meeting in Laeken Summit, accessed at
http://ec.europa.eu/governance/impact/docs/key_docs/laeken_concl_en.pdf, (12.05.2008), and **Usul**, 2003, p. 275.

In June 2002, in Seville Summit also similar statements were seen:

> The European Council welcomes the reforms recently adopted in Turkey. It encourages and fully supports the efforts made by Turkey to fulfill priorities defined in its Accession Partnership. The implementation of the required political and economic reforms will bring forward Turkey's prospects of accession in accordance with the same principles and criteria as are applied to the other candidate countries."[319]

4.2.2.7. The First Harmonization Law Package (2002)

The coalition partners DSP-MHP-ANAP agreed to submit the first *mini democratization package* on January 15, 2002 in parallel with the 34-article constitutional amendment introduced in line with the AP and the NPAA. [320] Within this amendment the penalty limits for offenders are diminished from 1-6 years to 1-3 years imprisonment.[321] Fines stipulated for the offences under the first and second paragraphs of 312 were abolished. Concerning Article 7 of the Anti-Terror Law, the amendment to the second paragraph of the article aimed to criminalize terrorism rather than propaganda in general.[322]

According to the changes made in the Article 312 was to be used to punish those who incite people to hatred and enmity on the basis of religious, ethnic and class differences in a way to endanger the public order instead of the draft text that says the possibility of danger.[323] Bans imposed on radio and television-

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[319] The European Council on Refugees and Exiles, "**Seville European Council"** (21–22 June 2002), Presidency conclusion, accessed at http://www.ecre.org/seville/sevconc.pdf, (12.05.2008), and **Usul**, 2003, p. 276.

[320] **Usul**, 2003, p. 288, and Belgenet, "**The First Harmonization Package**", 6th February 2002, accessed at http://www.belgenet.com/yasa/k4744.html, (12.05.2008).

[321] **Usul**, 2003, p. 288.

[322] **Usul**, 2003, p. 289.

[323] **Usul**, 2003, p. 289.

broadcasting institutions for offences under the third paragraph was diminished from 1-15 days to 1-7 days, the bill lifted the second and third paragraphs of the 16th Article of the law, the pre-trial detention in collective crimes was removed, the state of emergency areas were reduced from the 7 days to 4 days and the maximum period for pre-detention periods was diminished from 10 days to 7 days.[324]

4.2.2.8. The Second Harmonization Law Package (2002)

On March 4 2002 the second harmonization law was submitted and with some changes adopted by the parliament on March 26.[325] The amendment made in the Law of Civil Servants rendered possible to recourse to the personnel having responsibility for cruel, inhuman or degrading treatment. This package also brought *deprival of the political parties from the state aid, in part or in full*. It was an alternative to permanent closure of the political parties. The harmonization package also made some other changes to make closure of political parties harder for the Constitutional Court. The Turkish government after the second package on 15 May 2002 adopted a new law about the establishment and Broadcasting of Radio Stations and TV Channels. It was generally about transparency of media ownership.

4.2.2.9. The Third Harmonization Law Package (October 2002)

Article 159 of the Turkish Penal Code, which was related to the crimes against the state or state institutions, was amended.[326] In this context, the Republic, Turkish Parliament, the government, the ministers and the security forces (including military) could be criticized, provided that such criticism does not contain insults.[327] Newly amended laws allowed the non-Muslim minority

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[324] **Usul**, 2003, p. 289.

[325] Belgenet, "**The Second Harmonization Package**", 26th March 2002, accessed at http://www.belgenet.com/yasa/k4744.html, (12.05.2008).

[326] **Usul**, 2003, p. 291, and Belgenet, "**The Third Harmonization Package**", 3rd August 2002, accessed at http://www.belgenet.com/yasa/k4771.html, (12.05.2008).

[327] **Usul**, 2003, p. 291.

communities greater rights over their religious and educational needs with their foundations settled in Turkey. Amendments introduced provisions that make retrial possible for civil and criminal law cases, provided they are approved by the ECtHR.[328] Broadcasting in different languages was allowed. Minority language courses were allowed, but it did not include state education. Thus, the ECtHR's jurisprudence could be directly applied to Turkey's legal system, thereby addressing the European Commission's 2001 regular report criticisms on this matter.[329] This package and its content were regarded as *steps of revolutionary change* and *the most comprehensive, deepest and fundamental changes towards the recognition of difference.* With these changes certain taboos of previous periods were being broken and shaken.

4.2.2.10. 2002 Progress Report

Contrary to the expectations of the Turkish government, the 2002 regular report did not provide Turkey a clear timetable for the starting of the accession talks.[330] The coalition government had made constitutional and legal amendments to comply with the Copenhagen criteria, but the EU did not change Turkey's status forward.[331] The report stated that

> Overall, Turkey has made noticeable progress towards meeting the Copenhagen political criteria… in particular in the course of the last year. The reforms adopted in August 2002 are particularly far-reaching" but "Nonetheless Turkey does not fully meet the political criteria. First, the reforms contain a number of significant limitations … on the full enjoyment of fundamental rights and freedoms.

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[328] **Usul**, 2003, p. 292.

[329] **Usul**, 2003, p. 292.

[330] **Usul**, 2003, p. 276.

[331] **Usul**, 2003, p. 276.

Important restrictions remain to freedom of expression, including in particular the written press and broadcasting, freedom of peaceful assembly, freedom of association, freedom of religion and the right to legal redress.[332]

This progress report mentioned that there was a little sign of increased civilian control over the military, problems concerning the juvenile courts, inconsistencies in the judicial system, and operations of the NSC, autonomy of armed forces, non-ratified international human rights agreements, torture and mistreatment, F-type prisons, restrictions over freedom of expression, and status of Alevis. In terms of minority rights and protection of minorities the report was mentioning that there was no development for ethnical groups to express themselves and Turkey should sign the Framework Convention for the Protection of National Minorities.[333] Besides these, it was underlined that many of the reforms required the adoption of regulations or other administrative measures; and implementation throughout the country.

4.2.3. New Period in Turkey-EU Relations

4.2.3.1. 3 November 2002 and the Copenhagen Summit

2001 was an important year for Turkey. It was regarded that the February 2001 financial crisis was signifying the zenith point of corruption, populism, clientalism and the dominance of authoritarianism in politics; and need for restructuring of government so as to render Turkey democratic, effective and efficient.[334] National election held on 3 November 2002 and its outcomes reordered political arena. In this context, except the Justice and Development

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[332] The European Commission, "**The 2002 Regular Report from the Commission on Turkey's Progress towards Accession**", 2002, accessed at, http://ec.europa.eu/enlargement/archives/pdf/key_documents/2002/tu_en.pdf, (12.05.2008).

[333] The European Commission, "**The 2002 Regular Report from the Commission on Turkey's Progress towards Accession**", 2002, accessed at, http://ec.europa.eu/enlargement/archives/pdf/key_documents/2002/tu_en.pdf, (12.05.2008).

[334] **Keyman, Fuat**, and **Düzgit, Senem Aydın**; 2004, European Integration and the Transformation of Turkish Democracy, EU-Turkey Working Papers, CEPS Publications, p. 11.

Party (AKP) and the Republican People's Party (CHP), other parties failed to pass the 10 percent national threshold and left outside of the Parliament.[335] This new situation according to Öniş and Keyman was reflecting Turkish people's deep anger towards the existing political system and its constituent political parties.[336] It was believed that the single party-majority government refreshed the expectations of people and created the possibility of different, strong and democratic Turkey. It was believed that a strong single party government with institutional and societal support could erase deficiencies of previous coalition governments and make Turkey more democratic country.

The EU membership was the key point or issue to realize these expectations; however the way towards the realization of expectations, namely the EU membership, was not easy for the government.[337] In this context, the 2002 December Copenhagen Summit was the first hurdle to pass for the AKP. Recep Tayyip Erdoğan in the limited period visited some capitals of the EU and demanded their support in the Copenhagen European Council. However, in the Summit it was decided that the accession talks would start after December 2004 without delay, if Turkey could fulfill the Copenhagen Criteria.[338] Nevertheless, Turkey continued the reformation process in the year 2003.

4.2.3.2. The Fourth Harmonization Package (January 2003)

On 2 January 2003, the Parliament adopted the fourth harmonization package.[339] With amendments made in the related legislations detention conditions were aligned to the European norms and fight against torture became

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[335] **Keyman,** and **Düzgit,** 2004, p. 11.

[336] **Önis, Ziya** and **Keyman, Fuat, 2001,** "A New Path Emerges" Journal of Democracy - Volume 14, Number 2, April, pp. 95-107 and **Keyman, Fuat**, 2003, "A Political Earthquake in Turkey: An Analysis of the JDP Government in Turkey", accessed at: http://www.eurozine.com/articles/2003-01-08-keyman-en.html, (15.05.2008).

[337] **Eralp, Atilla**, 2002, "The EU Accession Process and European Union in Turkey", pp. 52-76.

[338] **Kalaycıoğlu, Ersin**, 2003, "Turkey, the EU and the 2004 milestone: Is this time for real?", St. Anthony's College, Paper Presentation, accessed at http://www.sant.ox.ac.uk/esc/esc-lectures/Ersin.doc, (15.05.2008).

[339] Belgenet, "**The Fourth Harmonization Package**", on 2 January 2003, Belgenet, accessed at http://www.belgenet.com/yasa/ab_uyum4-1.html, (12.05.2008).

more effective. Several articles of the Law on Associations and the Turkish Civil Code were amended and the scope of freedom of association was widened. The Criminal Procedural Law and other related laws were revised to provide more effective functioning of the judiciary.[340] The Press Law was changed in the light of the jurisprudence of the European Court of Human Rights. The Law on Political Parties was amended to align it with the Constitutional amendments. The Law on Elections of the Members of the Parliament and the Law on Elections of Local Administrations, the District Headmen and the Board of Elders were reviewed accordingly.[341] The right to petition was allowed to foreign people in line with the European norms. The Law on Foundations was revised with a view to further facilitating the acquisition of real estate by non-Muslim religious foundations.

4.2.3.3. The Fifth Harmonization Package (January 2003)

On January 2003, the Parliament adopted the fifth harmonization package.[342] This package included some provision on re-trial for civil and criminal law cases that were in line with the European Court of Human Rights, the Code of Criminal Procedure and Code of Civil Procedure were amended in accordance with decisions of the European Court of Human Rights.[343] Besides these changes, the Law on Associations was amended.

After the fifth harmonization package, Turkey-EU relations gained a momentum firstly with the Association Council Meeting in April, with the

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[340] All the above mentioned details of the amendments made in the fourth harmonization package were taken form Türkiye Cumhuriyeti Stockholm Büyükelçiliği internet sitesi, accessed at: http://www.turkemb.se/default.asp?ACT=5&content=63&id=33&mnu=9, (15.05.2008).

[341] All the above mentioned details of the amendments made in the fourth harmonization package were taken form Türkiye Cumhuriyeti Stokholm Büyükelçiliği internet sitesi, accessed at: http://www.turkemb.se/default.asp?ACT=5&content=63&id=33&mnu=9, (15.05.2008).

[342] Başbakanlık İnsan Hakları Başkanlığı, "**The Fifth Harmonization Package**" on 23 January 2003, accessed at http://www.ihb.gov.tr/mevzuat/4793_5._uyum.doc, (12.05.2008).

[343] Türkiye Cumhuriyeti Stokholm Büyükelçiliği internet sitesi, accessed at: http://www.turkemb.se/default.asp?ACT=5&content=63&id=33&mnu=9, (15.05.2008).

acceptance of revised the Accession Partnership in March, and with revisions to the National Programme in July.

4.2.3.4. The Revised Accession Partnership Document (March 2003) and Revised National Programme (June 2003)

In the revised AP document death penalty was not mentioned. However, it was underlined that there was not enough progress in freedom of expression, and rights of religious communities.[344] Besides these Turkey was called to sign more international human rights agreements and lift legal restrictions in line with the ECHR, adopt the functioning of the NSC in order to align civilian control of the military with practice in EU member states. The Union underlined the need of continuation of reforms enhancing the independence of judiciary, training in human rights, prison conditions, civil society and reduction of regional disputes. Also, the Union wanted to see implementations in prevention of torture, broadcasting and education in languages other than Turkish, right of re-trial and the obligation for all judicial authorities to take into account the case law of the European Court of Human Rights.

In response to these demands, the Turkish government firstly summarized developments. In this regard, it was mentioned that Turkey completed comprehensive constitutional and legislative reforms that reinforce and safeguarding fundamental rights and freedoms, democracy, the rule of law, and the protection of and respect for minorities, as set out in Turkey's National Programme for the Adoption of the European Union Acquis of 24 March 2001.[345] Abolishment of death penalty, measures taken against torture and mal treatment, the right to re-trial in the decisions of the ECtHR, improving

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[344] Official Journal of the European Union, "**Turkey: 2003 Accession Partnership**", accessed at: http://www.dpt.gov.tr/abigm/tabi/kob/2003%20Accession%20Partnership%20Turkey.pdf, (12.05.2008), All details mentioned in this part of the thesis about the Revised Accession Partnership document were taken from this web site of the DPT.

[345] Avrupa Birliği Genel Sekreterliği, "**Revised National Programme of Turkey"**, June 2003, accessed at http://www.abgs.gov.tr/files/UlusalProgram/UlusalProgram_2003/En/doc/II-political_criteria(eng).doc, (12.05.2008), All details mentioned above and below in this part of the thesis about the Revised National Programme document were taken from web site of the ABGS.

conditions in prisons and detention houses, the lifting of state of emergency, expansion of freedom of thought and expression, gender equality, rights of non-Muslim communities and the role of NSC were among the points mentioned in the document. The document also mentioned conventions signed by Turkey.[346] There were also some important points about implementation of reforms.[347] The revised NPAA made some commitments about major political criteria namely freedom of thought and expression, freedom of association, right to peaceful assembly and civil society, prevention of torture and maltreatment and etc. On 4 June 2003, the Parliament approved the *International Covenant on Civil and Political Rights*" and the "*International Covenant on Economic, Social and Cultural Rights*."

4.2.3.5. The Sixth Harmonization Package (June 2003)

On 19 June 2003, the Parliament adopted the sixth harmonization package.[348] Article 8 of the Anti-Terror Law expanding the freedom of speech, law was repealed.[349] The death penalty except in times of war and imminent threat of war were completely removed from Turkish legislation. The Turkish

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[346] The document underlined that several conventions relating to the political criteria signed or ratified: Additional Protocol No. 6 to the ECHR Concerning the Abolishing of the Death Penalty, the UN Convention on the Elimination of All Forms of Racial Discrimination, the UN Covenant on Civil and Political Rights, the UN Covenant on Economic, Social and Cultural Rights, the ILO Convention Concerning the Prohibition and Immediate Action for the Elimination of Worst Forms of Child Labor (No. 182), and the UN Convention on Prevention of All Types of Discrimination Against Women and its Optional Protocol.

[347] Efforts to implement the reforms effectively and simultaneously continue. Numerous administrative measures have been put into effect in order to reflect fully the spirit of the reforms in practice. In this respect, bylaws on broadcasting in and teaching of different languages and dialects have been adopted and put into practice. Bylaws on the acquisition and disposal of real estate by community foundations, and on associations, have entered into force, and the administrative restructuring has been completed. Circulars have been issued to raise the awareness of civil servants on the prevention of torture and maltreatment. Human rights training programs for civil servants, particularly law enforcement officers, have been intensified and broadened. Comprehensive training programs for judges and prosecutors, especially on ECHR provisions and ECtHR case law, continue in collaboration with the Council of Europe and the European Union. Solid progress in practice, parallel to the reforms, has been registered in all these areas. The EU Harmonization Commission was created in the Turkish Grand National Assembly in order to increase the efficiency of the process of legislative harmonization.

[348] Belgenet, "**The Sixth Harmonization Package**" on 15 June 2003, accessed at http://www.belgenet.com/yasa/k4928.html, (12.05.2008).

[349] Türkiye Cumhuriyeti Stokholm Büyükelçiliği internet sitesi, accessed at: http://www.turkemb.se/default.asp?ACT=5&content=63&id=33&mnu=9, (15.05.2008). All the above and below mentioned details of the amendments made in the sixth harmonization package were taken from this web site.

Penal Code was amended to impose heavier sanctions for the honour killings of children and the article which allows for the reduction of sentences in cases known as honour killings was repealed.[350] Provisions that make re-trial possible in the light of the decisions of the ECtHR for administrative law cases were introduced. The representative of the Secretariat General for the National Security Council was no longer a member of the Board of Supervision.[351] With this package articles 4 and 32 of Act on the Establishment and Broadcasts of Radio and Television Stations were amended. According to the amendment in Article 4 both private and public radio and television stations could broadcast in languages and dialects used traditionally by Turkish citizens in their daily lives. Following these developments on 26 June 2003, the Parliament ratified Protocol No.6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty.

4.2.3.6. The Seventh Harmonization Package (August 2003)

The seventh reform package came into force on 7 August 2003.[352] It introduced significant changes for the freedom of expression, freedom of association, right of prisoners, religious freedom, rights of children, cultural rights, civilian-military relations were made. Changes introduced to different laws such as the Penal Code, the Anti-Terror Law, the Code of Criminal Procedure, the Law on the Establishment and Trial Procedure of Military Courts, the Law on the Court of Accounts, the Law on the Establishment, Duties and Trial Procedure of Juvenile Courts, the Law on Associations, the Civil Code, the Decree Law on the Establishment and Duties of the Directorate General for Foundations, the Law on Assembly and Demonstration Marches,

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[350] Türkiye Cumhuriyeti Stokholm Büyükelçiliği internet sitesi, accessed at: http://www.turkemb.se/default.asp?ACT=5&content=63&id=33&mnu=9, (15.05.2008). All the above and below mentioned details of the amendments made in the sixth harmonization package were taken from this web site.

[351] Türkiye Cumhuriyeti Stokholm Büyükelçiliği internet sitesi, accessed at: http://www.turkemb.se/default.asp?ACT=5&content=63&id=33&mnu=9, (15.05.2008). All the above and below mentioned details of the amendments made in the sixth harmonization package were taken from this web site.

[352] Belgenet, "**The Seventh Harmonization Package**" on 30 June 2003, accessed at http://www.belgenet.com/yasa/k4963.html, (12.05.2008).

the Law on Foreign Language Education and Learning of Different Languages and Dialects by Turkish Citizens and the Law on the National Security Council and Secretariat General of the National Security Council. The authority of the NSC was revised and its advisory role was prevented.

4.2.3.7. 2003 Progress Report and Reform Process in 2004

The European Commission in 2003 progress report underlined the efforts of the government.[353] It noted that some reforms, which were made under the political criteria in the Revised Accession Partnership, carried particular political significance. However, the Commission noted due to some governmental bodies' interpretations implementation of reforms was uneven or insufficient. Therefore, it was claimed that these applications hindered the attainment of the deserved objectives.

After this report, broadcasting in Kurdish started, the Kurdish deputies were released and rights of non-Muslims were expanded. Also, Turkey initiated a zero-tolerance policy against torture and ill-treatment of prisoners and observed the implementation of freedom of expression, freedom of religion and minority rights.[354]

In 2004 Turkey continued reform process in different spheres.[355] In this regard, on 22 May 2004 the second group of Constitutional Amendments came into force. This amendment package changed the articles of 10, 15, 17, 38, 87, 90, 131 and 160. Consequently Article 143 of the Constitution was repealed. Death penalty was totally abolished, 'In case of a conflict between the laws and international agreements duly put into effect in the field of fundamental rights

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[353] The European Commission, **'2003 Regular Report on Turkey's Progress towards Accession'**, Commission of the European Communities, accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2003/rr_tk_final_en.pdf, (12.05.2008), All the details mentioned in this part of the thesis is the summary of the 2003 Regular Report of the Commission.

[354] **Bağımsız Türkiye Komisyonu,** 2004, Avrupa'da Türkiye: Bir Sözden Fazlası m?, September, pp. 116–21.

[355] Belgenet, "**2004 Constitutional Amendments",** accessed at http://www.belgenet.com/yasa/k5170.html, (12.05.2008).

and freedoms due to differences in provisions on the same matter, the provisions of the international agreements shall prevail' was added to the Constitution.[356] The State Security Courts were abolished and freedom of press was extended. These changes were among the most important points of this amendment package.

In June 2004 firstly, the Parliamentary Assembly of the Council of Europe lifted the monitoring procedure on Turkey that was initiated in 1996. After then Turkey was subjected to the post-monitoring procedure that would focus on a number of areas regarding to Turkey's obligations under the ECHR. At the same time, the Brussels European Council concluded that and one year later accession negotiations started:

> The Union reaffirms that if the European Council decides in December 2004, on the basis of a report and recommendation from the Commission, that Turkey fulfills the Copenhagen Criteria, the EU will open accession negotiations with Turkey without delay.[357]

These precursor signals and the following developments towards the membership target affirmed positive developments' occurrence.

4.2.3.8. The Eighth and Ninth Harmonization Packages and the 2004 Progress Report

The eighth harmonization package that was adopted on 14 July 2004 contained provisions about civil-military relations and death penalty. [358] In this

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[356] UN Human Rights Office of the High Commissioner for HR, "**Initial Country Report of Turkey**", accessed at:
http://www2.ohchr.org/english/bodies/crc/docs/AdvanceVersions/CRC.C.OPAC.TUR.1.doc, (15.05.2008).

[357] The European Commission, '**2004 Regular Report on Turkey's Progress towards Accession',** Commission of the European Communities, accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2004/rr_tr_2004_en.pdf, (12.05.2008).

[358] Türkiye Büyük Millet Meclisi, "**The Eighth Harmonization Package**" on 3 March 2004, accessed at
http://www.tbmm.gov.tr/develop/owa/haber_portal.aciklama?p1=14602, (12.05.2008) and
"**The Ninth Harmonization Package**" on 14 June 2004, accessed at
http://www.tbmm.gov.tr/develop/owa/haber_portal.aciklama?p1=14602, (12.05.2008).

regard, provision allowing for the selection of one member of the Higher Education Council by the General Staff was repealed; application allowing the nomination of one member by the National Security Council to competent boards was ended, and the death penalty was abolished in all circumstances and replaced with life imprisonment.

On 6 October 2004 Progress Report, the Commission recommended the Council to begin accession negotiations with Turkey. However, the Commission underlined the Turkish Penal Code and the remaining defects of the Turkish legal system. According to this report and to the Committee of prevention of torture, Turkey achieved considerable improvement in terms of prevention of torture and ill-treatment. The Commission stated that Turkey had sufficiently fulfilled the political criteria to start accession negotiations.[359] On 17 December on the basis of a report the Council decided to open accession negotiations with Turkey without delay. Finally accession negotiations started on 3 October 2005.

When it is evaluated generally, it can be seen that between the beginning of 2000 and April 2005 the Turkish Grand National Assembly approved hundreds of laws. Most of these changes were within the context of harmonization to the EU Acquis. The reformation process was so comprehensive; in this regard it mainly included 'fundamental rights and freedoms', 'political rights', 'the rule of law' and 'civil-military relations'.[360] For instance, the Article 13 of the Constitution was limited, 'language prohibited by law' was deleted, the scope of offences towards the republic, Turkishness was limited, the death penalty was abolished, conformity with the sixth additional protocol to the ECHR was attained, teaching and broadcasting in different languages were allowed, rights of non-Muslims were expanded; the SoE was totally lifted; the State Security Courts firstly civilianized and than abolished; the number of civilian members of the NSC was increased and the

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[359] The European Commission, '**2004 Regular Report on Turkey's Progress towards Accession"**, Commission of the European Communities, accessed at http://ec.europa.eu/enlargement/archives/pdf/key_documents/2004/rr_tr_2004_en.pdf, (12.05.2008).

[360] **Özbudun, Ergun** and **Yazıcı, Serap**, 2004, "Democratization Reforms in Turkey 1993–2004", TESEV Publications, İstanbul.

advisory character of the NSC was underlined. Besides these changes, in 2002 the new Turkish Civil Code came into force; in 2003 Turkey was introduced with the Law on Family Courts, the Law on Justice Academy and the Law on Access to Information; in 2004 the Law on Electronic Signature, the Law on Compensation of Damages Arose from Terrorism, Combating Terrorism, the new Turkish Penal Code and the Code of Criminal Procedure were enacted.[361]

Turkey also ratified some international conventions such as the Civil Law Convention on Corruption, International Covenant on Civil and Political Rights on Social and Economic Rights, Protocol 6 of the European Convention on Human Rights. Different monitoring mechanisms were introduced and formed. In this context, a Human Rights Department affiliated to the Prime Minister was set up, the Human Rights High Council was provided with a legal status and a Human Rights Consultative Board as well as Provincial Human Rights Council was established. Besides these, the Reform Monitoring Group was set up under the chairmanship of the deputy Prime minister responsible for human Rights.[362] The group was established to supervise the reforms and solve practical problems. In time the Human Rights Presidency, the Human Rights Boards and the Human Rights Office within the Ministry of Interior were established. Institutions such as the Enforcement Judges and Monitoring Boards were established for the rights of detainees. The Police and Gendarmerie forced were trained about the related laws of the Union.

As mentioned above norms and rules are mediators that have regulative and constitutive nature. On the one hand they form boundaries of structures, define and transform the social actions of the agents; on the other hand societal actions of agents reinforce and re-produce them and re-structure again. In this process identities and interests of the agents are constituted, re-shaped and re-

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[361] The World Bank, "**Contract Enforcement and Judicial Systems in Central and Eastern Europe",** Warsaw, Poland, June 2005, accessed at http://siteresources.worldbank.org/INTECA/Resources/CEJSTurkey.pdf, (12.05.2008).

[362] The European Commission, "**Recommendation of the European Commission on Turkey's progress towards accession**", accessed at: http://eur-lex.europa.eu/smartapi/cgi/sga_doc?smartapi!celexplus!prod!CELEXnumdoc&lg=en&numdoc=504DC0656, (12.05.2008).

defined in line with existing historical, political and social context. Norms, rules, and common values also determine who can be a member of the international society.[363] They tell agents which goals are appropriate; establish expectations within the particular environment and about how these particular actors will behave. Agents are taught by these normative elements, internalize fundamental characteristics of that structure and regulate their behaviors accordingly.

This internalization process is mainly dominated by international organizations. They transmit and diffuse norms and teach states about how to behave. At the end it is accepted that agents adopt policies in line with so-called existing norms of cooperative behavior.[364] Such a process takes place in the context of communication between norm violating states and transnational advocacy networks. These international organizations help to create a public opinion affecting the audiences of Western states, international organizations and the society of the target state. On the other hand they criticize the target government and its operations. Today, as mentioned before human rights are key tools of these international organizations.

After the Military Coup human rights criticisms of the Union were generally seen as the external intervention to the domestic politics of Turkey. However, Turkey's membership, economical and political needs made military regime more receptive to European criticisms.[365] The European Parliament, the Commission and the Council with their allegations and efforts tried to put Turkey into the agenda of international relations and affect the audience of the international community. The European Council's decisions, its critical stance towards Turkey and Turkey's membership application changed the picture. The

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[363] **Finnemore**, **Martha**, 1996, pp. 325-347.

[364] We only know what is appropriate by reference to the judgments of a community or a system in general. In this context, we recognize norm-breaking behavior because it generates disapproval or stigma, and norm conforming behavior either because it produces praise or it provokes no reaction. These norms are defined as civilized behavioral patterns.

[365] **Ulusoy, Kıvanç**, 2007, pp. 472 - 490.

Council and the Parliament increased their efforts to publicize developments in Turkey. Besides these, parallel with the increasing public interest for Turkey's domestic politics, the Union demanded Turkey to make necessary political and legal reforms regarding human rights and democratization. These demands created suspicions among Turkish authorities about the real intention of the Union. These opinions sometimes changed the situation and created regressive steps in domestic politics and regulations. Even as seen in some cases objections were expressed with the words of Turkish officials.

Despite changes in human rights and democratization, I assume that especially until 1999, reform efforts were interest based and were emerging from instrumental needs. However, these changes were signifying positive developments and move to the next steps of the spiral model. To approve this assumption certain cases can be given from the history of bilateral relations. In this context, we see that on the eve of the membership, in order to affect the decision of the Commission, Turkey made some improvements in the area of human rights.[366] The instrumental aspect shows itself in the Parliamentary debates. Before membership application, the Turkish government underlined the economic side and benefits of the Union. Also some deputies claimed that the application was made for domestic purposes before 1987 elections. The Council and the Parliament in the process prepared reports and issued resolutions about Turkey's performance about human rights conditions in Turkey. The first and the foremost demand of the Union was to bring Turkey's human rights regime in line with European norms. As mentioned above changes continued in 1990's. However, these changes simultaneously created their counter arguments. It was claimed that the Turkish Constitution was eroded and human rights regime took Turkey into a new capitulatory regime.[367] The Customs Union Agreement was another dynamic behind changes in 1990's.

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[366] The electoral law was amended for banned Turkish citizens from voting, the UN Convention against Torture and Other Cruel, Inhuman and Degrading Treatment of Punishment, signing of the European Convention on the Prevention of Torture in 1988 and granting Turkish citizens the right of individual petition before the ECHR.

[367] **Gunduz, Aktan**, 1998, 'İnsan Hakları Derken Yeni Bir Kapitulasyonlar Rejimine mi Gidiyoruz?', Marmara Journal of European Studies, 6(1), pp. 77–82.

It can be claimed that Turkey's democratization efforts reached its zenith point only after 1999. The 1999 Helsinki Summit, election of the new government, criticisms of the Union, and reports of the various international organizations triggered and forced reformation process in Turkey.[368] In this regard, Turkey began to move to the next steps of the spiral model.[369] With reformation efforts, Turkey began to socialize human rights norms of the Union into the domestic practices. It was one of the ways that was mentioned by Risse towards the norm internalization.[370] Arguments and critics of the Union and various international organizations, cost-benefit calculations of Turkey, internal dynamics and membership perspective had crucial effects over positive progressive developments.[371] Besides works of Turkish government we see that some civil organizations supported this process. For instance, TUSIAD was one of the most important organizations in Turkey. In each opportunity, TUSIAD underlined the significance of Turkey's European perspective and norm socialization.[372]

Reforms, namely abolition of death penalty and the recognition of languages other than Turkish show us that Turkey has been in a kind of process in which its national identity, political community and fundamental structures are and have been re-conceptualized. When this change is evaluated within the context of agent-structure debate, Turkey as the agent was shaped and re-shaped by the normative structure of the Union.

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[368] **Derviş, Kemal, Gros, Daniel, Emerson Michel,** and **Ülgen, Sinan,** 2004, "Çağdaş Türkiye'nin Avrupa Dönüşümü", Toplumsal Katılım ve Değişim Vakfı, Doğran Kitap, pp.11–39.

[369] **The Spiral Model** was explained in the fist part of this work. The model explains a state's shift from noncompliance with human rights norms to the internalization of the norms through ratification of treaties and the institutionalization of norm prescriptions into domestic practices, and the rule-abiding behavior that results from this internalization. It encompasses different stages: **1.**Repression and activation of network, **2.**Denial, **3.**Tactical concessions, **4.**Prescriptive status, **5.** Rule-consistent behavior.

[370] **Risse, T**. 2000, "Let's Argue!: Communicative Action in World Politics", International Organization, 54 (1) pp. 1-39.

[371] Not to make an additional repetition reforms are not counted in this part of the work.

[372] IKV, TESEV, TOBB and other platforms and organizations founded at different levels are other supporters.

4.2.4. Developments after December 2004: From the Perspective of the Copenhagen Criteria

This section of the work will try to summarize developments occurred after December 2004 when the Council decided to open accession negotiations with Turkey. The section will benefit from the 2005 progress reports of the European Commission.[373] In the 2005 Progress Report, the Commission welcomed that the Turkish Parliament adopted several laws which build and reinforce political reform process.

In the report, it was mentioned that Turkey had made a progress in acceding to the international and European conventions and has increased its efforts to execute decisions of the European Court of Human Rights (ECHR). Turkey, on the other hand signed several protocols and ratified charters including Protocol No 14 to the European Convention on Human Rights and the Protocol amending the European Social Charter. The European Agreement relating to Persons participating in Proceedings of the European Court of Human Rights was ratified on 6 October 2004 and entered into force on 1 February 2005.

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force on 1 January 2005. The government in this period tried to pursue a zero tolerance policy towards torture. However, some breakdowns in implementation of these regulations were reported by the Commission. The Commission demanded consistent efforts to decrease the number of cases and reinforce internal coherence of these regulations. The New Penal Code and the anti-discrimination law on Women's rights also entered into force in 2005. The Commission again underlined the problems about implementation.

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[373] The European Commission, '**2005 Regular Report on Turkey's Progress towards Accession",** Commission of the European Communities, accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1426_final_progress_report_tr_en.pdf, (12.05.2008).

According to the 2005 Progress Report, some further progress had been achieved in aligning the overall framework for the exercise of *fundamental freedoms* with European standards.[374] It was mentioned that the new Penal Code provided only limited progress. Implementation and interpretation of these regulations and laws are again point of debate and criticisms. With regards to retrial regulations, it was stated that there were problems in application. Development and operations of the civil society, namely *freedom of association* and *peaceful assembly* were other issues in the report.[375] It was pointed out that regulations adopted in March 2005 introduced some restrictions which could in practice hamper both the establishment and functioning of associations. Operations of the security forces especially were criticized by the Commission.

As regards freedom of religion, the 2005 progress report mentioned that apart from some measures, only very limited progress has been made in establishing legislation which addresses outstanding problems. It was mentioned that Non-Muslim communities had some difficulties with legal personality, training of clergy, residence and property rights. *Protection of minorities and the exercise of cultural rights* was another problematic area in the 2005 progress report. The Commission reminded that there had been no further broadening of the general approach and no consolidation of the relevant legal framework, in particular in the area of broadcasting and education, where important restrictions continued to apply. The Commission also dealt with *civil–military relations*. In this regard in the report the Commission demanded from Turkey more efforts to ensure full civilian control of the military, in line with the practice in the EU member states. However, it was criticized that the armed forces in Turkey continued to exercise influence through informal mechanisms.

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[374] The European Commission, '**2005 Regular Report on Turkey's Progress towards Accession",** Commission of the European Communities, accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1426_final_progress_report_tr_en.pdf, (12.05.2008).

[375] The European Commission, '**2005 Regular Report on Turkey's Progress towards Accession",** Commission of the European Communities, accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1426_final_progress_report_tr_en.pdf, (12.05.2008).

The 2005 progress report also mentioned that there was a significant progress in the area of the *judiciary* with the adoption and the entry into force of a series of new laws which will contribute to improve its *independence and efficiency.* Judgments interpreting the reforms in accordance with the standards of the ECtHR and intensive training of judges that was regarded with the European Convention for the Protection of Human Rights were praised. The Commission in the 2005 progress report demanded further steps to strengthen the independence of the High Council of Judges and Prosecutors. The *prison system* and the situation of *internally displaced persons* were among other expectations of the Commission from Turkey.

In the general evaluation part of the 2005 progress report it was mentioned that Turkey was on its best way to sufficiently fulfill the Copenhagen political criteria which concerned the ensuring of democratic standards, the compliance of the rule of law, and the implementation of fundamental rights.[376] However, when compared with the period before December 2004, it can be seen that the pace of change has slowed in 2005 and implementation of the reforms remains uneven. However, it must be underlined that human rights violations diminished, but there was a need to implement legislation already in force and to take further legislative initiatives in fundamental freedoms and human rights. In this regard, Turkey made progressive steps in terms of ratifying and signing international conventions and charters.

In the 2006 progress report, the limited progress was underlined in aligning civil-military relations and in the area of judicial reforms.[377] The Commission in the report underlined the need for full implementation. However, in this period, it was pointed out that Turkey ratified the second Optional Protocol to the International Covenant on Civil and Political Rights

[376] The European Commission, '**2005 Regular Report on Turkey's Progress towards Accession**", Commission of the European Communities, accessed at
http://ec.europa.eu/enlargement/archives/pdf/key_documents/2005/package/sec_1426_final_progress_report_tr_en.pdf, (12.05.2008).

[377] The European Commission, '**2006 Regular Report on Turkey's Progress towards Accession**", Commission of the European Communities, accessed at
http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/tr_sec_1390_en.pdf, (12.05.2008).

(ICCPR) on the abolishment of the death penalty. Besides this, protocol No 13 of the ECHR, on the abolishment of the death penalty at all times was ratified in February 2006 and Protocol No 14 of the ECHR, amending the control system of the Convention entered into force in May 2006.[378] The UN Convention against corruption entered into force in June 2006. The Commission also dealt with the deficiencies in the areas of torture and ill-treatment and freedom of expression. It was mentioned that legal frameworks had to align in line with the European standards. Overall, it can be seen that there were positive progressive developments in Turkey in line with spiral model's assumptions. Changes made in 2006, were generally in compliance with the demands that were mentioned in the revised Accession Partnership document of 2005 and the Council decision about priorities of AP in 2006. This situation shows that Turkey and Turkish government take critics of the Commission into consideration seriously.

2007 Progress Report like the 2006 report bears the same theme and priorities about Turkey.[379] Again in the report in the Political criteria and Enhanced Political Dialogue part of the report, it was mentioned that the military had significant political effect in the country. In other words, the same point, namely lack of civilian supervisory functions over military was underlined again. It was mentioned that in 2007 the UN Convention on the Rights of Persons with Disabilities was signed by Turkey. Despite this institutional progress, it was demanded that there was a need to improve the application procedures. There was a special emphasis on zero-tolerance on torture. The commission pointed out that there was a downward trend in the number of reported cases. According to the Commission in the 2007 progress report it was underlined that decisions of judicial bodies revealed that there was not a full guarantee for freedom of expression in line with European standards.

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[378] The European Commission, '**2006 Regular Report on Turkey's Progress towards Accession"**, Commission of the European Communities, accessed at
http://ec.europa.eu/enlargement/pdf/key_documents/2006/Nov/tr_sec_1390_en.pdf, (12.05.2008).

[379] Dış Ticaret Müsteşarlığı, '**2007 Regular Report on Turkey's Progress towards Accession"**, Commission of the European Communities, accessed at
http://www.dtm.gov.tr/dtmadmin/upload/AB/ABKurumsalDb/turkey_progress_reports_en.pdf,
(12.05.2008).

In this regard, it was demanded that Article 301 and other provisions of the Turkish Penal Code had to be developed in line with the ECHR.[380]

In 2007 progress report it was stated that legal framework of assembly was in line with European standards and citizens could use this right without any interruption. Minority and cultural rights were again among problematic areas. In this context, the Commission mentioned that there was a little development about cultural diversity and respect for and protection of minorities in line with European standards. Significant further efforts were required in particular on use of languages other than Turkish in broadcasting, in political life and when accessing public services.[381]

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[380] Dış Ticaret Müsteşarlığı, '**2007 Regular Report on Turkey's Progress towards Accession",** Commission of the European Communities, accessed at
http://www.dtm.gov.tr/dtmadmin/upload/AB/ABKurumsalDb/turkey_progress_reports_en.pdf,
(12.05.2008).

[381] Dış Ticaret Müsteşarlığı, '**2007 Regular Report on Turkey's Progress towards Accession",** Commission of the European Communities, accessed at
http://www.dtm.gov.tr/dtmadmin/upload/AB/ABKurumsalDb/turkey_progress_reports_en.pdf,
(12.05.2008).

CHAPTER V

A CRITICAL ASSESSMENT

TURKEY AND THE SPIRAL MODEL

Phase one of the spiral model, namely repression and network activation began in Turkey right after the 1980 military intervention that resulted in significant increase in violation and narrowed borders of human rights (HR) area in the country. With the intervention political parties were closed, democratic processes were suspended, freedoms were restricted. Limited opportunities to get news from the country in the first years of 1980s hindered activities of international organizations. The military government after the intervention declared that it would be bounded with NATO. 15 months after the intervention the EC and the EP in order to put HR violations into the center of international community began to raise their voices. This situation was the natural outcome of increasing opportunities to get news about negative consequences of the intervention. Risse in his work assumes that when the information on a significant increase in state's HR violations could be internationally disseminated, and then the state moves to the second phase of the model. Due to its political and economical vulnerabilities, its asymmetrical position and increasing opportunities to get news from the country, the military government in order to pacify external criticisms made some amendments. In other words, the concessions offered by the Turkish military government in the early years of the so-called period were response to its external critics. In this regard the new constitution was drafted and it was decided that the next election would be held in 1983.

The 1983 elections started tendency progressive developments. The withdrawal of the military government, establishment of political parties, and

abandonment of restrictions on trade unions and partial amnesty for prisoners brought a new wave of democratization in Turkey. All these developments were made to counter international criticisms and prepare the country for full application to the EC. The main motivation or incentive of this period was instrumental-material. However, with these developments Turkey began to step in to the next level namely, tactical concessions, but as was mentioned in the previous part of this work, different phases of the model exist simultaneously in Turkey. In this regard, establishment of National Security Courts and other restrictive measurements crumbled the progressive developments in Turkey and were seen as indicators of the existence of the first phase of the model when Turkey was assumed in the third phase of the model. The increasing works and efforts of the international organizations and European bodies moved the country to the agenda of international community. These developments were seen as an intervention to the internal affairs of the country by some circles. In this regard, they denied the validity of allegations about HR and terrorist attacks were shown as the main source of these restrictive measurements. However, even this denial was showing that officials and different circles in the country were accepting that they faced a problem in terms of the country's international reputation that is an important indicator of the model. At the same time they reject these claims and deemed them as foreign and ignorant.

After the mid 1980s due to increasing terrorist attacks Turkey took additional measures such as introduction of the State of Emergency and enactment of the Law on Fight against Terrorism. These developments were carrying the characteristics of the first phase. However, on the other hand, in those years before application to the EC membership, Turkey granted Turkish citizens the right to individual petition before the EctHR and created a Parliamentary committee to supervise HR developments that are in compliance with the third and partially the fourth phases of the model. Moreover, in 1987 Turkey ratified the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment and the UN Convention against Torture, 200 verdicts of capital punishment were not approved by the Parliament and some amendments were made in the Penal Code. Granting the Turkish citizens the

individual petition to the EctHR was in compliance with "the self entrapment with the rhetoric" assumption which is the characteristic of the third phase of the model, because after this decision of Turkey later decisions of the Court against Turkey became main point of departure for crucial criticisms. Changes made before the 1987 EC membership application were seen under minimal standards the EC sought. However, Turkey's desire to join the EC was seen as the main driving force and prospect of membership steadied the occurrence of positive developments.

In the aftermath of the rejection of the Turkish application for full-membership to the EC, Turkey continued to make additional changes that prepared the country for Customs Union pre-requirements. In compliance with decisions and resolutions of the EP and the EC; the articles 141 and 142 of the Criminal Code were repealed in 1991. In 1992 a reform of judicial procedure was introduced, a HR commission was established in Turkish Grand National Assembly (TGNA), Turkey for the first time recognized the Kurdish reality and restrictions about cultural rights were lifted. However, these positive progressive developments were reversed and interrupted by the decision of the Constitutional Court to dissolve DEP and detention of representatives of the party. These developments were met with critical stance of the Union and directed various international organizations to issue different resolutions and decisions. In response to these negative developments Turkey both to meet the criticisms of international organizations and render the Customs Union agreement possible made some changes: restrictions on associations and Unions were lifted, political parties were allowed to broaden their activities, and Article 8 of Anti-Terror Law was amended, except for four defendants other detainees were released in the DEP case. All these developments made before the ratification of the Customs Union can be examples of active leverage mechanism of the Union. This is a dominant mechanism in asymmetrical relations formed between the Union and candidate states. Despite occurrence of some regressive moves, the process was bearing progressive nature and the main motivation was instrumental.

In the 1997 Luxembourg Summit, which did not recognize Turkey as a candidate country for full membership was one of the crucial turning points of the bilateral relations. After the decision made in the Summit Turkish government decided to freeze its bilateral relations and limit its relations. This behavior or the counter-movement of the Turkish government shows us that the main mechanism or incentive behind the motivation of Turkey's progression in the HR area was bounded with the instrumental needs of the country. The assessments of the Turkish government and officials were meeting on the point that the Union was conducting double standards when the subject was Turkey. After 1998, which was seen as lost year in bilateral relations, in 1999 with Helsinki Summit relations were changed radically and dramatically. With the acceptance of Turkey's candidacy at the Summit bilateral relations witnessed a remarkable turn towards the normalization. After the realization of the membership perspective Turkish governments in order to satisfy the Copenhagen criteria and start accession negotiations with the Union initiated a reformation process in different areas and specifically in HR. In this context, death penalty was abolished, individual and cultural rights were broadened and institutional changes were made in the government. The 1999 Helsinki decision and the response of the Turkish governments once more showed the importance of the material rewards for Turkey.

After 1999 governments in Turkey began to take criticisms seriously and changes in Turkey began to follow a path that has been shaped by the priorities mentioned in the reports and resolutions of the Union and of other international organizations. These decisions also supported the efforts of civil society organizations. As emphasized by Risse one of the crucial developments in the target state in the context of the spiral model is the mobilization of domestic interest groups. In other words, the spiral model binds the success of the transnational human rights network's consistent pressure over the target state to the activation of domestic and international actors. Especially from the beginning of the 2000s in parallel with the progressive developments the mobilization of domestic groups increased. They began to bring sensitive subjects into the agenda of the country. With these efforts issues that have been

regarded as taboos of Turkey such as language and minority rights entered into the debate. These developments prove the assumption of the model that points out the increasing activities of civil society organizations in the third phase. These successive developments in time lessened the critics of external and internal opposition groups and supported claims of pro-EU sides of Turkish elites. In parallel with increasing the support of Turkish public opinion, the progress or reformation appetite of the Turkish government reached a high level. In line with the assumptions of the model, in 2000s Turkey continued to internalize international norms into its domestic legislation, application mechanisms were established, public officials were trained, new institutions were formed and various agreements were ratified in the Parliament. All these developments were indicating that Turkey exhibiting similar characteristics of the fourth level of the model. These changes are made within the framework of the National Action Plans and the Accession Partnership documents' expectations.

In the end, it was seen that at the beginning of the 2000s Turkey began to criticize itself about HR with the reports prepared by governmental agencies (the political criteria sub-committee report which was prepared by DPT). However, even in 2000s some important institutions increased their voices against the EU membership. The National Security Council (NSC) with its counter report made emphasis to the national unity and national interests. The Union was criticized and the NSC underlined that the Union's desires could increase separatism among people. These developments showed that still there were some characteristics of the denial phase of the model. Despite opposition group's opinions Turkish governments in 2000 formed the Supreme Board of Coordination for HR and prepared a reference paper for further changes in HR sphere. With 2001 Constitutional reforms the progressive developments accelerated. In the following years despite the existence of negative developments bilateral relations and reformation efforts deepened. In this period political parties increased their support, but vulnerabilities of the Turkish public opinion hindered their support.

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In 2002 a single-party majority government was established in Turkey. The government refreshed expectations of people and created the possibility of strong and democratic Turkey. In this period Turkey followed a similar development pattern with the assumptions of the model. Within the frameworks of harmonization packages amendments were made in the domestic legislation, the state of emergency was lifted, different international agreements were approved and ratified, cultural rights were broadened, different protection mechanisms were introduced for minorities and protocol 8 of the Convention for Protection of Human Rights and Fundamental Freedoms was ratified. These positive steps were underlined in regular reports of the Commission. On 6 October 2004 in the Progress Report the Commission recommended the Council to begin accession negotiations with Turkey. On 17 December 2004 on the basis of a report the Council decided to open negotiations on 3 October 2005.

The beginning of negotiations shows the success of the efforts of the successive Turkish governments. This success on the other hand affirms the effectiveness of the Union given the weaknesses of internal opposition groups and mechanisms. It is assumed that there has been a relationship between the timing of changes and critical turning points/dates of bilateral relations. When it is closely observed, it is possible to determine that the volume of changes has always increased before critical decisions of the Union about Turkey: Before 1987 application, after 1999 Helsinki Summit and before 2004 the Council decision. This aspect of bilateral relations takes us to the following question: To what extent ideational or argumentative transformation/transformation occurred in Turkey?

In fact, it can be assumed that after 2002 with the continuous efforts of the government Turkey entered to the process that was motivated by ideational dynamics. However, decreasing pace of reformation efforts after the beginning of the accession negotiations changed the general picture and takes us again to the claim that the main motivation behind changes has been instrumental. As it was mentioned in previous parts of this thesis the third and the fourth phases of the model require the existence of argumentation and institutionalization

mechanisms. Despite the progress towards the phases of the model, the main mechanism or incentive remained the same in the case of Turkey, what makes it a special case for the spiral model.

The insufficient application of norms and indirect mechanisms preventing institutionalization of amendments can also be regarded as indicators of the existence of instrumental incentives that includes strategic calculations and targeting of specific goals or rewards. On the other hand, limited discussions on important amendments or changes damage the durability of these changes and decrease the chance of application in domestic sphere. Despite these negativities that are found in the reformation process it can be assumed that the amendments and the changes will show their gradual effects in the future on identity and interests of the country. Even today, it is possible to say that the changes are effective on the identity of Turkey in terms of its human rights approach, practices and applications. Certain biases about different human rights issues began to remove or have been erased from the agenda of the country and public opinion. Additionally these changes have made possible and supportive contributions for reorientation and re-construction of mentalities of future policies about human rights and other related issues.

Increased pressure of the Union helped to motivate the Turkish governments to progress towards the last phases of the model. The European bodies' critical stance against HR violations of Turkey triggered and encouraged Turkey to make necessary concessions. In line with assumptions of the model and constructivism it can be assumed that the Union, in the absence of domestic opposition groups and in the existence of growing human rights violations with its normative frameworks and membership reward, became a strong anchor for Turkey to change its domestic HR practices in line with HR norms of the Union which can be seen as reflections of ideational elements emerged in the international relations after the WWII. The pressure of the Union, of other international organizations and of other democratic states provided suitable environment for Turkey's progress through the phases of the spiral model.

The model conceptualizes an asymmetrical relationship between the agent and structure. In this asymmetrical relationship, communication flow and its outcomes are always unidirectional. In compliance with this assumption, relationship between Turkey and the Union has been in a kind of asymmetrical structure that can also be explained with international society centric constructivism. In this asymmetrical relationship Turkey by adopting normative framework of the Union has affirmed the Union's normative structure and re-shaped its basic characteristics. In other words, it is possible to say that the Turkish government had become socialized into the structure of the Union and at the same time Turkey partially influenced the EU's structures. However, the model expects a linear and one-sided development. The model underlines the influence of international human rights norms on basic characteristics of the agents namely identities, interests and behaviors. It is assumed that agents reflect similar behavior indicating linear progress towards the model's five phases as they are influenced by international actors' activities. However, constructivism emphasizes that the identities and interests are in a mutually constitutive relationship with international normative structures.[382] The spiral model only conceptualizes or takes one side of the relationship into account: influence of norms on the identities, interests and behaviors of a target state.

By the end of 2007 it is possible to say that Turkey's identity, interests and behaviors share a similar characteristic that suggests existence of the third and the fourth phases of the spiral model, namely tactical concessions and the prescriptive status. In these phases, the spiral model expects the ratification of international agreements, establishment of HR structures and limited changes in domestic sphere to meet the external critics. As mentioned above, Turkey is a special case for the model, because Turkey bears different characteristics and mechanisms of different phases of the model simultaneously. For instance while the model expects the target state to move with the argumentative discourses in

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[382] The Spiral Model adopts a constructivist approach and assumes intersubjective ideas and material factors have significant influence on human interaction. In international relations, as mentioned before, this situation includes social construction of state interests and identities in mutual constitution process. In line with this, the model aims to examine constitutive relationship between human rights norms and agents' identities and interests, but the model does not explore any influence a target state may influence international normative structures.

phase three, the Turkish government's behaviors were sharing instrumental adaptation or incentives in the same phase.

It is also assumption of the theory that the model can be applied to all countries independent of economic and political effects. However, powerful groups and agents are not affected by the criticisms of international organizations. It could be asked what could happen in Turkey, if it would be more powerful? Because the Union triggered the reformation efforts in Turkish case, it is very important anchor for Turkey. However, in the model it is not possible to find a similar role attributed to the international organizations. The model assumes that there is only one-sided and asymmetrical relationship between agents and structures, but in such an environment agents have not enough power to bargain over norms and requirements. This dimension or the claim of the model results in the dominance of instrumental incentives.

The model claims that international organizations conduct their efforts on behalf of domestic groups, but the model does not give a clear answer if claims of these organizations do not comply with the claims of the domestic groups like Alevis in Turkey. It is believed that domestic groups are active players in these processes, but the model only mentions the activities of international organizations and disregards their possible influences. It is believed that without mentioning and taking them into account, analyses will be less meaningful and less explanatory.

CHAPTER VI

CONCLUSION

Although there are some circles in the Western European countries who are skeptical about the *Europeanness* of Turkey, bilateral and official relations between Turkey and the European organisations date back to the end of the 1940s.[383] As mentioned in the introduction section, since the end of the 1940s Turkey has been a member of the Council of Europe, has been a party to the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR). However, the official relations that were started with 1963 Ankara Agreement followed a kind of zigzag pattern. In other words, there have been many pitfalls obstructing the emergence of progressive developments in bilateral relations.[384] The zigzag pattern of bilateral relations became more deepened after the 1980 military intervention and its negative consequences over human rights practices and regulations. These negative developments after 1980 have always been basic obstacles for Turkey towards the EU membership process.

When it is closely observed, it can be seen that the membership process is a kind of learning process in which actors tend to pursue material bargaining and calculation of costs and learn how to behave after a process of socialisation and persuasion.[385] After such a threshold point in line with the Union's prescriptions states choose the most appropriate behaviour to determine their policies and confirm or re-shape the Union's structure. Thus the membership

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[383] This chapter of the thesis is designed as the summary of the previous chapters. Therefore, the same references used in those chapters are valid in this chapter of the work.

[384] **Usul**, 2003, p. 250.

[385] **Erdoğan, Birsen**, 2006, p.4.

process becomes a mutual constitution process between states and the Union's normative structures in which states internalize existing international societal norms with efforts of the Union that is seen as *active teacher* guiding states to initiate policies in compliance with international '*civilized norms of behaviour*'.

Without any doubt after the end of the cold war non-governmental actors began to take these norms into consideration and develop their domestic and international policies in line with these norms which are deemed as '*civilized normative patterns*' of today. Like other international organizations the European Union with Copenhagen Criteria took these norms its among founding principles to develop a distinctive and consistent human rights vision and autonomous foreign policy instruments and framework. Integration to the Union depends on their acceptance, diffusion and legitimization in the domestic sphere of the candidate state. It is believed that these normative structures of the Union bear historical tasks to change identities of the candidate states in line with the European. Candidates in the membership process firstly pursue their instrumental / interest based needs. However, when these norms begin to affect the identity of the state, they change their incentives and follow moral argumentations and the guidance of the Union. It is assumed that the Union's prescriptions and norms re-construct the preferences/world-views of states and decisions of the state are supposed to be taken in accordance with the constitutive norms, principles and the shared identity of the Union. In this process appropriate behaviors and norms make states minds up, say what are they expect to do and define the roles and norms to be applied. This aspect of the membership process again shows us that identities of states are not fixed but are contextual.

Like the international society centric constructivist approach, there is an asymmetrical relationship in the membership process between candidate states and the EU as normative structure and powerful international organization. In this process the Union in order to support this asymmetrical relationship use active and leverage mechanisms by disseminating regular progress reports and the Accession Partnership agreements. The Union also supports these

mechanisms with financial aids and technical assistances. The motivations behind these activities are keeping the governing elites and publics in the candidate countries under pressure and to carrying human rights conditions into the agenda of the international community. In such an asymmetrical relationship the candidate states, demanding the EU membership, have to meet the conditions defined by the EU. In other words, in order to get access to the Union's resources, actors adopt the constitutive beliefs and practices institutionalized in the social environment and taught by the Union. As mentioned before social interactions occurring in this process are mostly directed with deliberation, social learning, argumentation and persuasion.

It is believed that the Union's efforts share similar characteristics of the model. As mentioned before the model expects a state's shift from norm violation in human rights norms to the internalization of the norms through ratification of treaties and the institutionalization of norm prescriptions into domestic practices, and the rule-abiding behavior that results from this internalization.[386] In other words, the model seeks to explain places and importance of states, international agents and networks encouraging international HR norms in target states. In the membership process, as mentioned above the Union has used and conducted different mechanisms and tools to change actors' basic properties namely identities and their behaviors. It publishes reports about situation of the country, empowers reformist elements in their societies, alters the domestic opportunity structure during the accession process, helps to create a strong language of rights in the country, changes in state-societal relations and provides legitimacy for civil society organisations by calling for recognition of cultural/civil rights and freedoms. As mentioned above states in this process, in line with the model assumptions firstly pursue their material interests and do not spend enough time to question validity of the norms, and then in argumentation processes accept and internalize them into their domestic sphere.

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[386] **Risse, Thomas** and **Sikkink, Kathryn**, 1999, pp. 1-39.

The EU's interest in Turkey's HR records and Turkey's learning process began in 1980 after military intervention. As it is known after military intervention in Turkey political parties closed, democratic processes suspended, freedoms were restricted, etc. At the beginning the EC followed wait and see policy, adopted a relatively soft approach and demanded from Turkey to re-establish democratic institutions, preserve human rights and lives of prisoners. However, 1,5 years later the EC changed its policies, adopted more critical stance, published reports and tried to increase attention of international community against Turkey. All these efforts tried to put HR violations in Turkey into the center of international agenda. With this way the EC and the EP began to frame HR problems of Turkey to put Turkey into shameful position. In line with information politics, increasing opportunities to get news from Turkey also opened additional ways for NGOs and IGOs to frame violations in Turkey.

Turkish government, in order to change this image and existing situation made certain reforms. A constitution was drafted in September 1982 and was voted 91.7% majority. Also it was decided that general election would be held in 1983. These moves of Turkish government were realized, after Turkish authorities noticed seriousness of warnings of European authorities. However, in the essence of these changes we see traces of instrumental reasons. Turkey, with these changes, wanted to maintain his relationship with the Europe and benefit from financial aids of the Union. Rest of 1980s also witnessed important changes' occurrence. In this context, constitutional amendments were made, and suitable conditions were set for civil society and power groups. These developments partially improved Turkey's image in Europe. Civilian authorities began to take decisions and criticisms of the EU, and initiated serious reform efforts. These changes in some respect were deriving from instrumental reasons, but it became clear that Turkey implicitly or explicitly accepted the validity and existence of accusations and human violations. In 1986 Turkish Assembly adopted a partial amnesty bill in March 1986 and lifted the ban the expression of opinion on domestic and foreign policy by former politicians. In 1987 an Amnesty International team was allowed to study prison conditions in Adana; a law abolishing the long criticized penalty of internal exile was passed and some

other amendments were introduced to lift preventions for political party leaders. Also, in January 1987, Turkey recognized the competence of the European Court of Human Rights to hear individual complaints.

When it is evaluated, it can be seen that between 1980 and 1987, the EU with its decisions and resolutions gave a direction and create an impetus in Turkey towards the change for re-establishment of democracy and implementation of human rights. In this regard, it can be argued that the Union took a constructive human rights policy for Turkey. In these years Turkey passed from 1st, 2nd and the 3rd phases of the Spiral Model.[387] At this point another dilemma showed itself: Some strong circles in Turkey regarded these increasing criticisms of the Union as violations of Turkey's sovereignty and interventions in Turkey's internal affairs. However, denials and rejections of these parties in the essence was one of the indicators of implicit acceptance of allegations and country's bad international reputation.

In 1988 Turkey ratified the UN Convention against Torture and other Cruel, Inhuman, Degrading Treatment of Punishment and the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment. In 1990, Turkey recognized the compulsory jurisdiction of ECtHR and signed the ninth Protocol of ECHR prescribing the right of individual petition to the ECtHR and CSCE Paris on November 1990. A number of non-governmental organizations were established in response to the growing popular advocacy of democratization and to EU pressures. However, Turkey's membership application was rejected by the EC due to shortcomings in political and economical spheres. On December 4 1990, a Parliamentary Commission consisting of the representatives of all political parties was established within the Parliament to monitor human rights violations in Turkey, to investigate allegations and complaints and to propose amendments to the existing

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[387] The Spiral Model was explained in the fist part of this work. The model explains a state's shift from noncompliance with human rights norms to the internalization of the norms through ratification of treaties and the institutionalization of norm prescriptions into domestic practices, and the rule-abiding behavior that results from this internalization. It encompasses different stages: **1.**Repression and activation of network, **2.**Denial, **3.**Tactical concessions, **4.**Prescriptive status, **5.** Rule-consistent behavior.

legislation. These changes were harboring some characteristics of different levels of the spiral model.[388] Within the Turkish Grand National Assembly a human rights commission was formed, and the members of this commission participated in a meeting of the Turkish-EU joint Parliamentary Committee.[389] In terms of minority rights important steps were taken: the ban on the use of the Kurdish language was lifted, restrictions about cultural rights were alleviated and it was allowed to celebrate Nevroz officially.[390] Besides these restrictions on associations and trade unions were lifted; political parties were allowed to broaden their activities, open offices and establish links with international associations. Most of these changes were made for the completion of the Customs Union agreement.

In 1997 the government established the High Coordinating Committee on Human Rights whose role was to co-ordinate and monitor the implementation of measures aimed at improving the human rights situations. In the same year Turkey's application to the Union for the second time was rejected by the Union due to same reasons mentioned in 1989 decision. Due to armed attacks of PKK, until 1999 Turkey's HR record had not improved especially in areas ruled under the state of emergency. These developments in those years were preventing general appearance and substantial progress of HR developments. However, Turkey, due to reactions of elites the United States' initiative and to foster the democratization efforts, was accepted as the 13th candidate country at the Helsinki Summit in 1999. This development forced Turkey into series of amendments namely reformation packages in terms of its domestic legislation. In 1998, Regular Reports on Turkey's progress towards democratization and different Commission reports and decisions began to enter to the agenda of Turkey. These documents began to

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[388] The model mentioned that in the third level, namely prescriptive status, the government begins gradual improvements, and in the fourth level new institutions are established for human rights, procedures for individual complaints are instituted and ratification of international human rights treaties reveal themselves.

[389] **Arıkan**, 2003, p. 127.

[390] **Arıkan**, 2003, p. 127.

direct progressive path of Turkey and Turkish governments towards better situation in HR and democratization.

1999 was an important turning-point in terms of HR and democratization. Especially the capture of PKK leader decreased the level of HR abuses. On November 1999 amendments to Articles 243 and 245 of the Penal Code increased the length of custodial sentences for those found guilty of torture. Also, 1913 Civil Servants Law amended and ways opened for responsibility of security forces in involvement in HR violations. In 2000 Turkey also signed the United Nations Charter of Individual and Political Rights and the Charter of Economic and Social Rights. After ratification of Accession Partnership Document and acceptance of National Programme involving short-medium and long term priorities, Turkey with increasing pace began to change regulations that were created by 1980 military government.

The Accession Partnership document was the most important development summarizing the pre-accession strategy and necessary/demanded reforms to be fulfilled by Turkey on the way to the EU membership. On the other hand, the NPAA was a wide-ranging document addressing most of the priorities stated in the Accession Partnership. It introduced a wide agenda of political and economic reforms. Contrary to the expectations of the Union, the NPAA was far from ideal point to be reached.

In 2000, additional board for Human Rights department was established attached to the Prime Ministry. The department would perform as a liaison function between governmental and non-governmental human rights organizations.[391] In 2001 comprehensive constitutional amendments were made. In this context, numbers of civilian members in the NSC were increased; detention periods were shortened; ban on statements and publications in Kurdish were lifted.

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[391] **Usul**, 2003, p. 284.

After 2001 amendments, Turkey witnessed 9 reformation (harmonization) packages from 2002 to 2004. These packages were prepared in line with the AP and the NPAA documents. The first package was introduced on February 2002. Articles 159 and 312 of Turkish Penal Code and 7th and 8th articles of Anti-Terror Law amended and period of custody was decreased. Also, additional guarantees were brought about privacy of private life and freedom of correspondence. With the second package on April 2002 Law of Foundations were amended and banned language passage was eliminated from Press Law. The package was generally about transparency of media ownership. Four moths after the third package introduced on August 2002. In that package death penalty abolished, legal guarantees introduced for freedom of expression and freedom of associations. Broadcasting in different languages was allowed, provided they do not violate the national unity and the principles of the Republic. Minority language courses were allowed, but it did not include state education. Also on November 2002 the state of emergency removed.

Establishment of new government in November 2002 other reformation packages introduced measurements involving the prevention of torture and ill treatment, changes in the Political Parties and Elections, simplification of procedures on non-Muslim community foundations and retrial arrangements on the basis of judgments rendered by ECtHR. The Criminal Procedural Law and other related laws were revised to provide more effective functioning of the judiciary. The Press Law was amended in the light of the jurisprudence of the European Court of Human Rights. The Law on Political Parties was reviewed to ensure alignment with the previous Constitutional amendments; particularly the articles on disbanding political parties. The Press Law was amended in the light of the jurisprudence of the European Court of Human Rights.

Opening of places of worship rendered possible, regulations about composition of National Security Council and relevant law were among other changes that were made in 2003 in following other four packages. The right to petition was allowed to foreign people in line with the European norms. The Law on Foundations revised with a view to further facilitating the acquisition of

real estate by non-Muslim religious foundations. The Code on Criminal Procedure on Civil Procedure was amended in accordance with decisions of the European Court of Human Rights. Besides these changes, the Law on Associations was amended.

In the sixth harmonization in 2003 package, the death penalty except in times of war and imminent threat of war were completely removed by the Turkish legislation. Provisions that make re-trial possible in the light of the decisions of the ECtHR for administrative law cases were introduced.[392] Following to these developments on 26 June 2003, the Parliament ratified Protocol No.6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty.

In 2004 Turkey continued reform process in different spheres. In this regard, on 22 May 2004 the second group of Constitutional Amendments came into force.[393] This amendment package changed Articles of 10, 15, 17, 38, 87, 90, 131 and 160. Consequently Article 143 of the Constitution was repealed. Death penalty was totally abolished, 'In case of a conflict between the laws and international agreements duly put into effect in the field of fundamental rights and freedoms due to different in provisions on the same matter, the provisions of the international agreements shall prevail' was added to the Constitution, the State Security Courts were abolished and freedom of press was extended. These changes were among the most important points of this amendment package.

Despite influential changes in these 7 packages, different progress reports have always emphasized deficiencies and necessary legal regulations. These progress reports have played precursor roles for necessary amendments. In the last two packages, namely 8th and 9th packages, opened decisions of High

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[392] **Usul**, 2003, p. 289.

[393] Belgenet, "**2004 Constitutional Amendments**," accessed at http://www.belgenet.com/yasa/k5170.html, (12.05.2008).

Military Council to judicial review, entitlements of president were limited; National Security Courts were completely abrogated.

With these two last packages in 2003 and 2004 Turkey generally completed the first homework on the way to the EU membership. In this context, firstly, the Committee Prevention of Torture (**CPT**) in 2003 confirmed the existence of positive HR developments in Turkey. All these developments showed their positive consequences in 2004 progress report of the EC. In addition to these in 2004 Parliamentary Assembly of the CoE lifted monitoring mechanism that was formed for Turkey in 1996 about HR. At the end in December 2004 the EC decided that Turkey fulfilled the Copenhagen Criteria to a satisfactory extent and accession negotiations could begin. On the 3rd of October the Negotiating Framework was issued by the EU General Affairs and External Relations Council. Finally the EU Council decided to start accession negotiations with Turkey in October 2005.

After the Military Coup, human rights criticisms of the Union were generally seen as the external meddling to the domestic politics of Turkey. However, Turkey's membership, economical and political needs made military regime more receptive to European criticisms. The European Parliament, the Commission and the Council with their allegations tried to put Turkey into the agenda of international relations and affect audience of the international community. The European Council's decisions, its critical stance towards Turkey and Turkey's membership application changed the picture. The Council and the Parliament increased their efforts to observe developments occurred in Turkey. Besides these parallel with the increasing public interest in Turkey's domestic politics, the Union demanded Turkey to make necessary political and legal reforms regarding human rights and democratization.

Despite the changes in human rights and democratization spheres, I assume that instrumental reasons/incentives always have been existed in the membership process. However, their effect partially decreased from the beginning of the 2000s. We can detect the limited influence of ideational

elements in Turkey case over progressive changes (in order to convince the EU authorities to get economic benefits of the Union). Changes made before important dates and declarations of officials in different particular cases take us to this point. In this regard, different incentives are found and show their effects simultaneously. Changes in this asymmetrical relationship between Turkey and the Union have signified positive developments occurrence and movement to the next steps of the spiral model. Until recent years Turkey has been a special case for the model, because Turkey was bearing different characteristics and mechanisms of different phases of the model simultaneously. The main reason behind this situation was seen as both governmental and public resistance in Turkey against certain changes for the human rights.

It was claimed that Turkey's democratization efforts reached its zenith point only after 1999. The 1999 Helsinki Summit and criticisms of the Union, in the absence of powerful internal actors and incentives towards the change, triggered and regularly monitored the reformation (learning or socialization) process in Turkey. European authorities, especially the EP, made an important contribution to developments in Turkey. This situation shows us effectiveness of the Union as an international actor that shapes external agents with its normative framework. With reformation efforts, Turkey began to internalize human rights norms of the Union into its domestic practices. It was one of the ways that was mentioned by Risse towards the norm internalization. Arguments and critics of the Union and various international organizations, cost-benefit calculations of Turkey, internal dynamics and membership perspective have crucial effects over positive progressive developments. Turkey in this period tried to repair its seriously damaged international image and has moved to the next steps of the spiral model.

The reforms made, namely the abolition of death penalty and the recognition of languages other than Turkish, show us that Turkey was in a kind of process in which its national identity, political community and fundamental structures are re-conceptualized with existing norms as solid reflections of ideational frameworks. This situation also shows us that Turkey moved towards

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the next steps of the Spiral Model. When this change is evaluated within the context of agent-structure debate, Turkey as the agent was shaped and re-shaped by the normative structure of the Union. On the domestic front, Turkey has made a giant step towards fulfilling the Copenhagen criteria by introducing key changes through these above mentioned legislations. Full implementation of them in practice essential and serves as the real challenge.

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