The NTA Model in development or in revision? – The case of the Republic of Macedonia

The case of the Republic of Macedonia

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ABSTRACT:

The proposed paper focuses on the minority rights protection model in Republic of Macedonia making a comparative analysis with the case of Trentino-South Tyrol; two inter-ethnic conflict resolution models, rather different in terms of reality and historical development but close in terms of solutions offered. It analyses two consociational models addressing minority rights, focusing on Macedonia as a model in development (representing the relationship between the state and the Albanian minority group). The group-differentiated rights proposed by Kymlicka are designed to protect cultural and political interests and in order to determine which ethnocultural groups merit which rights it is essential to make a distinction between national minorities and ethnic groups (Valadez, 2001) as to be seen historically in the Macedonian case. If an ethnic minority lacks the effective agency needed to exercise its group rights, then it should be avoided the granting and recognition of those rights (Nickles, 1997), or, for non-territorial ethnic minorities to try to create the effective agency, legitimate leaders are needed for their rights effective exercise and management. This is to be addressed by the Ohrid Framework Agreement (OFA) and its developments. Non-territorial autonomy crucial factor is the membership in a minority group; in this sense the perception of the NTA built by the OFA varies among scholars. There are two dimensions: cultural (language) and territorial, posing the question on whether the model is rather non-territorial or tends to form territorial division of the state. Although it has been more than a decade since the OFA, the Macedonian system is still fragile and subject to further modifications.

KEYWORDS: Non-territorial autonomy, Republic of Macedonia, South Tyrol, minorities

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INTRODUCTION – on minorities’ individual, collective and autonomy rights

Groups have had a role in liberalism since its inception (Eisenberg & Spinner-Halev, 2004). James Madison (1751-1836) argued that groups were an important element in maintaining democratic freedom. The existence of groups, along with the protection of freedom of association, certified that no enduring majority would dominate over any minority because, in order to advance their interests, groups continuously form and reform alliances with other groups. As Robert Dahl puts it, democratic governance was not a matter of majority rule, but of “minorities rule” (Dahl, 1956). The groups celebrated by these classical liberals are open-ended: people presumably join or leave them as they please. Liberals have traditionally assumed that most groups are voluntary associations. Yet the nature and meaning of community began to emerge significantly in the 1980s, as some political theorists charged liberalism with being too individualistic. In contrast, inscriptive groups – groups whose membership is not open-ended, such as racial, ethnic, and sometimes national groups – were traditionally not a focal point of liberal thinking until the late 1980s. The rise of nationalism in Eastern Europe after the fall of the Berlin wall in 1989, all contributed to an increased interest in the role that inscriptive groups play in liberal theory and practice. Since then, political theorists have become increasingly interested in a whole range of groups, in the group-based nature of society, in the status of groups rights, and in what sorts of rights groups should be granted.

Minority groups’ rights are recognized as human rights, however arguments differ in regards to minority rights nature. The rights of ethnic minorities have a certain complexity; there are collective rights that belong to ethnic minorities as distinct communities and individual rights that belong to every member of a certain ethnic minority. International legal documents and protection instruments perceive minority rights as individual rights of members of a certain minority group, however the concept of collective rights is becoming more acceptable. There is an uneasy dichotomy particularly with then terms ‘group rights’ and ‘collective rights’, often used interchangeably (O’Nions, 2007). As O’Nions points out ‘collective rights are derivative in that they vest in the individual members of groups, with group, or corporate rights, vesting in the group as a moral entity’. The common starting point with the collective and group rights schools is a belief in the value of cultural membership to the individual. For Hohfeld, ‘group’ right-holders and ‘group’ rights were perfectly familiar¹. Some

¹ Wesley Newcomb Hohfeld (1879-1918) was an American jurist. He was the author of the seminal *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays* (1919). His work remains a powerful contribution to modern understanding of the nature of rights and the implications of liberty. Hohfeldian moral rights might be held by right-holders other than individual human beings, leaving open the possibility of asserting group rights held by nations, tribes, local communities, linguistic communities, cultural groups, and ‘affinity’ groups of all sorts, whether or not they are legally recognized or internally organized.
second generation rights can be taken as simply individual rights, other second generation rights - such as a right to cultural integrity, or to national self-determination - cannot. They can be construed as group rights – i.e., as rights held not by individuals singly but by groups collectively (Edmundson, 2004, p. 176). Defenders of group rights argue that for certain groups of people it may be legitimate to invoke specific rights, or specific interpretations of rights, which do not apply universally, and accession to these rights depends on a membership of a group. Cultural differences and their forms can be accommodated through special legal or constitutional measures; some can be accommodated only if their members have certain ‘group-specific rights’. Young calls this as ‘differentiated citizenship’, since the used measures go beyond and above the common rights of citizenship. Levy developed a typology, identifying eight clusters of rights-claims of ethnocultural groups, which seem to have a similar normative structure and similar institutional implication (Levy, 1997). Kymlicka coined a term ‘group differentiated’ rights, developing special group-specific measures accommodating national and ethnic differences (Kymlicka, 1995). In this direction, Pogge distinguishes three types of group rights: 1) group rights proper or simply group rights (rights belonging to a group as a group); 2) group-specific rights (rights belonging to members of certain group rather than all groups; and 3) group-statistical rights (rights that protect or enhance the aggregate status of the members of a group (Pogge, 1997). Kymlicka speaks of self-government rights when referring to the situation of a demand for a political autonomy or territorial jurisdiction, guaranteeing development of the different cultures and interests in a multinational state. The forms of political autonomy or territorial jurisdiction can be different; and their conceptions as well. Danspeckgruber thinks of five scenario or outcomes if a community seeks to obtain greater autonomy (Danspeckgruber, 2005): 1) secession followed by independent statehood; 2) secession followed by accession to another state; 3) partition and partial secession followed by either independent statehood or accession to another state; 4) continuation of the status quo; 5) self-governance plus regional integration. From these five types, according to Danspeckgruber the ‘self-governance plus regional integration’ offers ‘freedom’ and ‘autonomy’, fostering stronger intra-regional interactions (economical and cultural) and assists with the provisions of the appropriate regional

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2 The right to at least a minimal subsistence, for example.
4 For this scholar, a community can be a majority, minority or sub-group within the same state. It can also be irredenta (separated by borders) or diaspora (leaving abroad, elsewhere); it can have another community—a minority—within its territory.
5 This first solution forms a new independent actor (with new territory, boundaries and international recognition). This raises many questions such as economic viability, stability, and security.
6 The second scenario and as well the third one assume an (active) involvement of a third state in the region (causing boundaries changes), affecting the communities within that state, nonetheless it does not lead to a new independent state.
7 For Danspeckgruber the fourth and the fifth scenarios may prove to be more supportive of regional stability. Status quo, however, could be unacceptable and causing further problems if not conflict.
security arrangements. Key condition, however, for Danspeckgruber, is the acceptance of multiple identities\textsuperscript{8} and a flexible political culture, encouraging trans-border activities and thus regional integration, alleviating the external boundaries. This helps avoiding existing external boundaries to be redrawn and offers a high degree of socio-cultural development.

Countries’ reasons to institutionalize minorities’ accommodation vary significantly. In some places, minority accommodation is based on historical arrangements, such as the accommodation of linguistic minorities in Belgium and Canada. Sometimes, group rights are acknowledged in order to correct past injustices (as the arguments for the rights of indigenous peoples). Sometimes, identity claims can be present. Catalonia and Scotland have each made arguments for more autonomy in order to preserve their identity. Colonialism has also an influence on the development of group rights and their protection. Occasionally accommodation of minorities is a result of extending rights to communities of new immigrants, or immigrants whose freedoms were previously restricted (‘new minorities’), such as Sikhs or Muslims, the established values of tolerance and individual rights which have been enjoyed by the mainstream within the state. Extending rights to these new groups has given rise to new and unanticipated challenges to the traditional liberal concepts of freedom of association and freedom of religion.

Many minority groups have also become more insistent in asking for autonomy or state assistance to preserve their identity. Ignoring these demands all too easily leads to violence and instability. This ‘phenomenon’ is especially noticeable in the last thirty years, with the rise of ethno-national conflict, following the collapse of the Soviet Union, leading to concerted efforts, within and between nation states, to renew or reinvent legal and political arrangements for accommodating ethnic and national minorities. As is often the case, attempts to solve problems in one part of the world spark demands in other parts to revisit arrangements for the accommodation of minorities and to recognize new groups claiming minority rights. These demands have led to redrawing national boundaries, such as that between the Czech Republic and Slovakia, or, after considerable violence, in the Balkans. It has led to rethinking and reframing the purposes of federalism in Canada, in Belgium and in Spain. It has required that numerous countries revisit the meaning of freedom of religion and, in this context, review the extent to which their public institutions can or ought to accommodate religious minorities. It has also required that numerous states rethink and revise their legal and political relations to indigenous peoples and develop a means of accommodating forms of internal self-determination (Spinner-Halev, 2000). Minority rights are one of the principles upon which rests the case of autonomy (Ghai, 2000). Autonomy would be the collective right that could be held by a minority group qua

\textsuperscript{8} Multiple identities would mean that the members of the community in question accept that their community membership represents just one of perhaps several identities. For example South Tyrolian may also be an Italian citizen.
group; other rights such as the right to recognition and the right to continuation of pre-existing rights, can be held by persons belonging to the minority group, but autonomy would have to be a right of the minority group itself (Geoff, 2005, p. 150). In the case of autonomy, the state has a duty to balance the rights of the individual and the group in the same way that it balances conflicting rights held by different individuals. In assuming autonomous control over internal affairs, the minority group must conform to international human rights law standards. From a traditional perspective, the balancing by the State is between the interests of some members of the minority group as against that of other members with respect to the preservation of group identity, while the new approach granting collective rights to the minority group only grants those rights so that the group can protect the interests of the members of the minority group. Autonomy is a collective right, but it generates an individual good - the preservation of the collectivity.

Autonomy can be granted under different legal forms. Seen as well as a strategy of preventing and settling ethnic conflict, the autonomy while recognising group-specific and individual concerns, endows an ethnic group with legislative, executive, and judicial powers to address effectively these concerns - a state construction element addressing the needs of diverse communities (Wolff & Weller, 2005). The concept and notion of autonomy as a means of giving a certain group within the human race the right to decide and administer certain affairs essential to their well-being is very old. After being revived (from an irredentist claim to a potential solution to self-determination claims) it was considered as a possible instrument for accommodating separatist movements without in any way violating states’ territorial integrity. The Conference on Security and Cooperation in Europe (CSCE) and the member states, in 1990, carefully celebrated...

...the efforts undertaken to protect and create conditions for the promotion of the ethnic, cultural, linguistic and religious identity of certain national minorities by establishing, as one of the possible means to achieve these aims, appropriate local or autonomous administrations corresponding to the specific historical and territorial circumstances of such minorities and in accordance with the policies of the State concerned.

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9 One form is the federalism - where all regions enjoy equal powers and have an identical relationship to the central government. Two old federations, Switzerland and Canada, were adopted in part to accommodate ethnic diversity. Classical federalism, where all regions have equal powers, may not be sufficiently sensitive to the peculiar cultural and other needs of a particular community, which require a greater measure of self-government.

10 Autonomy was embraced by some states as a way of maintaining their territorial integrity. In addition to the more established case of Belgium, Spain and the United Kingdom have also made startling progress in this direction. France has attempted to move towards autonomy as a means of addressing the Corsica conflict.

Autonomy, however, can be non-territorial and territorial. A non-territorial autonomy is distinguished by autonomy rights of a particular ethnic group no matter their territorial concentration area in the host state. For some, another term for this type of autonomy is personal autonomy\(^{12}\), linked to the members of the minority group (Brunner & Küpper, 2002). Constitutional theorists such as Lijphart have perceived the non-territorial autonomy as instrument when dealing ethnic conflicts from a cultural dimension (education, language, and religion).

The use of autonomy as a species of group rights has changed the character of international law (Ghai, 2000). According to Potier international lawyers have failed to come to any agreement on a ‘stable’ workable definition for autonomy; \(^{13}\) it is a loose and disparate concept that contains many threads, but no single strand. He believes that autonomy ‘should be understood as the means whereby an authority, subject to another superior authority, has the opportunity to determine, separately from that authority, specific functions entrusted upon it, by that authority, for the general welfare of those to whom it is responsible’. Rawls invokes ‘autonomy’ in at least three different senses: 1) ‘rational autonomy’ describes a ‘decision procedure’ designed to assure the emergence of basic social rules under conditions of ‘fairness’; 2) ‘full political autonomy’ is characterized by members of society who live by principles of justice that would be chosen by such parties; and 3) ‘moral autonomy’ (or ‘full autonomy’) is an ideal held within one or another comprehensive theory of the good.\(^{14}\) For others, autonomy means that a minority has a collective power base, usually a regional one, in a plural society (Gurr, 1993). To Ghai, autonomy is an instrument allowing ethnic or other groups claiming a distinct identity to exercise direct control over affairs of special concern to them, while allowing the larger entity those powers which cover common interests, using ‘autonomy’ as a generic term (Ghai, 2000).

Humans have devised a number of different political and institutional arrangements to sustain peaceful coexistence among diverse human beings (Walzer, 1983).\(^{15}\) These arrangements range from the hands-off approach that neutralist liberal states prescribe

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\(^{12}\) The crucial factor is not residence in an autonomous territory but membership of the minority. The owner of personal autonomy is traditionally an association, a legal form able to organize a group of individuals. The personal autonomy is not bound to public law: associations also may exercise any rights of a private nature for its members, and it is also possible to give public functions to private associations, such as in the case of a private school in the minority language, whose qualifications are recognized by the public schools and for the management of the association that receives public subsidies. See (Palermo, et al., 2011)


\(^{14}\) In *A Theory of Justice* Rawls responds to this difficulty by attempting to construct a system of justice in which individuals are taught to adopt a comprehensive theory of the good in which liberal principles of justice are valued for their own sake. Such a system of justice as Rawls then believed can at least be ‘self-sustaining’. In *Political Liberalism* he abandons that attempt.

\(^{15}\) Walzer delineates five conceptually distinct “regimes” of toleration: multinational empires, international society, consociations, nation-states and immigrant societies.
to the millet system of the Ottoman Empire; from sovereignty as an instrument for peaceful international society to group-specific rights and consociational democracy (Lijphart, 1977). The form of toleration that emerges out of the religious wars of the sixteenth and seventeenth centuries “is simply a resigned acceptance of difference for the sake of peace”. “People kill one another for years and years, and then, mercifully, exhaustion sets in, and we call this toleration”. But other readings of the history of liberal toleration see this not as the substance but only as the beginning of toleration. For John Rawls, the toleration that begins as a peace treaty is soon reconceived as a remarkable discovery: that stability can actually be better served through tolerating than through suppressing one’s religious opponents (Rawls, 1999). How does a concern for peace yield a practice of toleration? The psychological calculus of toleration owes a great deal to Hobbes, who used the same logic to justify the power of an absolute sovereign: when combatants can perceive that they lack the power to dominate others, or that their efforts to do so will lead them into an endless cycle of revenge, they may judge that they have more to gain from laying down their arms than from continuing the battle. Peace is not an end in itself, but is an instrumental good: we require a stable and peaceful order as a precondition of our freedom to pursue all of the other human goods we may seek (Spinner-Halev, 2000). Autonomy is the most commonly expressed and is generally treated as the weightiest argument for toleration; many philosophical treatments of toleration neglect to discuss equality as an element of the justice of toleration, and those who do tend to treat it as subordinate to autonomy in the hierarchy of moral values. Autonomy tackles the sensitive question of sovereignty and borders’ stability and integrity.

As a result of these theoretical reflections, this research work challenges the multinational, multiethnic and multicultural features of a modern state with the minorities as a central argument. By analysing legal and political theories of human rights with specific focus on minority rights, this paper tries to identify the main elements and definitions and further elaborate the minority rights instruments of protection and implementation through a specific model of political system and democracy. The paper considers one model of minority groups’ protection and its implementation in a conflictual reality with characteristics rather contradicted. The model is seen as a model in development, attempting to build minority groups’ protection system in the Republic of Macedonia. An analysis will be made in terms of

17 “[T]he success of liberal constitutionalism came as a discovery of a new social possibility: the possibility of a reasonably harmonious and stable pluralist society. Before the successful and peaceful practice of toleration in societies with liberal institutions there was no way of knowing of that possibility. It is more natural to believe, as the centuries long practice of intolerance appeared to confirm, that social unity and concord requires agreement on a general and comprehensive religious, philosophical, or moral doctrine. Intolerance was accepted as a condition of social order and stability”.
19 This is mostly implicit in Will Kymlicka’s work; it is explicit in Geoffrey Brahm Levey’s work.
the existing framework of instruments for minority rights protection; the political system in practice and the accommodation of minority group in it; and the way group-differentiated rights are protected and enhanced and their particularities and distinctive features are going to be extrapolated and confronted.

NON-TERRITORIAL AUTONOMY – The debate in the case of the Republic of Macedonia

The Republic of Macedonia is a multicultural society with a history of minorities’ accommodation followed by inter-ethnic tensions. As a multicultural state the Republic of Macedonia is characterize by the following elements: 1) a unitary state where the relationships with the ethnic communities (nationalities) is direct (interaction between communities with communities); 2) a non territorial principle of accommodating minorities; 3) and a country (as one of many in the Balkans) that passed through a transition period. A huge test has been passed for a successful transition and framework for accommodating minority rights. “The most complicated and most difficult case of transition is definitely that in multiethnic societies (with or without a dominant national group)”; as in the case of Macedonia where a dominant national group is present living alongside with ethnically different groups. In a constitutional model characterized by a multicultural society (Palermo & Woelk, 2011) the main aim is to accommodate diversity of institutional constituent groups and to design an organization structure of the state that can accommodate these diversities through different mechanisms and instruments. Multinational/multicultural models consider national communities as a constitute element of the state. “In chiefly homogenous states, the critical point was the corpus of minority rights, whereas in multiethnic countries, the mentioned issues of identity and endemic crisis of the political system were opened.” (Frckoski, 2000)

One of the constituencies of the Macedonian independence and sovereignty is the relationship between state and the biggest minority group in Macedonia – the Albanian minority. This is seen from two main aspects: 1) implementation of the standards of minority rights in the corpus of human rights; and 2) the creation of the multicultural

20 Transition societies are characterized by complexity “by the lack of more significant democratic experiences and of traditional institutions and habits determined by such experience” (Frckoski, 2000).

21 In this regards, Prof. Frckoski defines a multiethnic society as “one in which there are two or more ethnic groups that are different in an ethnic, linguistic, religious or racial sense”. “People who belong to a group view themselves as different cultural communities, think of this difference as important and try to preserve and develop it. In some cases, that struggle to preserve the particularity becomes negatively determined as hostility or bad feelings toward persons belonging to other ethnic groups.” Whereas a multiethnic democracy means “lifting socio-cultural and ethnic diversity to the level of the collective bearer of divided sovereignty.” Prof. Ljubomir Frckoski is professor of International Law and International Relations at the Faculty of Law “Iustinianus Primus”, University “Ss. Cyril and Methodius”, Skopje.

22 For this aspect, Republic of Macedonia received a positive assessment from the Badinter Commission, especially for its Constitution from 1991.
society reflected in the institutions of the political system with a high tolerance towards the cultural differences. This according to Frckoski, created politics of inclusion and involvement of the Albanian community in the political system; and seen as a rare case of solution in the Balkans and named as a *melting pot approach*. This also, according to some, neutralized the possible plans for secession and conspiracies of creating a "bigger Albanian state".23

The French concept of nation state (demos) is present in the ASNOM documents24, viewing Macedonia as a democratic country for the people (narod) where the term people comprises all the citizens in its territory. According to some constitutional law scholars in Macedonia, the concept of nation state (demos) does not have its pure form as in France, in ASNOM it comprises the category “national minorities”, which gives the minorities all the rights of free life in the state (Škarić, 2007). In the context of the Socialist Federative Republic of Yugoslavia, the People’s Republic of Macedonia was established in August 1944 as a federal member state, in federation with Bosnia, Croatia, Herzegovina, Montenegro, Slovenia and Serbia. Under this political order, ethnically plural Macedonia developed political, educational and cultural institutions, and enjoyed relatively free (although economically challenging) circumstances as a semi-ignored "step-child" republic (Reuter, 1993). In this historical period, the beginning of the multicultural Republic of Macedonia was developed. The 1974 Yugoslav Constitution set up a three-tiered identification system for its member republics: the first was nations (narod), groups with their own republics (six); the second consisted of nationalities (narodnosti) with kin-states in the SFRY, and the third tier was comprised of ethnic groups who were considered ethnically distinct. Communist Yugoslavia resembled a state based on elite accommodation with elements of coercive consociationalism built into the system.25 The new structure offered important symbolic satisfaction to the various ethnic groups in the newly constituted state (Schöpflin, 1993, p. 181). As guaranteed in the Constitution of the federal Yugoslavia from 1974, all nationalities and communities had the right to use their own language in the Parliament, public administration and in judicial proceedings, and were free to express their nationality, race and religion.26 During this Yugoslav period, the biggest ethnic community in the Republic of Macedonia (Albanian community) enjoyed self-representation rights in terms of full participation in the Parliament and enjoyment

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24 On the 2nd and 3rd of August 1944 in the Monastery “St. Prohor Pčinški”, near Kumanovo the first session of the ASNOM (Anti-Fascist Assembly for the People’s Liberation of Macedonia) 24 was convened. It was the supreme legislative and executive people’s representative body of the Macedonian state from 1944 until the end of World War II. АСНОМ (Документи), Том I, ДАРМ, Скопје, 2004, 41-52.
26 Art. 154 of the Constitution from 1974 see equal all citizens of the federation no matter their nationality, race, religion and language. Arts 170 and 171, Art. 214, Arts. 243, 246 and 246 give language rights for all nationalities within the federation. It is guaranteed the use of language in the Parliament, public administration and judicial proceedings.
of the language rights in certain areas (as stipulated in the federal constitution). During this period, a Commission for inter-ethnic relations was formed having regular sessions between the representatives of the Macedonian government and the Albanian political parties - within the Commission on former Yugoslavia (the mission of Gerd Arens) – where many (around 8) questions were discussed concerning the rights of the Albanian ethnic community in the country. Those same raised questions were later transformed in 4 main arguments and included in the Ohrid Framework Agreement (OFA) in 2001.

The autonomy solutions need to be realised without touching upon the question of the integrity of the state, which needs to be unharmed and in political systems that recognize the diversity as such. This was the main aim of the OFA in 2001. A self-governance model given to non-dominant groups should respect the diverse ethnic composition of the state and should pay attention and fully respect the territorial state boundaries. No territorial claim should be present. A compromise is to be found for the minorities to have a genuine self-governance and in a state with a framework which preserves its territorial integrity. What is to be discussed in this case is that the territorial autonomy model alone cannot give the solution; therefore a combination of territorial and non-territorial model of autonomy could be the key. In this respect, Wolf and Weller propose three essential pre-conditions for a combination framework: 1) ethnic groups should be prepared to grant the respective other(s) the same degree of non-territorial autonomy as they desire for themselves; 2) to accept the framework as a mutually beneficial and conflict-preventing set-up; 3) to have willingness to make compromise in the process of negotiating and administering the institutional arrangement of autonomy. OFA was seen as a framework agreement ending an ethnic conflict thus a document which builds a compromise between the biggest ethnic minority and the state.

With the Constitution of 1991, Republic of Macedonia was “established as a national state of the Macedonian people, in which full equality as citizens and permanent co-existence with the Macedonian people is provided for Albanians, Turks, Vlachs, Romas and other nationalities living in the Republic of Macedonia.” With a ‘titular nation’ emphasis in this civic constitution’s preamble, group rights were shifted to an individual basis. With the Macedonian language and its Cyrillic alphabet as the Republic’s official language, there were no terms for use minority languages in Parliament, or any group right to political representation. Ethnic Albanian community and its leadership developed specific demands for equality in group terms: formal recognition of the Albanian language as the official language of public authorities in Albanian-settled regions and in the Assembly; constitutive status for the Albanian community, with veto powers. Furthermore, there appeared to be more emphasis on rights than responsibilities by ethnic Albanian representatives, further alienating non-Albanian

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27 The Commission on former Yugoslavia ended its mandate in 1997.
28 Interview with Prof. Ljubomir Danailov Frckoski, conducted in May 2011. Prof. Frckoski was actively involved in the sessions.
Macedonian government officials. The OFA required amendments in the Constitution of Republic of Macedonia; therefore, it was amended pursuant to the stipulations of the agreement in an attempt to reflect better the multiethnic character of the country. Amendments to the constitution included an explicit acknowledgement of the country’s Albanian, Turkish, Vlach, Serbian, Roma, and Bosniak minorities in the Preamble. It provides for minority language rights, and provisions for the use of minority languages at the local level.\(^29\)

The amendments establish “equitable representation of persons belonging to all communities in public bodies at all levels and in other areas of public life” and “the free expression of national identity” as fundamental values of the state. Non-discrimination and equality of religious communities are also guaranteed in the new constitution. It specifies as well, the rights of members of ethnic minorities (“communities“): “a right freely to express, foster and develop their identity and community attributes, and to use their community symbols”, a right “to establish institutions for culture, art, science and education, as well as scholarly and other associations for the expression, fostering and development of their identity”, and “a right to instruction in their language in primary and secondary education”. While there is a state guarantee for “the protection of the ethnic, cultural, linguistic and religious identity of all communities”, “in schools where education is carried out in another language, the Macedonian language is also studied”.\(^30\)

The multicultural model of accommodating minority rights in the Republic of Macedonia is distinguished by few important points for consideration. As a first and crucial aspect is the fact that on the basis of a unitary state, this country is building a multinational and a multicultural society. Difficulties in accommodating minority rights are far more present and encountered in a unitary state in which many minority groups difference in race, language and culture co-exist for decades. For this reason the Republic of Macedonia is seen as a model in development; the multicultural character of this country facilitates the accommodation of minority rights. As a second issue to be considered along the unitary character of this state is the de-territorialisation of the ethnic rights. It is crucial at this point to distinguish that in the case of Macedonia, the self-government rights are not correlated with the territorial autonomy, they are de-territorialized (minority rights enjoyed at state and local level). The minority rights’ protection model further is distinguished by the language rights recognition and protection at state and local level as well. The policy of inclusion and the proportional representation (recruitment in the public administration) are also elements of this model.

\(^29\) “The Macedonian language, written using its Cyrillic alphabet, is the official language throughout the Republic of Macedonia. Any other language spoken by at least 20 percent of the population is also an official language, written using its alphabet...” - Amendment V replacing Article 7 of the Constitution of the Republic of Macedonia.

\(^30\) Amendment VIII replacing Article 48 of the Constitution of the Republic of Macedonia.
The OFA brought provisions directed to territorial arrangements of the state and the principle of decentralization of the minority rights is one of the general principles of the agreement. In the general European practice, the minority rights and the territorial autonomy are correlated with de-cantonization and federalism. In the case of Macedonia, the territorial principle, through the implementation of the agreement is to be replaced with the ethnic rights and the link with the subject of the rights not the territory. This however, cannot be realized in whole, since the solutions given by the agreement and the decentralization and local self-government the ethnic rights are connected also with the territory (at least 20% of the population in the units of local self-government) (Klekovski, 2011). The Constitution and the amendments dedicate special section for the territorial governance of the country (Section V – Local self-government, Arts. 114 – 117 and Amendment XVII). Republic of Macedonia, while not directly providing territorial autonomy to its minorities, has devolved extensive powers of self-governance to the local level. In combination with a redrawing of local boundaries, this has considerably enhanced the level of local autonomy for the ethnic Albanian minority. The Law on local self-government prescribes a Commission for relations between communities in those municipalities in which at least 20% of the population of the municipalities established at the last census of population are members of an ethnic community.

The agreement is seen, in the eyes of the European Commission, as the most important category of Macedonia’s success in the field of minority protection, essential for the stability of the country and an agreement that “foster a positive environment for further reforms.” The Commission assessed the 10th anniversary of the OFA as “an important opportunity for enhanced dialogue between the communities in the country” but does not give any indicators on which this assessment is made. It was clear that the Commission does not want to make any guesses as to what led to the conflict escalation in 2001, how the events developed, or assess specific causal contributions. These steps however, leave the big picture of Macedonia’s minority protection regime, seen by the European Commission, completely unclear. The Commission’s overall positive assessment that “interethnic relations have continued to improve” can easily be brought into question. The Reports clearly convey that the Commission’s main preoccupation has been to solely ensure that the institutional implementation of the Ohrid Framework Agreement—in terms of political dialogue and largely isolated from the broader social

31 As in the case of Trentino-South Tyrol
32 “…Local self-government is regulated by a law adopted by a two-thirds majority vote of the total number of Representatives.” “…The municipality is autonomous in the execution of its constitutionally and legally determined spheres of competence; supervision of the legality of its work is carried out by the Republic.” “…The City of Skopje is a particular unit of local self-government the organization of which is regulated by law.”
33 Article 55, Law on local self-government.
34 European Commission, Macedonia 2007 Progress Report, 15
35 European Commission, Macedonia 2011 Progress Report, 20
36 European Commission, Macedonia 2006 Progress Report, 14
context—is not interrupted. A matter of serious concern to the Commission, as presented in the Progress Reports, is the functioning of some of the important institutions responsible for the implementation process (the Secretariat for the Implementation of the Ohrid Framework Agreement - SIOFA). The EU's involvement in brokering the Ohrid Framework Agreement as a new pattern of power distribution and social coexistence of all ethnic groups in Macedonia has made the European Commission well familiar with the country's minority protection regime. The OFA is considered to be at the heart of this regime and is steadily referred to as a roadmap to peace and stability in Macedonia. The Commission's Reports in many instances voice implicit criticism toward the catalogued weaknesses but it is also reluctant to generate recommendations that would potentially lead to improvement and sustainable reform. By simply communicating that “the spirit of the OFA needs to be upheld consistently, through a consensual approach and readiness to compromise,”37 the Commission leaves considerable room for divergent interpretations on the part of the domestic actors, thus complicating the process of obtaining useful feedback from the other end. In its reports, the Commission has avoided providing a detailed analysis at the outset of the pre-accession monitoring process and thus reported in the 2006 Report that there “were no major problems in the area of fundamental rights.”38 The 2007 Report follows a similar pattern in that it contains the overall conclusion that “inter-ethnic relations have improved.”39 Intriguingly enough, the later Reports convey slower progress toward compliance and are significantly broader in scope as regards issues raising concerns. Macedonia's progress reported as limited reflects in reality only what the Commission required from the country during the monitoring process. Since an ideal minority protection scheme on the basis of the Copenhagen political criteria had not been established before the initiation of the monitoring process, what was outlined in the Progress Reports became a crucial roadmap for the candidate countries during the pre-accession process. For instance, the Commission calls for the respect for and implementation of laws that have already been passed at the national level. As shown previously, the Commission deems the Ohrid Framework Agreement essential for the effective minority protection scheme of Macedonia (Stajic, 2012).

COMPARATIVE ANALYSIS – South Tyrol and Macedonia as case studies

In order to recapitulate the characteristics of the minority rights' accommodating model of the Republic of Macedonia, a comparative analysis will be made with the arrangements for minority rights protection in the Autonomous Province Bolzano (South Tyrol) within the Italian Republic.

In the Italian asymmetric ‘quasi federal’ political system, the Province of Bolzano (South Tyrol) is in an asymmetric position with the central government in Rome. This is a

37 Ibid
38 Ibid
39 European Commission, Macedonia 2007 Progress Report, 16
consequence of a certain kind of autonomy entitled to the province within the Autonomous Region Trentino-South Tyrol. The Autonomy Statute gives these entities a decentralised self-government and by that provides protection for the German and Ladin speaking minorities in its territory. South Tyrol enjoys primarily: legislative competences for education and culture, economy, environment, housing, communication and transport, tourism, welfare and provincial political and electoral structures; secondary competences in teaching, employment, public health, aviation, energy, foreign trade and relations, science and technology; and tertiary competences in some areas of transport policies, public health services and pay structures in the education system. Thus, the province has first of all, a territorial autonomy, and moreover, a non-territorial or cultural autonomy (education, culture, schooling, language use). Whereas South Tyrol is a model combining both territorial and non-territorial autonomy, the Republic of Macedonia is a model of non-territorial autonomy in development. In the case of Macedonia the principle of territory given by the OFA in terms of local self-government shows that from one side there is no territorial autonomy provided for the minorities, but from another side there are extensive powers of self-governance on local level. Even if the principle of decentralization is one of the main principles in the framework agreement, the minority rights are not correlated directly with the territory, but with the language and ethnic origin. A territorial autonomy exists when there is an autonomous status of an ethnic population living in a certain territory, enjoying executive (administrative) autonomy and legislative independence. In the case of Macedonia, when a minority group, no matter its territorial concentration, has a certain autonomy rights (language, education and cultural rights within the territory where it resides, it enjoys a non-territorial (cultural) autonomy. The solutions in the OFA simply facilitate the territorial organization of the state, further simplifying and allowing minority groups to have self-government instruments for enjoying cultural rights. While South Tyrol enables full self-government, Macedonia gives partial self-government rights.

If we analyse further the linguistic rights in South Tyrol and Macedonia we will see many similarities. In both cases minority language use is allowed and enjoys a guaranteed legal protection. The use of the German (in South Tyrol) and the Albanian (in Macedonia) language is allowed in the Assembly/Council/Parliament, public administration, juridical proceedings, official documents etc. The only apparent difference is in the declaration of affiliation in a linguistic group and the linguistic requirement for employment for a public civil servant post (see Table 1).

What concerns the language rights in the education system, in South Tyrol the education powers and the linguistic protection are well defines in the Autonomy Statute. As fundamental principle is the establishment of the elementary and secondary education in the mother language of the child. Therefore there is a double language system, the use of both Italian and German language. Educational activities are performed by teachers speaking the child’s mother language. There is also the
possibility for free choice of the school, with a proof of a sufficient knowledge of the language as a pre-condition for enrolment.

*Table 1 – Linguistic rights of minority groups in South Tyrol and Macedonia*

<table>
<thead>
<tr>
<th></th>
<th>South Tyrol</th>
<th>Macedonia</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Provincial Council/Parliament</strong></td>
<td>Trilingual use with translation (Italian, German and Ladin)</td>
<td>Bilingual use by a MP with translation (Macedonian official language in the Parliament)</td>
</tr>
<tr>
<td><strong>Public Administration (Ministries, Bodies, Offices)</strong></td>
<td>Citizens’ communication Bilingual (on request)</td>
<td>Citizens’ communication Bilingual (on request with translation)</td>
</tr>
<tr>
<td></td>
<td>Employment Bilingual competences required</td>
<td>Bilingual in the units of local self-government Employment Bilingual competences are not required</td>
</tr>
<tr>
<td><strong>Judicial Authorities and Proceedings</strong></td>
<td>Bilingual (language’s choice) Single language when the summons and the statement of defence are drafted in the same language Employment Bilingual competences required</td>
<td>Bilingual (language’s choice with translation) Bilingual use in the units of local self-government Employment Bilingual competences are not required</td>
</tr>
<tr>
<td><strong>Elections</strong></td>
<td>Bilingual or Trilingual ballots (depending on the municipality)</td>
<td>Bilingual (depending on the municipality)</td>
</tr>
</tbody>
</table>

In schools where teaching is performed in German language, it is mandatory to learn Italian. The linguistic rights in the education system are similar in Republic of Macedonia. All educational activities are taught officially in Macedonian language and the Cyrillic alphabet. Children belonging to the Albanian minority group can follow the activities in their language, but they are obliged to learn the Macedonian language. This is the case for the preschool, primary and secondary education. What is observed in both cases is the motivation to learn the ‘other’ language. In Macedonia, in municipalities and units of local self-government where the percentage of the minority group is higher, the motivation is lower and vice versa. In South Tyrol it can be said that the motivation is growing not because of this factor solely, but also because of the impact of the languages’ knowledge on the professional development and the economy in the region. In Macedonia, since the knowledge of both languages is not compulsory for employment in the public service sector, to learn the ‘other’ language is neither a challenge nor a request. In the Table 2 below, are shown the main characteristics of the language use policy in the education system of both case studies.

In the higher education system, in both case studies, there is a common element. The University of Bolzano is seen as a unique example and establishment for promoting multilingualism and multiculturalism (founded in 1997) having courses taught in German, Italian and English (as lingua franca). In Macedonia, the South East European University is a sort of a ‘duplicate’ of the Bolzano University. It has courses in Albanian, Macedonian and other international languages and students coming from different...
national minority groups presenting a multicultural society and learning environment. It should be noted that in the education system in both case studies the quota system applies.

Table 2 – Linguistic rights in the education system of South Tyrol and Macedonia

<table>
<thead>
<tr>
<th></th>
<th>South Tyrol</th>
<th>Macedonia</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Preschool level</strong></td>
<td>Italian and German language</td>
<td>Macedonian and Albanian language</td>
</tr>
<tr>
<td><strong>Primary school level</strong></td>
<td>Italian and German language</td>
<td>Macedonian and Albanian language</td>
</tr>
<tr>
<td><strong>Secondary school level</strong></td>
<td>Italian and German language</td>
<td>Macedonian or Albanian language</td>
</tr>
<tr>
<td><strong>University level</strong></td>
<td>Italian and/or German language</td>
<td>Macedonian and/or Albanian language</td>
</tr>
</tbody>
</table>

Source: Author’s elaboration

One of the fundamental rights is the freedom of expression and press. This right in both case studies is fully guaranteed with specific modalities. In South Tyrol the German speaking population has access not only to domestic broadcast but as well to the media channels in German language from Tyrol (Austria). It is hard however to measure the real and effective access to media, since there are many private television broadcasting in different languages, however what has been observed that there is always the privilege reporting in one language or another. The same situation is in Macedonia, where the different ethnic communities have access to media broadcasting in their mother languages. The national television, according to law, is obliged to broadcast news reports and programs in the language of the six ethnic communities living in Macedonia. It is perceived however that the full access to media in the mother languages does not encourage mutual understanding and relations between the different ethnic communities. The preference is towards the mother language an this does not give boost to the young population to learn the language and culture of the other communities and share the everyday life.

Whereas linguistic and cultural rights enhance multiculturalism and promote linguistic and cultural diversity, pull for better co-habitation with the rest of the society and eliminate marginalization of the minority groups, the real power over decision and guaranty for minority rights lies in the self-representation rights. The establishment of these rights – the legal framework which guaranties their protection and their implementation – gives the actual and effectual protection of the minority groups in one country. The theory of consociationalism argues that power-sharing arrangements have important consequences in divided societies. Rules which recognize and seek to accommodate parties and representatives drawn from distinct ethnic groups are thought most likely to consolidate fragile democracies by facilitating accommodation and building trust among diverse communities living in deeply divided societies (Norris, 2008). Coming back to analysis of the case studies in this paper, table 3 below shows the institutional arrangements of both case studies, where South Tyrol represents a model.
of political system corresponding to the model of consociational democracy emphasising the core principle of ‘power sharing’. The Macedonian on the other hand, is based upon this theory saving some particularities and characteristics. According to some international scholars, the Republic of Macedonia made transitional steps, from an informal to a formal power-sharing system. 40

In terms of territorial arrangements in one political system and its influence on the power-sharing mechanisms, federalism and decentralization lead toward vertical power-sharing among multiple layers of government. Arguments on these political arrangements have been particularly influential in fragile multinational states where decentralization has advocated as a potential constitutional solution for reducing conflict, building peace and protecting the interests of marginalized communities. Formal constitutional structures can be distinguished as ‘unitary state’, ‘federal state’ or a ‘hybrid’ union and each of these can be further characterized by specific degrees of

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decentralized governance, with fiscal, administrative, and political power and functions transferred to provincial and local levels. Classical theorists suggest that decentralization governance has many advantages especially for democratic participation, representation and accountability, for public policy and governmental effectiveness and for the representation and accommodation of territorially based ethnic, cultural and linguistic differences. In this regards, the table 3, shows the institutional arrangements of the two selected case studies. In South Tyrol the elements of the consociational model are identified by the relations between the elites of German and Italian language group, the ‘ethnic quota system’ (in public administrative, financial sources allocation, study grants, social housing, composition of political bodies, commissions of public law), the coalition between the German and Italian ethnic groups and rotation of offices in the presidency of the provincial assembly. The society in South Tyrol is divided along ethnic lines and this pervades the whole political-administrative system with its intertwined systems (Pallaver, 2008). Political parties are organized from an ethnic point of view and they do not compete with each other, consequently creating two political arenas. The propositional representation is also the core element of this model. Language groups have to be proportionally present in the provincial governmental institutions, however it should be noted that this principle is partly implemented because of the principle of majority and the absence of an absolute veto power in the decision-making processes. As there is an absence of veto power, specific voting procedures and other mechanisms have been established for adoption of provincial laws (separate voting). Republic of Macedonia, on the other hand, did not introduce strict representative quotas for communities in the government offices or parliament, however it established substantial territorial self-government, allowing for non-institutionalised, but nonetheless cooperative politics. It gave element of power-sharing and elevates the status of Albanians as a community by affording them rights comparable to those of the Macedonian community in majority. The Macedonian model introduces also the double-majority voting (a consent of a majority of the deputies representing all non-dominant groups is required in a number of areas of legislation and local-self-government policies). Table 4 illustrates the two power-sharing systems in comparison.

What has been missed in the power-sharing theory and system is the elimination of ethnic tensions between the ethnic groups themselves. The low inclusion of the minority groups within Parliament and Governmental bodies is one source causing ethnic tensions. Small minority groups remain still marginalized in the case of Macedonia, without a significant power to make decisions and defend their own interests. Exclusion as such encourages alienation and in worst scenario more violence. In divided societies – in terms of ethnic and cultural differences – this situation is quite dangerous if it tends to continue and develop further, especially in societies emerged from deep-rooted (in history) conflicts. Political parties, for example, in these cases, organize around issues of communal identity (ethnocentrism), rather than around
programmatic or ideological lines (for the sake of the whole society), this politics is viewed by each community as a win or lose situation.

Table 4 – Power-sharing systems in comparison

<table>
<thead>
<tr>
<th>South Tyrol</th>
<th>Macedonia</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Elections</strong></td>
<td></td>
</tr>
<tr>
<td>Combination of majoritarian and proportional system</td>
<td>Combination of majoritarian and proportional system</td>
</tr>
<tr>
<td>Closed (non-blocked) PR list</td>
<td>Closed (blocked) PR list</td>
</tr>
<tr>
<td><strong>Voting</strong></td>
<td></td>
</tr>
<tr>
<td>Limited double majority vote</td>
<td>Double majority vote</td>
</tr>
<tr>
<td>(Provincial and Regional budget)</td>
<td>(legislation: culture, language use, education, personal IDs, use of symbols, local self-government)</td>
</tr>
<tr>
<td>Separate voting (laws considered to affect the rights of a particular ethnic group)</td>
<td></td>
</tr>
<tr>
<td><strong>Executive power characteristics</strong></td>
<td></td>
</tr>
<tr>
<td>Rotation between ethnic groups</td>
<td>Informal arrangements for governmental positions</td>
</tr>
<tr>
<td>Proportionality (Provincial Assembly)</td>
<td>(Ministries)</td>
</tr>
<tr>
<td>Coalition government</td>
<td>Coalition government</td>
</tr>
<tr>
<td><strong>Public administration</strong></td>
<td></td>
</tr>
<tr>
<td>Ethnic quota system</td>
<td>No strict quota</td>
</tr>
<tr>
<td>Proportionality</td>
<td>Proportionality</td>
</tr>
</tbody>
</table>

Source: Author’s elaboration

Consociational theory recognizes ethnic identities in diverse communities; however it sees the community boundaries as fairly secure recognizing as well that the real challenge for one democracy is how to include all diverse communities in the decision-making process.

As a summary of the comparative analysis Table 5 shows the similarities and dissimilarities of the two case studies.

Table 5 – Similarities and Dissimilarities

<table>
<thead>
<tr>
<th>Territorial governance</th>
<th>YES/NO</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NO</strong></td>
<td>(Territorial autonomy vs. non-territorial autonomy)</td>
</tr>
<tr>
<td><strong>Linguistic rights</strong></td>
<td>YES</td>
</tr>
<tr>
<td>(in terms of language policies and use of language in public administration)</td>
<td></td>
</tr>
<tr>
<td><strong>NO</strong></td>
<td>(declaration of affiliation, threshold of 20%)</td>
</tr>
<tr>
<td><strong>Education, Media and Culture</strong></td>
<td>YES</td>
</tr>
<tr>
<td>(parallel education system, media rights, support for cultural activities)</td>
<td></td>
</tr>
<tr>
<td><strong>Self-representation rights</strong></td>
<td>YES</td>
</tr>
<tr>
<td>(proportional representation, double voting)</td>
<td>(electoral system)</td>
</tr>
<tr>
<td><strong>NO</strong></td>
<td></td>
</tr>
</tbody>
</table>

Source: Author’s elaboration
CONCLUDING REMARKS

According to some, Republic of Macedonia since its independence has shown to be a multicultural state (Klekovski, 2011). The Ohrid Framework Agreement is seen as a success story in number of issues concerning minority rights and their protection. Mainly a success story in ending an escalating conflict and banning the fear of a renewed conflict, but most of all, from a present point of view, is a legal foundation for guaranteeing certain rights for the national minorities in Macedonia. Some see it as well as a failure, as agreement which unable to fundamentally transform interethnic relation and ethnicity remains a potent force in the political debates (Bieber, 2008, p. 207). In overall the agreement restores stability and security and prevented a territorialization and preserving the unity of the state. Most of all, it has to be noted that the agreement is merely a framework aiming for a new legislation to be implemented and the new one to be amended. The implementation of the legal provisions is going slowly, a process which seems complicated and difficult. The complete implementation is a model and the future of Macedonia (Klekovski, 2011). Bieber points out that it is wrong and naïve to assume that there is a possibility for a final agreement which resolves all disputes; the interethnic accommodation is never a complete process and is likely to be subject to repeated and continuous negotiations (Bieber, 2008). According to him the threshold of 20% of the population of the state and on local level creates further problems, and further politicized the population census. The problems with its implementation are not in OFA’s principles; it is the process of implementing that asks for time and interethnic dialogue. Of course, in order to fully implement the provisions there is a necessity of resources and funds. Some solutions given in the agreement according to some go out of proportion and do not go in the line with its principles. Besides the fact that the agreement was described as merely a document regulating the relations between the Macedonians and the Albanians, it has a wider value, and what was achieved for the ethnic Albanians, should be ensured for other minorities, as well. There are views expressing that a de facto Macedonian-Albanian bi-national state is created, rather than promoting a civic oriented, multiethnic state, laid down by the power-sharing provisions in the framework agreement (Atanasovski, 2008).

It is certain that the implementation of the OFA provisions cannot be measured in numbers, however the legal instruments that were implemented after the agreement strengthen the protection of one minority group in particular. The OFA has succeeded in

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41 The Population Census planned for 2011, was delayed in spring for autumn because of the Parliamentary elections in the country, however when it had to be performed, a lot of irregularities appeared, ending the census with resignation of the members of the Census Commission and officially stopping the Census. Officially, the reason for termination of the census is the methodology and the uneven enumerators from various districts applied in field. Enumeration with photocopies of personal documents, not originals only as prescribed by law, enumeration of distant relatives and those who does not have residence in Macedonia for a year. The Macedonian Parliament with the parliamentary majority voted for passing the Law on termination of validity of the Law on Census of population, households and dwellings in Macedonia in 2011, by a shortened procedure and with that official census was considered terminated.
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restoring the stability and reinforcing the legal order, but most of all was able to generate cooperation between the two dominant communities (Macedonian and Albanian). Apart from the criticism towards the decentralization process and the notion of a certain kind of self-government for the Albanian community, it is observed that:

— the decentralization per se is not an unproblematic process for establishment and implementation
— the OFA and the forthcoming legal instruments did not establish a self-government for the Albanian community nor created a territorial autonomy as such
— creation of a room for special rights' protection and enjoyment at local level and fostering a non-territorial autonomy.

The following table illustrated a sort of SWOT analysis of the Macedonian non-territorial autonomy model. It presents its strengths, weaknesses, opportunities and possible threats.

<table>
<thead>
<tr>
<th>Strengths</th>
<th>Weaknesses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cultural (non-territorial) autonomy</td>
<td>Ethnocentrism in political arena</td>
</tr>
<tr>
<td>Cooperation between the two dominant communities</td>
<td>Parallel school system</td>
</tr>
<tr>
<td>Linguistic rights</td>
<td>Misuse of the proportional representation principle</td>
</tr>
<tr>
<td>Badinter (Double majority) principle</td>
<td>Census manipulation</td>
</tr>
<tr>
<td>(as a solution in some cases is seen as a weakness)</td>
<td>Focus on one minority group in specific</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Opportunities</th>
<th>Threats</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improved cooperation with neighbouring countries (Albania and Kosovo)</td>
<td>Inter-ethnic tensions</td>
</tr>
<tr>
<td>EU and NATO approximation</td>
<td>Bi-nationalism</td>
</tr>
<tr>
<td></td>
<td>Territorial segregation</td>
</tr>
<tr>
<td></td>
<td>State’s isolation</td>
</tr>
</tbody>
</table>

Source: Author's elaboration

As a crucial element in the Macedonian case is the approximation in EU and NATO. The Republic needs the international community support and urgent integration in the international governmental organizations. This is seen crucial to preserve the stability and avoid one of the threats depicted in the table and that is the isolation of the state and escalation of the inter-ethnic tensions. The state isolation can cause internal conflict and escalation of a civil war, triggered by a possible territorial segregation and a reconstruction from a unitary state into a federative system. Lijphart recommends federalism as one of the key components for autonomy for ethnic groups, however in the case of Macedonia this component would lead to a profound territorial division threatening the unity of the state. Studies showed that incorporating federal system in divided societies can –and leads– to increase of secessionist tendencies (Bunce & Watts, 2005) (Hardgrave, 1993) (Kymlicka, 1998). To be able to keep the territorial integrity
and postponed such possible demands from the minority groups, Macedonia needs to redirect the attention and focus on the opportunities such as the possibility of a further cooperation with the neighbouring countries and enhancing a fruitful cross-border cooperation including actively the minority groups.

“No justice, no peace!” A social movement slogan that can be interpreted as a sociological prediction: where groups are chronically frustrated in their quest for fair treatment, they will turn to social disruption or even to violence in order to press their claim. Doing justice is the best way to secure peace. From another angle it can be interpreted as well as a threat; if those in power ignore the group’s claims there will be a price to pay. “No peace, no justice!” like the first version, can be read as both an empirical claim and a policy. In its guise as empirical claim it expresses the idea, traceable to Hobbes, that justice can be secure only where there is a stable political authority that has the power to secure it (Tuck & Silverstone, 1998) 42. First we secure the peace, and then we will work for justice. But this leaves open the question of what sacrifices of justice – what suspensions of rights, what delays of reform – may be made in the name of peace.

It seems that the social movement slogan “No justice, no peace” and its other version “No peace, no justice” fits perfectly in the analysis of the Macedonian case and in general for the inter-ethnic conflicts and their peaceful settlement. Justice and protection of human rights are build upon a peaceful arrangements; on the other hand, if there is a conflict present, justice can be hardly restored and preserved. It seems also radical to see always only one side (at a time) of the coin. It should be strongly avoided building justice after a conflict and that actually was the case of the Republic of Macedonia. What can be said that the restored peace, in this case, by the implementation of a form of non-territorial autonomy brings many challenges for the future and does not offer a guaranty for neither peace nor justice. What should be kept in mind is that models of minority rights protection and their development and implementations need constant validation and improvement, carefully analysis and planning. Legal instruments and policies are likely to be successful and effective if introduced through the back door.

42 “Where there is not common Power, there is no Law: where no Law, no Injustice . . . Justice, and Injustice . . . are Qualities, that relate to men in Society, not in Solitude. It is consequent also to the same condition, that there be no Propriety, no Dominion, no Mine and Thine distinct; but only that to be every mans, that he can get; and for so long as he can keep it”
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